

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H3/4/25 H3/6/25

A Bill

HOUSE BILL 1517

By: Representative Ray

By: Senator Gilmore

For An Act To Be Entitled

AN ACT TO ESTABLISH THE EARNED WAGE ACCESS SERVICES
ACT; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE EARNED WAGE ACCESS
SERVICES ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, is amended to add an additional chapter to read as follows:

CHAPTER 52

CONSUMER PROTECTION

Subchapter 1 – General Provisions

[Reserved.]

Subchapter 2 – Earned Wage Access Services Act

23-52-201. Title.

This subchapter shall be known and may be cited as the "Earned Wage Access Services Act".

23-52-202. Definitions.

As used in this subchapter:

(1) "Consumer" means a natural person residing in this state;



(2) "Consumer-directed earned wage access services" means the business of delivering to a consumer access to earned but unpaid income based on the consumer's representation and the provider's reasonable determination of the consumer's earned but unpaid income;

(3)(A) "Earned but unpaid income" means salary, wages, compensation, or other income that a consumer or an employer has represented, and that a provider has reasonably determined, has been earned or has accrued to the benefit of the consumer in exchange for the consumer's provision of services to an employer or on behalf of an employer.

(B) "Earned but unpaid income" includes:

(i) Services provided on an hourly, project-based, piecework, or other basis; and

(ii) If the consumer is acting as an independent contractor of the employer, income that has not at the time of the payment of proceeds been paid to the consumer by the employer;

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

(5)(A) "Employer" means a person who employs a consumer or any other person who is contractually obligated to pay a consumer earned but unpaid income in exchange for a consumer's provision of services to the person or on behalf of the person, including on an hourly, project-based, piecework, or other basis, and including when the consumer acts as an independent contractor with respect to the person.

(B) "Employer" does not include a customer of an employer or any other person whose obligation to make a payment of salary, wages, compensation, or other income to a consumer is not based on the provision of services by the consumer for or on behalf of the person;

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

(7)(A) "Fee" means a charge imposed by a provider for delivery or expedited delivery of proceeds to a consumer, a subscription or membership charge imposed by a provider for a bona fide group of services that include

earned wage access services, or an amount paid by an employer to a provider on a consumer's behalf that entitles the consumer to receive proceeds at reduced or no cost to the consumer.

(B) "Fee" does not mean a voluntary tip, gratuity, or donation;

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

(9) "Proceeds" means a payment of funds to a consumer by a provider that is based on earned but unpaid income; and

(10)(A) "Provider" means a person that is engaged in the business of offering and providing earned wage access services to a consumer.

(B) "Provider" does not include:

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

(ii) An employer that offers a portion of salary, wages, or compensation directly to an employee or an independent contractor before the normally scheduled pay date; or

(iii) An entity that offers or provides earned wage access services and reports a consumer's payment or nonpayment of outstanding proceeds or fees, voluntary tips, gratuities, or other donations in connection with the earned wage access services to a consumer reporting agency, as defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., as it existed on January 1, 2025.

23-52-203. Provider earned wage access services – Prohibited practices.

(a) A provider may use the mailing address provided by a consumer to determine the consumer's state of residence for purposes of this subchapter.

(b) A provider shall not be deemed to be engaging in lending, money transmission, or debt collection in this state, or in violation of the laws of this state governing the sale of, assignment of, or an order for earned but unpaid income, if the provider:

(1) Complies with the requirements of this section;

(2) Develops and implements policies and procedures to respond to questions raised by a consumer;

(3) Addresses a complaint from a consumer in an expedient manner;

(4) Offers to a consumer at least one (1) reasonable option to obtain proceeds at no cost to the consumer and clearly explains how to elect the no-cost option under this subdivision (b)(4) whenever it offers a consumer the option to receive proceeds for a fee;

(5) Before entering into an agreement with a consumer for the provision of earned wage access services:

(A) Informs the consumer of the consumer's rights under the agreement; and

(B) Fully and clearly discloses all fees associated with the earned wage access services;

(6) Informs a consumer of a material change to the terms and conditions of the earned wage access services before implementing the changes for the consumer;

(7) Allows a consumer to cancel use of the provider's earned wage access services at any time without incurring a cancellation fee imposed by the provider;

(8) Complies with all applicable local, state, and federal privacy and information security laws; and

(9) Provides proceeds to a consumer by any means mutually agreed upon by the consumer and the provider.

(c) If a provider solicits, charges, or receives a tip, gratuity, or other donation from a consumer, the provider shall clearly and conspicuously disclose:

(1) To the consumer immediately before each transaction that a tip, gratuity, or other donation amount may be zero and is voluntary; and

(2) In its service contract with the consumer and elsewhere that tips, gratuities, or donations are voluntary and that the offering of earned wage access services, including the amount of proceeds a consumer is eligible to request and the frequency with which proceeds are provided to a consumer, is not contingent on whether the consumer pays a tip, gratuity, or other donation or on the size of the tip, gratuity, or other donation.

(d) If a provider seeks repayment of outstanding proceeds or payment of fees or other amounts owed, including voluntary tips, gratuities, or other donations, in connection with the activities covered by this subchapter, from

a consumer's account at a depository institution, including by means of electronic fund transfer, the provider shall:

(1) Comply with applicable provisions of the Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as it existed on January 1, 2025, and regulations adopted under the the Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as it existed on January 1, 2025; and

(2)(A) Reimburse the consumer for the full amount of any overdraft or nonsufficient funds fees imposed on a consumer by the consumer's depository institution that were caused by the provider's attempting to seek payment of any outstanding proceeds, fees, or other payments, in connection with the activities covered by this subchapter, including voluntary tips, gratuities, or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer.

(B) The provider is not subject to the requirements under subdivision (d)(2)(A) of this section with respect to payments of outstanding proceeds or fees incurred by a consumer through fraudulent or other unlawful means.

(e) A provider shall not:

(1) Share with an employer a portion of any fees, voluntary tips, gratuities, or other donations that were received from or charged to a consumer for earned wage access services;

(2) Require a consumer's credit report or a credit score provided or issued by a consumer reporting agency to determine a consumer's eligibility for earned wage access services;

(3) Accept payment of outstanding proceeds, fees, voluntary tips, gratuities, or other donations from a consumer by means of a credit card or charge card;

(4) Charge a consumer a late fee, deferral fee, interest, or any other penalty or charge for failure to pay outstanding proceeds, fees, voluntary tips, gratuities, or other donations;

(5) Compel or attempt to compel payment by a consumer of outstanding proceeds, fees, voluntary tips, gratuities, or other donations to the provider by:

(A) A suit against the consumer in a court of competent jurisdiction;

(B) Use of a third party to pursue collection from the

consumer on the provider's behalf; or

(C) Sale of outstanding proceeds, fees, voluntary tips, gratuities, or other donations to a third-party collector or debt buyer for collection from a consumer;

(6) Mislead or deceive a consumer about the voluntary nature of the tips, gratuities, or donations or represent that the tip, gratuity, or other donation will benefit a specific individual or group of individuals if the provider solicits, charges, or receives tips, gratuities, or other donations from a consumer; and

(7) Advertise, print, display, publish, distribute, or broadcast or cause to be advertised, printed, displayed, published, distributed, or broadcast, in any manner, any statement or representation with regard to the earned wage access services offered by the provider that:

(A) Is false, misleading, or deceptive; or

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

23-52-204. Applicability.

This subchapter does not apply to a corporation organized under the general banking laws, savings and loan laws, or credit union laws of this state, any other state, or the United States Government.

/s/Ray