

2025 Regular Session

HOUSE BILL NO. 368

BY REPRESENTATIVE ST. BLANC

1 AN ACT

2 To enact Chapter 5 of Code Title XII of Code Book III of Title 9 of the Louisiana Revised  
3 Statutes of 1950, to be comprised of R.S. 9:3591.1 through 3591.7, relative to  
4 consumer-directed earned wage access services; to provide definitions; to require and  
5 prohibit certain acts of providers of earned wage access services; to provide for  
6 statutory compliance and applicability; to provide for annual reporting of earned  
7 wage access services data; to provide for enforcement; and to provide for related  
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 5 of Code Title XII of Code Book III of Title 9 of the Louisiana  
11 Revised Statutes of 1950, comprised of R.S. 9:3591.1 through 3591.7, is hereby enacted to  
12 read as follows:

13 CHAPTER 5. LOUISIANA EARNED WAGE ACCESS SERVICES

14 §3591.1. Short title

15 This Chapter shall be known and may be cited as the "Louisiana Earned  
16 Wage Access Services Act".

1           §3591.2. Definitions

2                   As used in this Chapter, the following terms have the following meanings  
3           ascribed to them:

4                   (1) "Consumer" means a natural person residing in this state. A provider  
5                   may use the mailing address provided by a consumer or the consumer's employer to  
6                   determine the consumer's state of residence.

7                   (2) "Consumer-directed earned wage access services" means the business of  
8                   delivering to consumers access to earned but unpaid income based on the consumer's  
9                   representation and the provider's reasonable determination of the consumer's earned  
10                  but unpaid income.

11                  (3) "Earned but unpaid income" means the salary, wages, compensation, or  
12                  other income that a consumer or an employer has represented and, that a provider has  
13                  reasonably determined, has been earned or has accrued to the benefit of the consumer  
14                  in exchange for the consumer's provision of services to an employer or on behalf of  
15                  an employer, including services provided on an hourly, project-based, piecework, or  
16                  other basis or when the consumer is an independent contractor of the employer, but,  
17                  which has not, at the time of the payment of proceeds, been paid to the consumer by  
18                  the employer.

19                  (4) "Earned wage access services" means consumer-directed earned wage  
20                  access services or employer-integrated earned wage access services, or both.

21                  (5) "Employer" means a person who employs a consumer or any other  
22                  person who is contractually obligated to pay a consumer's earned but unpaid income  
23                  in exchange for a consumer's provision of services to the person or on behalf of the  
24                  person, including but not limited to a consumer who is employed on an hourly basis,  
25                  a project-based, a piecework, or other basis or as independent contractor with respect  
26                  to the person. "Employer" does not mean a customer of an employer or any other  
27                  person whose obligation to make a payment of salary, wages, compensation, or other  
28                  income to a consumer is not based on the provision of services by the consumer for  
29                  or on behalf of the person.

1           (6) "Employer-integrated earned wage access services" means the business  
2           of delivering to consumers access to earned but unpaid income that is based on  
3           employment, income, and attendance data obtained directly or indirectly from an  
4           employer, including without limitation an employer's payroll service provider.

5           (7) "Fee" means a charge imposed by a provider for delivery or expedited  
6           delivery of proceeds to a consumer, a subscription or membership charge imposed  
7           by a provider for a bona fide group of services that include earned wage access  
8           services, or an amount paid by an employer to a provider on a consumer's behalf,  
9           which entitles the consumer to receive proceeds at reduced or no cost to the  
10          consumer. "Fee" does not mean a voluntary tip, gratuity, or donation.

11          (8) "Outstanding proceeds" means a payment of proceeds to a consumer by  
12          a provider that has not yet been repaid to that provider.

13          (9) "Proceeds" means a payment to a consumer by a provider that is based  
14          on earned but unpaid income.

15          (10) "Provider" means a person that is engaged in the business of offering  
16          and providing earned wage access services to consumers. "Provider" does not  
17          include any of the following:

18               (a) A service provider, such as a payroll service provider, whose role may  
19               include verifying the available earnings but who is not contractually obligated to  
20               fund proceeds delivered as part of an earned wage access service.

