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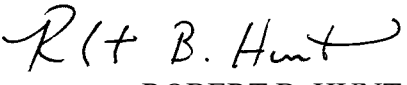
No. 1915

H.P. 1276

House of Representatives, May 6, 2025

An Act to Regulate Earned Wage Access Services Providers

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative SKOLD of Portland.
Cosponsored by Senator BRADSTREET of Kennebec and
Representatives: ARCHER of Saco, CROCKETT of Portland, ROEDER of Bangor, Senators:
DUSON of Cumberland, TIPPING of Penobscot.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 32 MRSA c. 80-C is enacted to read:

3 **CHAPTER 80-C**

4 **EARNED WAGE ACCESS SERVICES ACT**

5 **§6200-D. Short title**

6 This chapter may be known and cited as the "Earned Wage Access Services Act."

7 **§6200-E. Definitions**

8 As used in this chapter, unless the context otherwise indicates, the following terms
9 have the following meanings.

10 **1. Administrator.** "Administrator" means the Superintendent of Consumer Credit
11 Protection within the Department of Professional and Financial Regulation.

12 **2. Consumer.** "Consumer" means an individual who resides in the State.

13 **3. Consumer-directed wage access services.** "Consumer-directed wage access
14 services" means delivering to a consumer access to earned but unpaid income that is based
15 on the consumer's representations and the provider's reasonable determination of the
16 consumer's earned but unpaid income.

17 **4. Earned but unpaid income.** "Earned but unpaid income" means salary, wages,
18 compensation or other income that a consumer or an employer has represented, and that a
19 provider has reasonably determined, has been earned or accrued to the benefit of the
20 consumer in exchange for the consumer's provision of services to the employer or on behalf
21 of the employer, including on an hourly, project-based, piece-work or other basis and
22 including circumstances in which the consumer is acting as an independent contractor of
23 the employer but has not, at the time of the payment of proceeds, been paid by the employer.

24 **5. Earned wage access services.** "Earned wage access services" means providing
25 consumer-directed wage access services or employer-integrated wage access services or
26 both.

27 **6. Earned wage access services provider; provider.** "Earned wage access services
28 provider" or "provider" means a person that is in the business of providing earned wage
29 access services to consumers.

30 "Earned wage access services provider" or "provider" does not include:

31 A. A supervised financial organization;

32 B. A service provider, such as a payroll service provider, whose role may include
33 verifying the available earnings but who is not contractually obligated to fund any
34 proceeds delivered as part of earned wage access services; or

35 C. An employer that offers a portion of salary, wages or compensation directly to its
36 employees or independent contractors before the normally scheduled pay date.

37 **7. Employer.** "Employer" means a person who employs a consumer or any other
38 person who is contractually obligated to pay a consumer earned but unpaid income in

1 exchange for the consumer's provision of services to the employer or on behalf of the
2 employer including on an hourly, project-based, piece-work or other basis and including
3 circumstances in which the consumer is acting as an independent contractor with respect
4 to the employer.

5 "Employer" does not mean a customer of an employer or any other person whose obligation
6 to make a payment of salary, wages, compensation or other income to a consumer is not
7 based on the provision of services by that consumer for or on behalf of the person.

8 **8. Employer-integrated wage access services.** "Employer-integrated wage access
9 services" means delivering to a consumer access to earned but unpaid income that is based
10 on employment, income or attendance data, in any combination, obtained directly or
11 indirectly from an employer or an employer's payroll service provider.

12 **9. Fee.** "Fee" means:

13 A. A fee imposed by a provider for delivery or expedited delivery of proceeds to a
14 consumer; or

15 B. A subscription or membership fee imposed by a provider for a bona fide group of
16 services that include earned wage access services.

17 "Fee" does not mean a voluntary tip, gratuity or other donation.

18 **10. Outstanding proceeds.** "Outstanding proceeds" means proceeds remitted to a
19 consumer by a provider that have not yet been repaid to the provider.

20 **11. Proceeds.** "Proceeds" means a payment to a consumer by a provider that is based
21 on earned but unpaid income.

22 **12. Supervised financial organization.** "Supervised financial organization" has the
23 same meaning as in Title 9-A, section 1-301, subsection 38-A.

24 **§6200-F. Registration and annual reregistration**

25 **1. Registration and reregistration.** An organization desiring to act, or continue to act,
26 as an earned wage access services provider shall apply to the administrator for registration
27 or reregistration in accordance with this chapter. The application must be in a form
28 prescribed by the administrator. The administrator may refuse the application if it contains
29 erroneous or incomplete information. A registration or reregistration may not be issued
30 unless the administrator, upon investigation, finds that the financial soundness and
31 responsibility, character and fitness of the applicant and, when applicable, its partners,
32 officers or directors, warrant belief that the business will be operated honestly and fairly
33 within the purposes of this chapter.

