

House Bill 674

By: Representatives Kirby of the 114th, Werkheiser of the 157th, and Schofield of the 60th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
2 financial institutions, so as to provide requirements for earned wage access service providers;
3 to require registration of such providers with the Department of Banking and Finance; to
4 provide for fees; to provide for complaints; to provide for rules and regulations; to provide
5 for definitions; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial
10 institutions, is amended by creating a new article to read as follows:

11 "ARTICLE 14

12 7-1-1100.

13 As used in this article:

14 (1) 'Consumer' means a natural person.

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- 15 (2) 'Department' means the Department of Banking and Finance.
- 16 (3) 'Earned but unpaid wages or income' means wages or income that have been earned
17 by a consumer but that have not yet been paid to the consumer by an earned wage
18 obligor.
- 19 (4) 'Earned wages or income' means moneys that a consumer or obligor has represented,
20 and the earned wage access service provider has reasonably determined, to have accrued
21 to the benefit of such consumer for services rendered to an earned wage obligor.
- 22 (5) 'Earned wage access payment' means the delivery of earned but unpaid wages or
23 income to a consumer.
- 24 (6) 'Earned wage access service provider' or 'provider' means any person that is engaged
25 in the business of delivering earned but unpaid wages or income to a consumer in this
26 state.
- 27 (7) 'Earned wage access services' means the delivery of funds to a consumer that
28 represent earned but unpaid wages or income.
- 29 (8) 'Earned wage obligor' or 'obligor' means an employer or another person that is
30 contractually obligated to pay to a consumer any sum of money on an hourly, project
31 based, piecework, or other basis for labor or services provided by the consumer. Such
32 term shall not include a customer of an obligor or other third party whose obligation to
33 make any payment to a consumer is based solely on the consumer's agency relationship
34 with the obligor.

35 7-1-1101.

36 (a) An earned wage access service provider shall offer earned wage access services
37 through a contractual arrangement with an earned wage obligor or a provider to an obligor,
38 in which the provider:

39 (1) Verifies a consumer's earned wages or income based on data from the employer
40 relating directly to the consumer's earnings in the relevant pay period; and

41 (2) Delivers earned but unpaid wages or income to the consumer prior to the next
42 regularly scheduled date on which the obligor is scheduled to pay the consumer, and the
43 amount of the earned wage access payment delivered by the provider to the consumer is
44 reduced or withheld from the consumer's next regular wage payment from such obligor.

45 (b) No obligor shall share information with an earned wage access service provider
46 pertaining to the obligor's accrued and expected obligations to any consumer unless:

47 (1) The obligor has entered into a contractual arrangement for earned wage access
48 services with the earned wage access service provider; and

49 (2) The consumer consents in advance to the sharing of such information with such
50 earned wage access service provider.

51 (c) The imposition of a fee on a consumer who opts to use the services of an earned wage
52 access service provider, and the reduction or withholding from a consumer's next regularly
53 scheduled wage payment by the obligor of the amount of such earned wage access payment
54 during that pay period and applicable fees imposed in connection with such earned wage
55 access payment, shall be permitted provided that:

56 (1) Such fees are disclosed in writing to the consumer at the time of such earned wage
57 access transaction and prior to consummation of such transaction;

58 (2) Authorization for any such deduction, reduction, or withholding is provided by the
59 consumer in writing at the time of such earned wage access transaction; and

60 (3) The consumer is informed in writing of the right to receive the full amount of such
61 consumer's payment, without discount, in the normal course, if such consumer waits until
62 the next regular wage payment date.

63 7-1-1102.

64 (a) Any earned wage access services in compliance with this article shall not be considered
65 a lending activity, and such earned wage access payments shall not be considered loans
66 made by the earned wage access provider to any consumer. Nor shall any fee for such

67 earned wage access services be considered as interest on such earned wage access
68 payments, and shall not be included in determining a rate of interest for purposes of
69 compliance with any law with which a provider may otherwise be required to comply.

70 (b) No earned wage access provider shall operate in this state unless such provider registers
71 with the department on a form prescribed by the department and pays an initial registration
72 fee of \$800.00. Such form shall be accompanied by a bond or letter of credit acceptable
73 to the department in the amount of \$50,000.00, which must remain in force so long as the
74 provider operates in this state. The department may increase the amount required for such
75 bond or letter of credit by regulation, provided that such increase reflects the amount of
76 earned wage access payments provided.

77 (c) Any earned wage access service provider that operates in this state as of the effective
78 date of this article and is in compliance with Code Section 7-1-1101 may continue to
79 operate until such time as the department promulgates the rules and regulations as set forth
80 in Code Section 7-1-1105.

81 7-1-1103.

82 No later than March 1 of each year, each provider registered with the department pursuant
83 to subsection (b) of Code Section 7-1-1102 shall pay a registration renewal fee of \$800.00
84 to the department and file on a form prescribed by the department an updated registration
85 statement that includes a sworn affirmation that such provider's bond or letter of credit
86 remains in full force and effect.

87 7-1-1104.

88 A consumer aggrieved by an earned wage access service provider may file a complaint
89 with the department which shall be reviewed and investigated as the department deems
90 appropriate; the department shall initiate action as authorized by law.

91 7-1-1105.

92 The department shall promulgate rules and regulations for the implementation of this
93 chapter."

94 **SECTION 2.**

95 All laws and parts of laws in conflict with this Act are repealed.