21               (b) An employer that offers a portion of salary, wages, or compensation  
22               directly to his employees or independent contractors prior to the normally scheduled  
23               pay date.

24               (c) An entity that offers or provides earned wage access services and reports  
25               a consumer's payment or nonpayment of outstanding proceeds, fees, or voluntary  
26               tips, gratuities, or other donations solely attributable to the earned wage access  
27               services to a consumer reporting agency, as defined in Section 603(p) of the federal  
28               Fair Credit Reporting Act, 15 U.S.C. 1681a(p).

1           §3591.3. Required acts of a provider

2           A provider shall:

3           (1) Develop and implement policies and procedures for responding to  
4           questions raised by consumers and addressing complaints from consumers.

5           (2) Before entering into an agreement with a consumer for the provision of  
6           earned wage access services, do all of the following:

7           (a) Inform the consumer of the consumer's rights under the agreement.

8           (b) Fully and clearly disclose to the consumer all provider-imposed fees or  
9           a schedule of fees associated with the provision of earned wage access services.

10          (3) Inform the consumer of any material changes to the terms and conditions  
11          of the earned wage access services agreement before implementing those changes.

12          (4) Allow the consumer to cancel use of the provider's earned wage access  
13          services at any time, without incurring a fee for that cancellation.

14          (5) Whenever he offers a consumer the option to receive proceeds for a fee  
15          or solicits a tip, gratuity, or other donation, provide the consumer at least one  
16          reasonable option to obtain the same amount of proceeds at no cost and clearly  
17          explain how the consumer may select the no-cost option.

18          (6) Comply with all applicable local, state, and federal privacy and  
19          information security laws.

20          (7) Provide proceeds to a consumer via any means mutually agreed upon by  
21          the consumer and the provider.

22          (8) If he seeks repayment of outstanding proceeds, fees, voluntary tips,  
23          gratuities, or other donations from a consumer's account at a depository institution,  
24          including via electronic transfer, do all of the following:

25          (a) Comply with applicable provisions of the federal Electronic Fund  
26          Transfer Act, 15 U.S.C. 1693 et seq., and its implementing regulations.

27          (b) Reimburse the consumer for the full amount of any overdraft or non-  
28          sufficient funds fees imposed on that consumer by the consumer's depository  
29          institution, which were caused by the provider's attempt to seek payment of any  
30          outstanding proceeds, fees, voluntary tips, gratuities, or other donations on a date

1           before, or in an incorrect amount from, the date or amount disclosed to the consumer.  
 2           The provisions of this Subparagraph shall not apply with respect to payments of  
 3           outstanding proceeds, fees, tips, gratuities, or other donations incurred by a consumer  
 4           through fraudulent means.

5                   (9) If he solicits or receives a tip, gratuity, or donation from a consumer, do  
 6           all of the following:

7                           (a) Clearly and conspicuously disclose to the consumer immediately prior  
 8           to each transaction that a tip, gratuity, or donation amount may be zero and is  
 9           voluntary.

10                           (b) Clearly and conspicuously disclose in the agreement with the consumer  
 11           that tips, gratuities, or donations are voluntary and that the offering of earned wage  
 12           access services, including the amount of proceeds a consumer is eligible to request  
 13           and the frequency with which proceeds are provided to a consumer, is not contingent  
 14           on whether the consumer pays any tip, gratuity, or donation or on the size of any tip,  
 15           gratuity, or donation.

16           §3591.4. Prohibited acts of a provider

17                   A provider shall not:

18                           (1) Compel or attempt to compel repayment by a consumer of outstanding  
 19           proceeds, fees, voluntary tips, gratuities, or other donations through any of the  
 20           following means:

21                                   (a) By initiating a civil suit against the consumer in a court of competent  
 22           jurisdiction.

23                                   (b) By making unsolicited, outbound telephone calls.

24                                   (c) By using a third party to pursue collection of outstanding proceeds or  
 25           payments on the provider's behalf.

26                                   (d) By selling any outstanding amounts to a third-party debt collector or debt  
 27           purchaser.

28                                   (2) Share with an employer any fees, voluntary tips, gratuities, or other  
 29           donations that were received from or charged to a consumer for earned wage access  
 30           services.