34 **2. Separate registration or reregistration required.** A single registration or
35 reregistration is required if a provider operates entirely in this State without a physical place
36 of business. A provider that operates out of a physical place or places of business in this
37 State shall have a separate registration or reregistration for each place of business.

38 **3. Registration or reregistration requirements; fees.** The administrator may require
39 registration or reregistration under this section through the nationwide mortgage licensing
40 system and registry as defined in Title 9-A, section 13-102, subsection 8. The administrator
41 is authorized to participate in the nationwide mortgage licensing system and registry.

1 In all cases, whether registration or reregistration is through the nationwide mortgage
2 licensing system and registry or otherwise, the administrator may establish, by rule,
3 requirements for registration or reregistration, including but not limited to:

4 A. Background checks for:

5 (1) Criminal history through fingerprint or other databases;

6 (2) Civil or administrative records;

7 (3) Credit history; or

8 (4) Any other information determined necessary by the nationwide mortgage
9 licensing system and registry;

10 B. The payment of fees to apply for registrations or reregistrations, except that the fee
11 for an initial application may not exceed \$800 and for a reregistration may not exceed
12 \$600. If registration is through the nationwide mortgage licensing system and registry,
13 an applicant must also pay a nationwide mortgage licensing system and registry
14 processing fee in an amount to be determined by the administrators of the nationwide
15 mortgage licensing system and registry. Reregistration applications received after the
16 due date are subject to an additional fee of \$100;

17 C. The setting or resetting as necessary of reregistration or reporting dates; and

18 D. Other requirements for application for, amendment of or revocation of a registration
19 or reregistration or any other such activities as the administrator considers necessary.

20 **4. Action on registration or reregistration application.** The administrator shall take
21 action on an application within 30 days after the administrator has accepted the application
22 as complete. Upon written request, the applicant is entitled to a hearing on the question of
23 the applicant's qualifications for registration or reregistration if the administrator has
24 notified the applicant in writing that the application has been denied or the administrator
25 has not issued a registration or reregistration within 30 days after the application for the
26 registration or reregistration was accepted as complete by the administrator. A request for
27 a hearing may not be made more than 60 days after the application was accepted as
28 complete or the administrator has mailed a written notice to the applicant stating that the
29 application has been denied and stating the reasons for the denial of the application.

30 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,
31 chapter 375, subchapter 2-A.

32 **§6200-G. Bond required**

33 Each application for a registration or reregistration under this chapter must be
34 accompanied by evidence of a surety bond in a form approved by the administrator in the
35 aggregate amount of \$50,000 and designate the administrator as payee for use by the
36 administrator and any person or persons who may have a cause of action against an earned
37 wage access services provider. The terms of the bond must run concurrently with the period
38 of time during which the registration or reregistration is in effect.

39 **§6200-H. Operating requirements**

40 An earned wage access services provider shall:

1 **1. Policies and procedures.** Develop and implement policies and procedures to
2 respond to questions raised by consumers and address complaints from consumers in an
3 expedient manner;

4 **2. No-cost option.** Whenever it offers a consumer the option to receive proceeds for
5 a fee or solicits an optional tip, gratuity or other donation, offer to the consumer at least
6 one reasonable option to obtain proceeds at no cost to the consumer and clearly explain
7 how to elect that no-cost option;

8 **3. Disclosures prior to consummating agreement.** Before entering into an agreement
9 with a consumer for the provision of earned wage access services:

10 A. Inform the consumer of their rights under the agreement; and

11 B. Fully and clearly disclose all fees associated with the earned wage access services;

12 **4. Disclosures after consummating agreement.** Inform the consumer of any material
13 changes to the terms and conditions of the earned wage access services before
14 implementing those changes for that consumer;

15 **5. Cancellation.** Allow the consumer to cancel use of the provider's earned wage
16 access services at any time without incurring a cancellation fee imposed by the provider;

17 **6. Privacy and information security.** Comply with all applicable local, state and
18 federal privacy and information security laws;

19 **7. Tips, gratuities and other donations.** If a provider solicits, charges or receives a
20 tip, gratuity or other donation from a consumer:

21 A. Clearly and conspicuously disclose to the consumer immediately prior to each
22 transaction that a tip, gratuity or other donation amount may be zero and is voluntary;
23 and

24 B. Clearly and conspicuously disclose in its service contract with the consumer and
25 elsewhere that tips, gratuities or donations are voluntary and that the offering of earned
26 wage access services, including the amount of proceeds a consumer is eligible to
27 request and the frequency with which proceeds are provided to a consumer, is not
28 contingent on whether the consumer pays any tip, gratuity or other donation or on the
29 size of the tip, gratuity or other donation;

