

1
2
3
4
5
6
7
8
9
10

11
12
13
14
15
16
17
18
19
20

H.99

Introduced by Representatives Marcotte of Coventry, Bosch of Clarendon,
Carris-Duncan of Whitingham, Cooper of Pownal, Duke of
Burlington, Graning of Jericho, Micklus of Milton, Olson of
Starksboro, Priestley of Bradford, and White of Bethel

Referred to Committee on

Date:

Subject: Commerce and trade; consumer protection

Statement of purpose of bill as introduced: This bill proposes to regulate
earned wage access services.

An act relating to regulating earned wage access services

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 8 V.S.A. chapter 75 is added to read:

CHAPTER 75. EARNED WAGE ACCESS SERVICES

§ 2301. DEFINITIONS

As used in this chapter:

(1)(A) “Biometric data” means data generated from the technological
processing of an individual’s unique biological, physical, or physiological
characteristics that is linked or reasonably linkable to an individual, including:

(i) iris or retina scans;

- 1 (ii) fingerprints;
2 (iii) facial or hand mapping, geometry, or templates;
3 (iv) vein patterns;
4 (v) voice prints; and
5 (vi) gait or personally identifying physical movement or patterns.

6 (B) “Biometric data” does not include:

- 7 (i) a digital or physical photograph;
8 (ii) an audio or video recording; or
9 (iii) any data generated from a digital or physical photograph or
10 from an audio or video recording, unless such data is generated to identify a
11 specific individual.

12 (2) “Consumer” means an individual residing in this State.

13 (3) “Direct-to-consumer provider” means a provider that offers or
14 provides earned wage access services directly to consumers based on the
15 consumer’s representations and the provider’s reasonable determination of the
16 consumer’s earned but unpaid income.

17 (4) “Earned but unpaid income” means salary, wages, compensation, or
18 other income that an obligor owes but has not yet paid to a consumer, as
19 reasonably determined by a provider based on information provided by or on
20 behalf of a consumer or obligor.

1 (5) “Earned wage access services” means the business of delivering
2 proceeds to consumers prior to the next date on which an obligor is obligated
3 to pay salary, wages, compensation, or other income to a consumer.

4 (6) “Employer-integrated provider” means a provider that offers or
5 provides earned wage access services to a consumer using time and attendance
6 or earnings data for the relevant pay period that is provided directly or
7 indirectly by an obligor or a service provider of the obligor.

8 (7) “Licensee” means a provider who has been issued a license pursuant
9 to this chapter.

10 (8) “Obligor” means a person who is legally obligated to pay salary,
11 wages, compensation, or other income for work that a consumer performs on
12 an hourly, project-based, piecework, or other basis.

13 (9) “Outstanding proceeds” means proceeds transferred to a consumer
14 by a provider and not yet repaid to the provider.

15 (10)(A) “Precise geolocation data” means information derived from
16 technology that can precisely and accurately identify the specific location of a
17 consumer within a radius of 1,850 feet.

18 (B) “Precise geolocation data” does not include:

19 (i) the content of communications;

20 (ii) data generated by or connected to an advanced utility metering
21 infrastructure system; or

1 (iii) data generated by equipment used by a utility company.

2 (11) “Proceeds” means an amount of funds a provider transfers to a
3 consumer that is based on earned but unpaid income.

4 (12) “Provider” means a person who is in the business of offering and
5 providing earned wage access services to consumers.

6 § 2302. LICENSE REQUIRED

7 (a) A person shall not provide earned wage access services in this State
8 without first obtaining a license pursuant to this chapter.

9 (b) A person, including a provider’s financial institution as defined in
10 subdivision 10202(5) of this title, but not including a consumer’s financial
11 institution as defined in subdivision 10202(5) of this title or an interbank
12 clearinghouse as defined in 9 V.S.A. § 2481w(a), shall not provide substantial
13 assistance to a provider if the person or the person’s authorized agent receives
14 notice from a regulatory, law enforcement, or similar governmental authority,
15 or knows, or consciously avoids knowing, from its normal monitoring and
16 compliance systems, that the provider is in violation of subsection (a) of this
17 section.

18 (c)(1) Subsection (a) of this section shall not apply to a financial institution,
19 as that term is defined in subdivision 10202(5) of this title, if the financial
20 institution is authorized by law to accept deposits and the deposits are federally
21 insured.

1 (2) A financial institution not required to obtain a license pursuant to
2 subdivision (1) of this subsection shall otherwise be held to comply with the
3 provisions required of licensees set forth in this chapter.

