

# HOUSE BILL REPORT

## HB 1063

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**As Reported by House Committee On:**  
Consumer Protection & Business

**Title:** An act relating to establishing a new chapter for the licensing and regulation of businesses providing earned wage access services.

**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 History:**

**Committee Activity:**

Consumer Protection & Business: 1/22/25, 2/14/25 [DPS].

**Brief Summary of Substitute Bill**

- Establishes the Washington State Earned Wage Access Services Act.
- Requires earned wage access (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.

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### HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Walen, Chair; McClintock, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Abbarno, Corry, Donaghy, Fosse, Kloba, Morgan, Reeves, Ryu, Santos and Steele.

**Minority Report:** Do not pass. Signed by 1 member: Representative Berry.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**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 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.

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**Summary of Substitute 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; and
- provide proceeds to the consumer by any means mutually agreed upon by the consumer and licensee.

### Prohibited Acts.

An EWA provider may not charge a fee for delivery or expedited delivery in excess of \$5 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;
- making tipping an automated or default option for transactions;
- setting a minimum tipping amount for transactions;
- charging a subscription or membership fee to access EWA services;
- compelling or attempting to compel payment for outstanding proceeds, fees, or tips through unsolicited telephone calls, lawsuits, 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 of the DFI 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.

**Substitute Bill Compared to Original Bill:**

The substitute bill made a number of changes to defined terms. "Consumer-directed wage access services" was modified by removing the phrase "earned but unpaid income" and replacing it with "projected income," so the definition includes, "offering or providing an advance of projected income directly to consumers based on the consumer's representations and the provider's reasonable determination of the consumer's projected income." In addition, the definitions for "earned but unpaid income," "fee," "proceeds," and "employer" were all modified.

Additional prohibited acts were added. An EWA provider is prohibited from charging a subscription or membership fee, from making tipping an automated or default option, and from setting a minimum tipping amount for transactions. The per transaction fee cap was lowered to \$5 per transaction, rather than \$7, but is permitted to increase every five years based on inflation. The DFI was granted authority to suspend licenses of any individual in violation of a child support order, per the Department of Social and Health Services. The substitute bill also clarifies that the DFI can assess fees to cover the entire cost of administering the EWA Services Act, and specifies that the fees must be deposited in the Financial Services Regulation Fund. Last, the substitute bill specifies that if EWA providers start engaging in activities, such as money transmission or lending, they are subject to the laws regulating those entities and activities.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 14, 2025.

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

**Staff Summary of Public Testimony:**

(In support) It was brought up in committee last year that EWA services do not qualify as loans as they do not require interest payments, a specified term, and are nonrecourse. Rather, EWA services are about receiving the money someone has already earned from their employer. Emergencies pop up in between paychecks. Some people are paid on a schedule that does not necessarily work for them. There are a lot of Washingtonians living paycheck-to-paycheck. The cost of living has skyrocketed, and it is harder for people to make ends meet. If someone needs cash fast, their options are to take out a payday loan, ask a family member, or ask their employer. Earned wage access started like an automated teller machine (ATM) and evolved into an online application, with fees less than an out-of-network ATM. Access to EWA services helps bridge the gap between paychecks while avoiding predatory fees. This is a liquidity solution and not a loan, as someone is using their own earned money. There are two models of EWA services: business-to-consumer relationships and business-to-business relationships. There is always a no-cost option, and EWA providers do not sell consumer data. There are sensible, but distinct consumer protections put in place.

The Legislature should recognize this as a financial services product that consumers find value in and want access to by regulating the entities in a way this is appropriate. Earned wage access providers are open to being regulated, but regulating EWA services as loans would drive the product from the market. This is a complex issue and a comprehensive bill that is a new area of law. The Consumer Financial Protection Bureau (CFPB) put out an interpretive rule in 2020 that EWA services are not a loan. However, the proposed rule that was issued in July has not been finalized. Loans require underwriting, credit scores, disclosure aspects, and interest rates, but EWA services do not. There is also no exploitive interest like payday loans which put consumers in a cycle of debt that is hard to escape from.

(Opposed) None.

(Other) These products are arguably not loans, but the CFPB issued a proposed rule stating that EWA services are loans and should be subject to the Truth in Lending Act. It is important not to foreclose on the question about whether or not these products are loans. Earned wage access providers are not currently money transmitters, but they could become money transmitters.

Unfortunately, the bill does not protect consumers. This is an industry wish list and not a balanced approach. There are many types of EWA products, and this legislation lumps them together as though they are the same. The direct-to-consumer EWA model should be excluded. These types of EWA services are essentially payday loans. A loan is giving someone money with the expectation of being repaid. The fees on these products are equivalent to a 39 percent interest rate. A high interest credit card would cost less. Five states regulate EWA services similar to this bill. Connecticut and Maryland treat these products as loans.

Workers should have access to wages, but stronger consumer protections are necessary. The two different EWA models should be regulated separately as employer-integrated models have less risks. The direct-to-consumer model should be regulated as a loan and subject to existing loan regulations. Employer-integrated EWA services should have the number of withdrawals capped. To protect consumers, exclude the tips that companies induce consumers to pay. These tips obscure the true cost of these products.

**Persons Testifying:** (In support) Representative Kristine Reeves, prime sponsor; Dennise Drury; Nancy Coleman-Chavez, Public Policy and Government Relations Manager, DailyPay; Molly Jones, Vice President, Head of Public Policy, Payactiv; Zach Drucker, Public Affairs Specialist; Phil Goldfeder, CEO at American Fintech Council; Robert Singleton, Senior Director of Policy and Public Affairs for California and the Western US at Chamber of Progress; and Brittany Davis, EWA User.

(Other) Andrew Kushner, Center for Responsible Lending; Sam Leonard, WA State Association for Justice; Amanda Martin, NW Consumer Law Center; Molly Gallagher, Statewide Poverty Action Network; Manuel Alvarez; Drew Bouton, Washington State Department of Financial Institutions; and Cathleen MacCaul, AARP Washington State.

**Persons Signed In To Testify But Not Testifying:** None.