30 **8. Provision of proceeds.** Provide proceeds to a consumer by any means mutually
31 agreed upon by the consumer and the provider; and

32 **9. Electronic fund transfers.** If the provider will seek repayment of outstanding
33 proceeds or payment of fees or other amounts owed, including voluntary tips, gratuities or
34 other donations, in connection with the activities covered by this Act, from a consumer's
35 account at a depository institution, including by means of electronic fund transfer:

36 A. Comply with applicable provisions of the federal Electronic Fund Transfer Act, 15
37 United States Code, Chapter 41, Subchapter VI, and regulations adopted pursuant to
38 that subchapter; and

39 B. Reimburse the consumer for the full amount of any overdraft or insufficient-funds
40 fees imposed on a consumer by the consumer's depository institution that were caused
41 by the provider's attempting to seek payment of any outstanding proceeds, fees or other
42 payments in connection with the activities covered by this chapter, including voluntary

1 tips, gratuities or other donations, on a date before, or in an incorrect amount from, the
2 date or amount disclosed to the consumer. The provider is not subject to the
3 requirements of this paragraph with respect to payment of outstanding proceeds or fees
4 incurred by a consumer through fraudulent or other unlawful means.

5 A provider may use the mailing address or state of residence provided to it by an
6 individual or that individual's employer to determine the individual's state of residence for
7 purposes of this chapter.

8 **§6200-I. Prohibited acts**

9 An earned wage access services provider may not:

10 **1. Delivery or expedited delivery fee cap.** Impose a fee in excess of \$7.00 in
11 connection with a fee described in section 6200-E, subsection 9, paragraph A;

12 **2. Revenue sharing with employer.** Share with an employer a portion of any fees,
13 voluntary tips, gratuities or other donations that were received from or charged to a
14 consumer for earned wage access services;

15 **3. Credit reports and credit scores.** Require a consumer to provide the consumer's
16 credit report or credit score issued by a consumer reporting agency to determine a
17 consumer's eligibility for earned wage access services;

18 **4. Credit cards and charge cards.** Accept payment of outstanding proceeds, fees or
19 voluntary tips, gratuities or other donations from a consumer by means of a credit card or
20 charge card;

21 **5. Limitations on types of fees.** Charge a consumer a late fee, deferral fee, interest
22 or any other penalty or charge for failure to pay outstanding proceeds, fees or voluntary
23 tips, gratuities or other donations;

24 **6. Credit reporting and debt collection.** Report to a consumer reporting agency or
25 debt collector any information about the consumer regarding the inability of the provider
26 to collect outstanding proceeds, fees or voluntary tips, gratuities or other donations;

27 **7. Nonrecourse payment obligation.** Compel or attempt to compel payment by a
28 consumer of outstanding proceeds, fees or voluntary tips, gratuities or other donations to
29 the provider through any of the following means:

30 A. A suit against the consumer in a court of competent jurisdiction;

31 B. Use of a 3rd party to pursue collection from the consumer on the provider's behalf;
32 or

33 C. Sale of outstanding proceeds, fees or voluntary tips, gratuities or other donations to
34 a 3rd-party collector or debt buyer for collection from a consumer; or

35 **8. Tips and other optional payments.** If the provider solicits, charges or receives tips,
36 gratuities or other donations from a consumer, mislead or deceive a consumer about the
37 voluntary nature of the tips, gratuities or donations or represent that the tips, gratuities or
38 donations will benefit any specific individuals or group of individuals.

39 The limitations set forth in subsection 7 do not preclude the use by a provider of any
40 of the methods specified in that subsection to compel payment of outstanding proceeds or
41 fees incurred by a consumer through fraudulent or other unlawful means, nor do they

preclude a provider from pursuing an employer for breach of its contractual obligations to the provider.

§6200-J. Maintenance of books and records

An earned wage access services provider shall maintain books and records for each consumer for whom the provider provides earned wage access services for 4 years following the final transaction with the consumer.

§6200-K. Powers of administrator

The administrator may exercise the following powers.

1. Complaint investigation. The administrator may receive and act on complaints, take action to obtain voluntary compliance with this chapter and refer cases to the Attorney General, who shall appear for and represent the administrator in court.

2. Rules. The administrator may adopt rules to carry out the requirements of this chapter in accordance with Title 5, chapter 375. Rules adopted pursuant to this chapter are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

3. Examinations. The administrator may examine the earned wage access services-related books, accounts and records of any earned wage access services provider, make an investigation to determine compliance with this chapter and charge the reasonable expenses necessarily incurred to conduct the examinations to the earned wage access services provider.

4. Appropriation of funds. The administrator may appropriate for the use of the administrator the aggregate of fees, examination expense reimbursement or other payments made to the administrator pursuant to this chapter and carry forward any balance of funds from a fiscal year to be expended for the same purpose in the following fiscal year.