4 § 2303. APPLICATION FOR LICENSE

5 An applicant shall include in its application for a license under this chapter:

6 (1) a description of the earned wage access services that the applicant
7 seeks to provide in this State;

8 (2) a statement or indication whether the provider is an
9 employer-integrated provider or a direct-to-consumer provider, or both;

10 (3) a list of other states in which the applicant is licensed or registered to
11 provide earned wage access services;

12 (4) a description of the nature and amount of charges or fees that the
13 applicant may impose for earned wage access services;

14 (5) information concerning any bankruptcy or receivership proceedings
15 affecting the applicant or any person in control of the applicant; and

16 (6) any other information required by the Commissioner, including
17 through the Nationwide Multistate Licensing System and Registry.

18 § 2304. LICENSEE REQUIREMENTS; TERMS OF SERVICE

19 (a) Basic services. A licensee shall make available to each consumer to
20 whom it offers earned wage access services a basic level of service that
21 provides a reasonable option to receive proceeds at no cost to the consumer,

1 consistent with any minimum requirements and standards the Commissioner
2 adopts by rule or order.

3 (b) Employer services and additional services.

4 (1) A licensee that is an employer-integrated provider may impose a
5 charge or fee on an obligor who contracts with the licensee in order to:

6 (A) offer basic earned wage access services pursuant to subsection
7 (a) of this section; or

8 (B) provide additional services to consumers who are employees or
9 contractors of the obligor.

10 (2) Subject to the requirements set forth in subdivision 2306(2) of this
11 title, a licensee may offer additional services that may be subject to the
12 following charges or fees:

13 (A) a charge or fee for the optional expedited delivery of proceeds; or

14 (B) a subscription or membership fee for a bona fide group of
15 services that includes earned wage access services.

16 (c) Optional gratuity. A licensee may solicit an optional gratuity from the
17 consumer before finalizing the payment of proceeds, provided that:

18 (1) the licensee complies with subdivision 2306(2) of this title;

19 (2) the licensee provides clear notice that a gratuity is optional;

20 (3) the licensee provides the consumer a clear and accessible option to
21 leave no gratuity; and

1 (4) to approve a gratuity, the consumer must affirmatively consent to
2 contributing the gratuity after entering a dollar amount or percentage value.

3 (d) Required disclosures.

4 (1) Before providing a consumer with earned wage access services, a
5 licensee shall provide the consumer with written or electronic notice of the
6 terms and conditions governing its earned wage access services, which the
7 licensee may include as part of its service contract. The notice shall:

8 (A) use language intended to be easily understood by a layperson;

9 (B) state that the Commissioner has jurisdiction over the earned wage
10 access services performed by the licensee;

11 (C) provide both a phone number and a website through which the
12 consumer can submit complaints about the licensee's earned wage access
13 services to the Commissioner;

14 (D) state that basic earned wage access services are available at no
15 cost to the consumer; and

16 (E) specify the type and amount of charges and fees the licensee may
17 impose for additional earned wage access services.

18 (2) Any time a licensee offers or provides an additional earned wage
19 access service for which it imposes a charge or fee, the licensee shall comply
20 with any disclosure requirements and standards the Commissioner adopts by
21 rule or order.

1 (3) A licensee shall clearly show the unique identifier issued to it by the
2 Nationwide Multistate Licensing System and Registry on its internet website,
3 on all solicitations and advertisements directed to consumers, and on any other
4 documents as the Commissioner requires by rule or order.

5 (e) Cancellation of service. A licensee that offers or provides earned wage
6 access services on a recurring basis or as part of a subscription service shall
7 allow a consumer to cancel participation in the service at any time without a
8 cancellation fee.

9 (f) Termination of service. If authorized by the licensee and consumer in
10 their service contract, a licensee may terminate service to a consumer who does
11 not repay outstanding proceeds or pay a charge or fee permitted by law.

12 (g) Reporting.

13 (1) The Commissioner shall require each licensee to submit to the
14 Commissioner an annual report that includes a summary of its earned wage
15 access services for the previous calendar year in a manner and a form as the
16 Commissioner may require.

17 (2) Biennially, beginning on January 15, 2027, the Commissioner shall
18 submit a report to the House Committee on Commerce and Economic
19 Development and the Senate Committee on Economic Development, Housing
20 and General Affairs that shall provide a summary of the regulation and activity

1 of earned wage access services using reports the Commissioner received
2 pursuant to subdivision (1) of this subsection.

