

The House Committee on Banks and Banking offers the following substitute to SB 254:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia
2 Annotated, the "Fair Business Practices Act of 1975," so as to provide requirements for
3 earned wage access services; to provide for fees that may be charged for such services; to
4 provide for prohibitions; to provide for consumer protections; to provide that earned wage
5 access payments are nonrecourse; to provide that earned wage access services shall not be
6 considered lending activity or money transmission; to provide that permitted fees are not
7 interest; to provide for definitions; to provide for applicability; to provide for related matters;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the
12 "Fair Business Practices Act of 1975," is amended by adding a new Code section to read as
13 follows:

14 "10-1-393.20.

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

16 (1) 'Consumer' means an individual who indicates to a provider that he or she resides in
17 the State of Georgia. A provider may use the mailing address or state of residence
18 provided by a consumer to determine the consumer's state of residence for purposes of
19 this Code section.

20 (2) 'Consumer directed wage access services' means the business of offering or providing
21 earned wage access services directly to a consumer based on the consumer's
22 representation and the provider's reasonable determination of the consumer's earned but
23 unpaid income, which may include, but is not limited to, time and attendance data,
24 geolocation data, access to obligor systems, payroll systems, and paycheck history.

25 (3) 'Earned but unpaid income' means salary, wages, compensation, or other income that
26 a consumer or an employer has represented, and that a provider has reasonably
27 determined, has been earned by or accrued to the benefit of the consumer in exchange for
28 the consumer's provision of services to the employer or on behalf of the employer,
29 including on an hourly, project based, piecework, or other basis and including when the
30 consumer is acting as an independent contractor of the employer, but has not, at the time
31 of the payment of proceeds, been paid to the consumer by the employer.

32 (4) 'Earned wage access services' means the business of providing consumer directed
33 wage access services, employer integrated wage access services, or both.

34 (5) 'Earned wage access services provider' or 'provider' means a person that is in the
35 business of offering or providing earned wage access services to consumers.

36 (6) 'Employer' means:

37 (A) A person who employs a consumer; or

38 (B) Any other person who is contractually obligated to pay a consumer earned but
39 unpaid income in exchange for a consumer's provision of services to the employer or
40 on behalf of the employer, including on an hourly, project based, piecework, or other
41 basis and including where the consumer is acting as an independent contractor with
42 respect to the employer. Such term does not mean a customer of an employer or any

43 other person whose obligation to make a payment of salary, wages, compensation, or
44 other income to a consumer is not based on the provision of services by that consumer
45 for or on behalf of such person.

46 (7) 'Employer integrated wage access services' means the business of delivering to
47 consumers earned but unpaid income.

48 (8) 'Fee' means:

49 (A) A fee imposed by a provider for delivery or expedited delivery of proceeds to a
50 consumer;

51 (B) A subscription or membership fee imposed by a provider for a bona fide group of
52 services that includes earned wage access services; or

53 (C) An amount of money paid by an employer to a provider on a consumer's behalf,
54 which entitles the consumer to receive proceeds at reduced or no cost to the consumer;
55 provided, however, that the total of all fees paid by the consumer to the provider shall not
56 exceed \$30.00 within a month.

57 (9) 'Outstanding proceeds' means a payment of proceeds to a consumer by a provider that
58 has not yet been repaid to such provider.

59 (10) 'Person' means a business entity other than an individual.

60 (b) An earned wage access services provider shall:

61 (1) Develop and implement policies and procedures to respond to questions raised by
62 consumers and address complaints from consumers;

63 (2) Whenever it offers a consumer the option to receive proceeds for a fee, offer such
64 consumer at least one reasonable option to obtain proceeds at no cost and clearly explain
65 to the consumer how to choose such no-cost option;

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

68 (A) Inform the consumer of his or her rights under the agreement;

- 69 (B) Inform the consumer that the agreement is not intended to create a legal obligation
70 for the consumer to repay advances; and
- 71 (C) Fully and clearly disclose all fees or a schedule of fees associated with the earned
72 wage access services;
- 73 (4) Inform the consumer of the fact of any material changes to the terms and conditions
74 of the earned wage access services before implementing those changes for such
75 consumer;
- 76 (5) Allow the consumer to cancel use of the provider's earned wage access services at
77 any time, without incurring a cancellation fee imposed by the provider;
- 78 (6) Provide proceeds to a consumer via any means mutually agreed upon by the
79 consumer and the provider;
- 80 (7) Comply with all local, state, and federal privacy and information security laws;
- 81 (8) In any case in which such provider will seek repayment of outstanding earned wage
82 access payments or payment of fees from a consumer, inform the consumer when the
83 provider will make its first attempt to seek such repayment or payment; and
- 84 (9) In any case in which such provider will seek repayment of outstanding proceeds or
85 payment of fees in connection with the activities covered by this Code section from a
86 consumer's depository institution account via electronic funds transfer:
- 87 (A) Comply with the federal Electronic Funds Transfer Act, 15 U.S.C. Section 1693,
88 et seq., and its implementing regulations; and
- 89 (B) Reimburse the consumer for the full amount of any overdraft or insufficient funds
90 fees imposed on a consumer by the consumer's depository institution that were caused
91 by the provider attempting to seek payment of any outstanding proceeds or fees on a
92 date before, or in an incorrect amount from, the date or amount disclosed to the
93 consumer; provided, however, that a provider is not subject to the requirements in this
94 subparagraph with respect to payments of outstanding proceeds or fees incurred by a
95 consumer through fraudulent or other unlawful means.

- 96 (c) No earned wage access services provider shall:
- 97 (1) Share with an employer a portion of any fees, tips, gratuities, or other donations that
- 98 were received from or charged to a consumer for earned wage access services. Any
- 99 payment from the employer to the earned wage access services provider set forth in an
- 100 agreement between the employer and earned wage access services provider shall not be
- 101 considered a violation of this paragraph;
- 102 (2) Charge a consumer a late fee, a deferral fee, interest, or any other penalty or charge
- 103 for the consumer's failure to repay outstanding proceeds or fees;
- 104 (3) Require a consumer's credit report or credit score issued by a consumer reporting
- 105 agency to determine a consumer's eligibility for earned wage access services;
- 106 (4) Accept repayment of outstanding proceeds or fees from a consumer via a credit card
- 107 or charge card;
- 108 (5) Report to a consumer credit reporting agency or a third-party debt collector any
- 109 information about the consumer regarding the inability of the provider to be repaid
- 110 outstanding proceeds or fees; or
- 111 (6) Compel or attempt to compel, payment by a consumer of any outstanding proceeds
- 112 or fees to the provider through any of the following means:
- 113 (A) A civil suit against the consumer;
- 114 (B) Use of a third party to pursue collection from the consumer on the provider's
- 115 behalf;
- 116 (C) The sale of outstanding amounts to a third-party debt collector or debt buyer for
- 117 collection from the consumer; or
- 118 (D) Use of unsolicited outbound telephone calls.
- 119 (d) No earned wage access services that comply with this Code section shall be considered
- 120 lending activity or money transmission, nor shall earned wage access payments that comply
- 121 with this Code section be considered loans. No fees permitted under this Code section
- 122 shall be considered interest.

123 (e) Failure to comply with the provisions of this Code section shall be considered an unfair
124 or deceptive act or practice which is unlawful and which shall be punishable by the
125 provisions of this part."

126 **SECTION 2.**

127 This Act shall apply to agreements for earned wage access services that are entered into or
128 renewed on or after July 1, 2024.

129 **SECTION 3.**

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