§6200-L. Advertising

1. False advertising. An earned wage access services provider may not engage in this State in false or misleading advertising concerning the terms and conditions of any services or products offered.

2. Dissemination; no liability. This section does not impose liability on the owner or personnel of any medium in which an advertisement appears or through which an advertisement is disseminated.

§6200-M. Effects of violations on rights of parties

1. Violations; unfair, unconscionable or deceptive practices. An earned wage access services provider that violates any provision of this chapter or any rule adopted by the administrator or that through any unfair, unconscionable or deceptive practice causes actual damage to a consumer is subject to enforcement action pursuant to subsection 2.

2. Enforcement actions. The following enforcement actions may be taken by the administrator or an aggrieved consumer against an earned wage access services provider for violations of any provision of this chapter or any rule adopted pursuant to this chapter or for unfair, unconscionable or deceptive practices that cause actual damage to a consumer:

A. After notice and hearing, a cease and desist order from the administrator;

1 B. When in the opinion of the administrator immediate action is required to protect the
2 public interest, a cease and desist order without prior notice and hearing, after which
3 the administrator shall afford an opportunity for a hearing, the results of which are
4 subject to review under Title 5, chapter 375, subchapter 7;

5 C. After notice and hearing, forfeiture of such portion of the bond required under
6 section 6200-G as proportionately may make aggrieved parties whole;

7 D. A civil action by the administrator through the Attorney General, after which a court
8 may assess a civil penalty payable to the State of not more than \$5,000;

9 E. A civil action by an aggrieved consumer in which that consumer has the right to
10 recover actual damages from the earned wage access services provider in an amount
11 determined by the court plus costs of the action together with reasonable attorney's
12 fees; or

13 F. Revocation, suspension or nonrenewal of the earned wage access services provider's
14 registration or reregistration pursuant to section 6200-N.

15 **§6200-N. Suspension or revocation of registration or reregistration**

16 **1. Suspension or revocation.** After notice and hearing, the administrator may suspend
17 or revoke an earned wage access services provider's registration or reregistration if the
18 administrator finds that one of the conditions of subsection 2 is met.

19 **2. Conditions for suspension or revocation.** The following conditions are grounds
20 for suspension or revocation of a registration or reregistration:

21 A. A fact or condition exists that, if it had existed or if it was known at the time the
22 registrant applied for registration or reregistration, would have been grounds for
23 denying the application;

24 B. The registrant knowingly violates a material provision of this chapter or rule or order
25 adopted by the administrator under authority of this chapter;

26 C. The registrant is insolvent;

27 D. The registrant refuses to permit the administrator to make an examination authorized
28 by this chapter; or

29 E. The registrant fails to respond within a reasonable time and in an appropriate manner
30 to communications from the administrator.

31 **§6200-O. Applicability of other state laws**

32 **1. Lending, money transmission and labor laws.** Notwithstanding any provision of
33 law to the contrary, earned wage access services offered and provided by an earned wage
34 access services provider in accordance with this chapter may not be considered:

35 A. In violation of or noncompliance with any law governing deductions from payroll,
36 salary, wages, compensation or other income or the purchase, sale or assignment of or
37 an order for earned but unpaid income;

38 B. A loan or other form of credit or debt, nor may the provider be considered a creditor,
39 debt collector or lender with respect thereto; or

40 C. Money transmission, nor may the provider be considered a money transmitter with
41 respect thereto.

2. Fees; tips and other optional payments. Notwithstanding any provision of law to the contrary, fees, outstanding proceeds or voluntary tips, gratuities or other donations paid in accordance with this chapter to an earned wage access services provider may not be considered interest or finance charges.

3. Conflicts. If there is a conflict between the provisions of this Act and any other provision of law, the provisions of this Act prevail.

SUMMARY

This bill enacts the Maine Earned Wage Access Services Act, which does the following:

1. It establishes requirements and fees for the registration and reregistration of earned wage access services providers, which are businesses, unregulated under current law, that advance earned by unpaid income to consumers;

2. It establishes bond requirements for earned wage access services providers;

3. It establishes certain operating requirements for earned wage access services providers, including requirements regarding consumer disclosures, cancellation, privacy and information security and reimbursements to consumers;

4. It establishes prohibitions on certain actions by earned wage access services providers, including prohibitions regarding delivery fees, revenue sharing, requesting credit reports or scores, credit reporting and debt collection and payments by credit cards;

5. It requires an earned wage access services provider to maintain books and records for each consumer for whom the provider provides earned wage access services;

6. It provides the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation with certain authority to investigate complaints, adopt rules, appropriate funds and examine certain books and records of earned wage access services providers;

7. It establishes certain requirements related to advertising; and

8. It establishes enforcement mechanisms for the provisions of the Act.