
**Consumer Protection & Business
Committee**

HB 1063

Brief Description: Establishing a new chapter for the licensing and regulation of businesses providing earned wage access services.

Sponsors: Representatives Reeves, McClintock, Walen, Connors, Ryu, Corry, Reed and Gregerson.

Brief Summary of Bill

- Establishes the Washington State Earned Wage Access (EWA) Services Act.
- Requires EWA providers to be licensed and regulated by the Department of Financial Institutions (DFI).
- Establishes obligations and prohibited acts for EWA providers, along with a variety of administrative, investigative, and enforcement duties for the DFI.

Hearing Date: 1/22/25

Staff: Megan Mulvihill (786-7304).

Background:

Earned Wage Access.

Earned wage access (EWA) is a service that allows employees access to wages that have been earned before their payday, but have not yet been paid, usually by paying a fee. There are generally two types of EWA services. A direct-to-consumer model is offered to employees without an employer's involvement, whereas an employer-integrated model involves the EWA

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provider entering into a contract with an employer to offer the service as an employee benefit. Earned wage access programs are noncredit transactions and are not regulated as loans under state or federal law.

Summary of Bill:

The Washington State Earned Wage Access Services Act is established. Beginning July 1, 2026, no person may offer or provide EWA services in Washington without first obtaining a license from the Department of Financial Institutions (DFI). A person seeking to obtain a license to provide EWA services must submit an application to the DFI, including fingerprints and information required to run a background check, pay the required investigation and licensing fees, and obtain a surety bond of at least \$30,000.

Department of Financial Institution's Responsibilities.

The DFI has broad administrative discretion and rulemaking authority in regulating EWA services. The DFI must issue licenses to applicants who meet all requirements and collect annual assessments from each licensee. The DFI may deny applications or condition, suspend, or revoke a license under certain conditions, such as failure to pay fees or violating regulations.

The DFI has investigative authority and may at any time examine the business and books, accounts, records, papers, documents, files, and other information used by a licensee for the purpose of discovering violations. Every licensee examined or investigated by the DFI must pay for the cost of the examination or investigation. If needed, the director of the DFI may apply for and obtain a court order authorizing a subpoena for testimony, documents, records, or evidence.

The DFI also may order the discontinuance of any injurious or illegal practice, issue temporary cease and desist orders, and may bring an action to enjoin the acts or practices that constitute violations and to enforce compliance. The Administrative Procedures Act governs proceedings for denying licenses, issuing cease and desist orders, suspending or revoking licenses, imposing civil penalties or other remedies, and appeals. The director of the DFI may recover the state's costs for prosecuting violations, staff time for administrative hearings, and reasonable attorneys' fees when a violation is determined to have occurred.

Licensee Obligations.

Licensee's providing EWA services have an obligation to:

- develop and implement policies and procedures to respond to questions raised by consumers and to address complaints;
- offer consumers at least one reasonable option to obtain proceeds at no cost and clearly explain how to elect that no-cost option;
- inform the consumer of their rights under the agreement and clearly disclose all fees associated with EWA transactions and subscriptions or memberships;
- inform the consumer of any material changes to terms and conditions;
- allow the consumer to cancel at any time without penalty;
- comply with all applicable laws;

- clearly and conspicuously disclose that any tips, gratuities, or donations may be zero, are voluntary, and EWA services are not contingent upon such;
- provide proceeds to the consumer by any means mutually agreed upon by the consumer and licensee;
- comply with the federal Electronic Funds Transfer Act; and
- reimburse the consumer for the full amount of any overdraft or nonsufficient funds fees imposed on the consumer by a depository institution that were caused by the licensee attempting to seek outstanding proceeds or fees on a date before, or in an incorrect amount from, that which was disclosed to the consumer.

Prohibited Acts.

An EWA provider may not charge a fee for delivery or expedited delivery in excess of \$7.00 per EWA services transaction. Earned Wage Access providers are also prohibited from the following acts:

- sharing any fees or tips with an employer of a consumer using EWA services;
- requiring a consumer's credit report or credit score to determine a consumer's eligibility;
- accepting payment of outstanding proceeds, fees, or tips by means of a consumer's credit card;
- charging a late fee, deferral fee, interest, or other penalty for failure to pay outstanding proceeds, fees, or tips;
- reporting to a consumer reporting agency or debt collector information about a consumer;
- compelling or attempting to compel payment for outstanding proceeds, fees, or tips through unsolicited telephone calls, law suits, use of a third-party collector, or sale of outstanding amounts to a third-party collector or debt buyer;
- misleading or deceiving consumers about the voluntary nature of tips, making false representations about tips, or presenting voluntary payments as default options to a consumer; and
- advertising, printing, displaying, publishing, distributing, or broadcasting any false, misleading, or deceptive statement or representation.

It is a violation for any licensee, its officers, board members, or other person subject to the EWA regulations to defraud or mislead consumers, engage in unfair or deceptive practices towards consumers, make false or deceptive statements or representations, negligently make false statements, knowingly and willfully make any omission of material fact in a report filed with the DFI or in an investigation, or violate any state or federal law.

Recordkeeping and Reporting Requirements.

Licensee's are required to keep all records that will enable the director to determine whether the licensee is in compliance. All records related to an EWA transaction must be kept for at least three years. On or before July 1 each year, each licensee must file a report with the DFI concerning their EWA services and business during the preceding calendar year, including information such as gross revenue, total number of transactions, and total dollar amounts provided to consumers. The report must be made under oath, and the DFI is responsible for publishing annually an analysis and recapitulation of the reports. A licensee who fails to file the

required report is subject to a \$50 penalty for each day's delay.

Penalties.

The director of the DFI is permitted to charge fines of up to \$100 a day per violation or for failure to comply with an order issued by the director. A person who violates, or knowingly aids or abets in a violation, or fails to perform a required duty, for which no penalty is prescribed, is guilty of a gross misdemeanor.

Appropriation: None.

Fiscal Note: Requested on January 7, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.