

Senate Bill 254

By: Senator Brass of the 28th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide requirements for earned wage access services; to
3 provide for fees that may be charged for such services; to provide that earned wage access
4 payments are nonrecourse and are not loans; to provide that permitted fees are not interest;
5 to provide for definitions; to provide for applicability; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
10 trade practices, is amended by adding a new Code section to read as follows:

11 "10-1-393.18.

12 (a) As used in this Code section, the term:

13 (1) 'Consumer' means a natural person residing in the State of Georgia.

14 (2) 'Consumer elected fee' means an amount paid by a consumer to a provider for earned
15 wage access services that does not meet the definition of a mandatory fee.

16 (3) 'Earned but unpaid wages' means salary, wages, compensation, or other income that
17 have been earned by or accrued to the benefit of the consumer but that have not, at the
18 time of the earned wage access payment, been paid to the consumer by an obligor.

19 (4) 'Earned wage access payment' or 'payment' means the delivery of earned but unpaid
20 wages to a consumer prior to the next date on which an obligor is obligated to pay salary,
21 wages, compensation, or other income to a consumer.

22 (5) 'Earned wage access services' means the business of delivering earned wage access
23 payments to consumers prior to the next date on which an obligor is obligated to pay
24 salary, wages, compensation, or other income to a consumer.

25 (6) 'Earned wage access service provider' or 'provider' means a person that is in the
26 business of offering or providing earned wage access services.

27 (7) 'Mandatory fee' means an amount determined by a provider that must be paid by a
28 consumer to such provider as a condition of receiving an earned wage access payment.

29 (8) 'Obligor' means an employer or other person, including, but not limited to, an
30 independent contractor, that is contractually or legally obligated to pay a consumer any
31 sum of money on an hourly, project based, piecework, or other basis. Such term shall not
32 include a customer of an obligor or another third party that has an obligation to make any
33 payment to a consumer based solely on the consumer's agency relationship with the
34 obligor.

35 (b) An earned wage access service provider shall verify a consumer's earned but unpaid
36 wages through reasonable means, which may include time and attendance data, geolocation
37 data, work email confirmation, or paycheck history.

38 (c)(1) No earned wage access service provider shall charge a consumer any fee, interest,
39 or other amount except as provided in this subsection.

40 (2) An earned wage access service provider may charge a mandatory fee which shall not
41 exceed 10 percent of the earned wage access payment.

42 (3) An earned wage access service provider may charge any of the following consumer
43 elected fees:

44 (A) A fee for expedited delivery of an earned wage access payment, provided that the
45 provider offers the consumer at least one option of receiving a payment at no cost to the
46 consumer;

47 (B) A subscription or membership fee for a group of services that include earned wage
48 access services, provided that the provider offers the consumer at least one option of
49 receiving a payment at no cost to the consumer; and

50 (C) A tip or gratuity paid by a consumer, provided that the provider offers the
51 consumer at least one option of receiving a payment at no cost to the consumer.

52 (4) An earned wage access service provider shall clearly disclose to the consumer all
53 mandatory fees and consumer elected fees prior to providing earned wage access
54 services.

55 (d) Except in the case of fraud by a consumer, all earned wage access payments shall be
56 nonrecourse, meaning that a provider has no legal or contractual right to, and cannot
57 compel or attempt to compel, repayment by a consumer of any amounts through any
58 means, including, but not limited to:

59 (1) A civil suit against the consumer;

60 (2) Use of a third party to pursue collection on the provider's behalf;

61 (3) The sale of outstanding amounts to a third-party collector or debt buyer; or

62 (4) Reporting outstanding amounts to a consumer credit reporting agency.

63 (e) No earned wage access services that comply with this Code section shall be considered
64 lending activity, nor shall earned wage access payments that comply with this Code section
65 be considered loans. No fees permitted under this Code section shall be considered
66 interest."

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SECTION 2.

68 This Act shall apply to agreements for earned wage access services that are entered into or
69 renewed on or after July 1, 2023.

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SECTION 3.

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