3 § 2305. NONRECOURSE OBLIGATIONS; PERMISSIBLE COLLECTION

4 (a) Nonrecourse. Except as otherwise provided in subsection (b) of this
5 section, a licensee shall provide earned wage access services on a nonrecourse
6 basis and shall not attempt to collect payment of outstanding proceeds,
7 charges, or fees through any means, including in a civil action or proceeding in
8 any court, through arbitration or other alternative dispute resolution process, or
9 through any third-party actor.

10 (b) Permissible collection. A licensee may collect repayment of
11 outstanding proceeds, charges, or fees as follows:

12 (1) Payroll deduction.

13 (A) Pursuant to written agreements with the consumer and the
14 obligor, a licensee that is an employer-integrated provider may initiate an
15 obligor-facilitated payroll deduction, a direct payment to the provider by or on
16 behalf of an obligor, or an obligor-facilitated assignment of the outstanding
17 proceeds from the consumer's next paycheck following the date proceeds were
18 paid.

19 (B) A licensee may not make more than four total attempts at a
20 payroll deduction, direct payment, or assignment pursuant to subdivision (A)
21 of this subdivision (1).

1 (2) Electronic transfer.

2 (A) A licensee may make as many as four attempts at an electronic
3 transfer of funds from a consumer's depository account at a financial
4 institution if:

5 (i) the consumer consents to the repayment of outstanding
6 proceeds, charges, or fees through an electronic transfer;

7 (ii) the licensee provides prior notice of the date and the amount of
8 a transfer;

9 (iii) the licensee attempts a transfer only on the date and in the
10 amount specified in the notice;

11 (iv) the licensee complies with all requirements applicable to the
12 payment system it uses to make an electronic transfer, including any applicable
13 National Automated Clearinghouse Association rules; and

14 (v) the licensee uses reasonable care to avoid causing a consumer
15 to incur a fee or penalty for insufficient funds.

16 (B) A licensee who violates subdivision (A) of this subdivision (2)
17 shall reimburse a consumer for any fee or penalty the consumer incurs due to
18 the violation.

19 (3) Periodic invoice. A licensee may submit not more than three
20 periodic written invoices to a consumer for payment.

1 (4) Other means. A licensee may use other means of collection that the
2 Commissioner approves by rule or order.

3 (5) Misrepresentation; fraud. A licensee may collect outstanding
4 proceeds, charges, fees, and any other amounts available by law if a consumer
5 provided false information in the course of procuring earned wage access
6 services or received proceeds with the intent to defraud the provider.

7 § 2306. PROHIBITED ACTS AND PRACTICES

8 A licensee shall not:

9 (1) impose or attempt to collect a charge, fee, penalty, or interest:

10 (A) for basic earned wage access services under subsection 2304(a)
11 of this title;

12 (B) for employer services or additional services if not otherwise
13 authorized under subsection 2304(b) of this title;

14 (C) for failure to repay outstanding proceeds or to pay any fee or
15 charge; or

16 (D) to defer the collection of outstanding proceeds beyond the
17 original schedule for collection;

18 (2) present fees authorized under subsection 2304(b) or voluntary
19 gratuities authorized under subsection 2304(c) as default options to a
20 consumer;

- 1 (3) condition the availability or terms of earned wage access services,
2 including the amount of proceeds and the frequency of payments, on:
- 3 (A) whether the consumer chooses optional additional services;
4 (B) the amount or type of charges or fees the consumer agrees to pay;
5 (C) a requirement that the consumer transfer ownership or control of,
6 or create a security interest in, the consumer's property as security for the
7 repayment of outstanding proceeds; or
- 8 (D) a consumer's credit report or credit score;
- 9 (4) sell, offer for sale, lease, share, or trade in exchange for anything of
10 value the biometric data or precise geolocation data of a consumer:
- 11 (A) to that consumer's obligor; or
12 (B) to any person other than the consumer's obligor, without having
13 first obtained the affirmative consent of the consumer;
- 14 (5) commit an unfair or deceptive act in commerce pursuant to 9 V.S.A.
15 chapter 63, including:
- 16 (A) making a false or deceptive statement or representation, or a
17 fraudulent misrepresentation, to a consumer, the Commissioner, or a
18 government agency;
- 19 (B) soliciting a consumer to delay repayment of outstanding proceeds
20 for the purpose of increasing the total charges or fees the licensee may collect;
21 and

1 (C) any act, practice, or conduct prohibited in connection with the
2 collection of, or attempt to collect, a debt arising out of a consumer transaction
3 under 9 V.S.A. § 2453(a) or any rule adopted by the Attorney General under
4 that subsection;