1                   (3) Require a consumer's credit score from a credit report to determine a  
 2                   consumer's eligibility for earned wage access services.

3                   (4) Accept payment from a consumer of outstanding proceeds, fees,  
 4                   voluntary tips, gratuities, or donations via credit card or charge card.

5                   (5) Charge a late fee, deferral fee, interest, or any other charge for failure to  
 6                   repay outstanding proceeds, fees, voluntary tips, gratuities, or other donations.

7                   (6) Condition the amount of proceeds a consumer is eligible to request or the  
 8                   frequency with which a consumer is eligible to request proceeds on whether the  
 9                   consumer pays fees, voluntary tips, gratuities, or other donations or on the size of  
 10                  any fee, voluntary tip, gratuity, or donation.

11                  (7) If he solicits or accepts voluntary tips, gratuities, or other donations,  
 12                  mislead or deceive consumers about the voluntary nature of the tips, gratuities, or  
 13                  other donations or make representations that tips, gratuities, or other donations will  
 14                  benefit any specific individuals.

15                  (8) Advertise, print, display, publish, distribute, broadcast or cause to be  
 16                  advertised, printed, displayed, published, distributed, or broadcasted, in any manner,  
 17                  any statement or representation with regard to the earned wage access services  
 18                  offered by the provider that does either of the following:

19                    (a) Is false, misleading, or deceptive.

20                    (b) Omits material information that is necessary to make the statement or  
 21                    representation not false, misleading, or deceptive.

22                  §3591.5. Statutory compliance; applicability

23                    A provider shall not deemed to be engaging in lending, a money  
 24                    transmission, or a debt collection in this state or in violation of the laws of this state  
 25                    relating to the payment of minimum or overtime wages, deductions from payroll,  
 26                    salary, wages, compensation or other income, or the sale or assignment of, or an  
 27                    order for earned but unpaid income, if that provider complies with the provisions of  
 28                    R.S. 9:3591.3 and 3591.4.

1           §3591.6. Fee reporting; consumer protection

2                   A. Notwithstanding any other provision of this Chapter, a provider that  
3                   charges a fee for the provision of earned wage access services, including transaction  
4                   fees, membership fees, or any other form of compensation, shall submit an annual  
5                   report to the Office of Financial Institutions. The report shall pertain to the preceding  
6                   calendar year and shall be submitted no later than March first of the following year.

7                   All reports shall include the following information:

8                           (1) Gross revenue attributable to its earned wage access services.

9                           (2) The total number of transactions in which the provider provided proceeds  
10                   to consumers.

11                           (3) The total number of unique consumers to whom the provider provided  
12                   proceeds.

13                           (4) The total dollar amount of proceeds the provider provided to consumers.

14                           (5) The total dollar amount of fees, voluntary tips, gratuities, or other  
15                   donations the provider received from consumers.

16                           (6) The number and nature of consumer complaints received by the provider  
17                   and the resolution status of each complaint.

18                   B. The Office of Financial Institutions shall make this data available to the  
19                   public in aggregated form in an annual report assessing the impact of earned wage  
20                   access services in the state by July first of each year.

21                   C. Submission by providers of the annual report in Subsection A shall not be  
22                   deemed an action or transaction subject to the jurisdiction of the Office of Financial  
23                   Institutions.

24           §3591.7. Enforcement of this Chapter; penalties

25                   A. Providers subject to the provisions of this Chapter shall be subject to  
26                   enforcement by the attorney general pursuant to the provisions of the Unfair Trade  
27                   Practices and Consumer Protection Law, R.S. 51:1401 et seq.

28                   B. Any provider that fails to timely submit the required annual report as  
29                   required by R.S. 51:3591.6 shall not be authorized to utilize the provisions of this  
30                   Chapter.

1                    C. If a provider fails to timely submit the annual report required by R.S.  
2                    51:3591.6, any agreement made by that provider with a consumer for  
3                    consumer-directed earned wage access services, credit agreements, promissory notes,  
4                    or other contracts with a consumer shall be an absolute nullity.

5                    Section 2. The first report required by R.S. 51:3591.6 as enacted by Section 1 of this  
6                    Act shall be filed with the Office of Financial Institutions no later than March 1, 2027.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_