5 (6) report a consumer's payment or failed repayment of proceeds or
6 payment of any fee or charge to a consumer reporting agency or debt collector;

7 (7) discriminate against a consumer on the basis of the sex, marital
8 status, race, color, religion, national origin, age, sexual orientation, gender
9 identity, or disability of the consumer, provided that a licensee is not required
10 to do business with a consumer that lacks the legal capacity to contract due to
11 the consumer's disability or minor age; or

12 (8) transfer proceeds to a consumer in virtual currency or in an
13 instrument denominated in virtual currency without the prior approval of the
14 Commissioner in a writing expressly referencing this subdivision, other than a
15 virtual currency issued or insured by the United States or its agency or
16 instrumentality.

17 § 2307. APPLICABILITY OF OTHER STATE LAWS

18 The provision of earned wage access services by a licensee in accordance
19 with this chapter is not:

20 (1) a loan subject to chapter 73 of this title;

21 (2) a wage assignment under section 2234 or 2235 of this title;

1 (3) a money transmission subject to chapter 79 of this title;

2 (4) subject to 9 V.S.A. chapter 4; or

3 (5) a violation of or noncompliance with the laws of this State governing
4 deductions from payroll, salary, wages, compensation, or other income, or the
5 purchase, sale or assignment of, or an order for, earned but unpaid income.

6 § 2308. RULES

7 The Commissioner may adopt rules and orders and issue specific rulings,
8 demands, and findings as are necessary for the administration and the
9 enforcement of this chapter and for the protection of consumers who obtain
10 earned wage access services in this State, including imposing limits and
11 requirements on the amount, type, and disclosure regarding earned wage
12 access services and charges or fees for services.

13 § 2309. PRIVATE RIGHT OF ACTION; CONSUMER PROTECTION ACT

14 (a) A consumer may bring a private right of action for damages caused by a
15 violation of this chapter against a provider that was required to be licensed
16 under this chapter, but was not, at the time the provider offered or provided
17 earned wage access services to the consumer.

18 (b) The powers vested in the Commissioner by this chapter shall be in
19 addition to any other powers or rights of consumers or the Attorney General or
20 others under any other applicable law or rule, including the Vermont
21 Consumer Protection Act and any applicable rules adopted under that Act,

1 provided that the Commissioner's determinations concerning the interpretation
2 and administration of the provisions of this chapter and any rules adopted
3 under this chapter shall carry a presumption of validity.

4 Sec. 2. 8 V.S.A. § 2102 is amended to read:

5 § 2102. APPLICATION FOR LICENSE

6 (a) Application for a license or registration shall be in writing, under oath,
7 and in the form prescribed by the Commissioner, and shall contain the legal
8 name, any fictitious name or trade name, and the address of the residence and
9 place of business of the applicant; and if the applicant is a partnership
10 corporation, limited liability company, partnership, or other entity, the name
11 and title of each key individual and person in control of the applicant; or an
12 association, of every member thereof, and if a corporation, of each officer and
13 director thereof; also the county and municipality with street and number, if
14 any, where the business is to be conducted; and such further information as the
15 Commissioner may require.

16 (b) At the time of making an application, the applicant shall pay to the
17 Commissioner a fee for investigating the application and a license or
18 registration fee for a period terminating on the last day of the current calendar
19 year. The following fees are imposed on applicants:

20 * * *

1 subsidiary, licensed lender, mortgage broker, earned wage access services
2 provider, or sales finance company organized or regulated under the laws of
3 this State, the United States, or any other state or territory.

4 Sec. 5. IMPLEMENTATION; GRACE PERIOD

5 (a) The license requirement set forth in 8 V.S.A. § 2302 applies beginning
6 on January 1, 2026.

7 (b) Notwithstanding subsection (a) of this section, a person providing
8 earned wage access services in this State as of January 1, 2025 may continue
9 providing earned wage access services without a license through December 31,
10 2025, or until its application for a license is denied, if:

11 (1) the provider submits an application for a license before January 1,
12 2026; and

13 (2) the provider otherwise complies with 8 V.S.A. chapter 75.

14 (c) Solely for purposes of 8 V.S.A. § 2309(a), a provider that has complied
15 with subsection (b) of this section shall be deemed to be a licensee during the
16 grace period provided by subsection (b) of this section.

17 Sec. 6. EFFECTIVE DATE

18 This act shall take effect on July 1, 2025.