

A. Cory Maloy proposes the following substitute bill:

Earned Wage Access Services Act

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill enacts the Earned Wage Access Services Act.

Highlighted Provisions:

This bill:

- defines terms;
- enacts provisions related to earned wage access services, including provider registration and renewal;
- directs the Division of Consumer Protection to administer and enforce the Earned Wage Access Services Act;
- provides penalties for violation; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2024, Chapter 132

ENACTS:

- 13-75-101**, Utah Code Annotated 1953
- 13-75-102**, Utah Code Annotated 1953
- 13-75-103**, Utah Code Annotated 1953
- 13-75-104**, Utah Code Annotated 1953
- 13-75-105**, Utah Code Annotated 1953
- 13-75-106**, Utah Code Annotated 1953

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-2-1** is amended to read:

13-2-1 . Consumer protection division established -- Functions.

- (1) There is established within the Department of Commerce the Division of Consumer Protection.
- (2) The division shall administer and enforce the following:
 - (a) Chapter 10a, Music Licensing Practices Act;
 - (b) Chapter 11, Utah Consumer Sales Practices Act;
 - (c) Chapter 15, Business Opportunity Disclosure Act;
 - (d) Chapter 20, New Motor Vehicle Warranties Act;
 - (e) Chapter 21, Credit Services Organizations Act;
 - (f) Chapter 22, Charitable Solicitations Act;
 - (g) Chapter 23, Health Spa Services Protection Act;
 - (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
 - (i) Chapter 26, Telephone Fraud Prevention Act;
 - (j) Chapter 28, Prize Notices Regulation Act;
 - (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
 - (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
 - (m) Chapter 41, Price Controls During Emergencies Act;
 - (n) Chapter 42, Uniform Debt-Management Services Act;
 - (o) Chapter 49, Immigration Consultants Registration Act;
 - (p) Chapter 51, Transportation Network Company Registration Act;
 - (q) Chapter 52, Residential Solar Energy Disclosure Act;
 - (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
 - (s) Chapter 54, Ticket Website Sales Act;
 - (t) Chapter 56, Ticket Transferability Act;
 - (u) Chapter 57, Maintenance Funding Practices Act;
 - (v) Chapter 61, Utah Consumer Privacy Act;
 - (w) Chapter 63, Utah Social Media Regulation Act;
 - (x) Chapter 64, Vehicle Value Protection Agreement Act;
 - (y) Chapter 65, Utah Commercial Email Act;
 - (z) Chapter 67, Online Dating Safety Act;

- 63 (aa) Chapter 68, Lawyer Referral Consultants Registration Act;
 64 (bb) Chapter 70, Automatic Renewal Contracts Act;~~and~~
 65 (cc) Chapter 71, Utah Minor Protection in Social Media Act~~[-]~~ ; and
 66 (dd) Chapter 75, Earned Wage Access Services Act.
- 67 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 68 division may make rules to establish:
- 69 (a) a public list that identifies a person [~~who~~] that:
- 70 (i) violates a chapter described in Subsection (2);
 71 (ii) without proper legal justification, fails to comply with an order, subpoena,
 72 judgment, or other legal process issued by:
 73 (A) the division; or
 74 (B) a court of competent jurisdiction; or
 75 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance,
 76 or similar instrument signed by the person and the division; and
- 77 (b) a process by which a person may be removed from the list the division establishes as
 78 described in Subsection (3)(a).

79 Section 2. Section **13-75-101** is enacted to read:

80 **CHAPTER 75. EARNED WAGE ACCESS SERVICES ACT**

81 **13-75-101 . Definitions.**

82 As used in this chapter:

- 83 (1) "Consumer" means an individual who resides in the state.
 84 (2) "Earned but unpaid income" means compensation, including salary, wages, or other
 85 income, that is:
 86 (a) earned or accrued by a consumer through services provided to an employer or as an
 87 independent contractor; and
 88 (b) not paid yet to the consumer by the employer or hiring party.
- 89 (3) "Earned wage access services" means the payment of funds to a consumer determined
 90 by:
 91 (a)(i) a consumer's representation; and
 92 (ii) the provider's reasonable determination of earned but unpaid income; or
 93 (b) employment, income, and attendance data obtained directly or indirectly by a
 94 provider from an employer or an employer's payroll service provider.
- 95 (4)(a) "Fee" means a charge the provider imposes on a consumer for earned wage access
 96 services, expedited delivery of funds, or a subscription or membership that includes

97 earned wage access services.

98 (b) "Fee" does not include a voluntary tip, gratuity, or donation.

99 (5)(a) "Provider" means a person engaged in the business of offering earned wage access
100 services.

101 (b) "Provider" does not include:

102 (i) a service provider, such as a payroll service provider, that verifies, but does not
103 fund, earned wages;

104 (ii) an employer that advances a portion of earned wages directly to employees or
105 independent contractors; or

106 (iii) a person regulated under Title 7, Financial Institutions Act.

107 Section 3. Section **13-75-102** is enacted to read:

108 **13-75-102 . Provider registration and registration renewal.**

109 (1) Except as provided in Subsection (4), a person may not act as a provider without
110 registering with the division.

111 (2) To register as a provider, a person shall submit to the division a registration application:

112 (a) in the manner the division determines; and

113 (b) that includes:

114 (i) a registration application fee in an amount the division determines in accordance
115 with Sections 13-1-2 and 63J-1-504;

116 (ii) a copy of the agreement for earned wage access services the provider uses with a
117 consumer; and

118 (iii) any information that the division requires by rule made in accordance with Title
119 63G, Chapter 3, Utah Administrative Rulemaking Act.

120 (3) Each year a provider shall renew the provider's registration by submitting to the division
121 an application for registration renewal:

122 (a) in a manner the division determines; and

123 (b) that includes:

124 (i) a registration renewal application fee in an amount the division determines in
125 accordance with Sections 13-1-2 and 63J-1-504; and

126 (ii) any information the division requires by rule made in accordance with Title 63G,
127 Chapter 3, Utah Administrative Rulemaking Act.

128 (4) A person that acts as a provider on May 7, 2025, may continue to act as a provider:

129 (a) if the person:

130 (i) applies for registration in accordance with this section on or before October 6,

- 131 2025; and
- 132 (ii) complies with the requirements of this chapter; and
- 133 (b) until the day on which the division issues a decision on the registration application
- 134 after which:
- 135 (i) a person for which a registration application is denied may no longer operate; and
- 136 (ii) a person for which a registration application is granted may operate as provider.
- 137 (5)(a) The division shall require a provider's principal to:
- 138 (i) submit a fingerprint card in a form acceptable to the division; and
- 139 (ii) consent to a criminal background check by:
- 140 (A) the Federal Bureau of Investigation;
- 141 (B) the Utah Bureau of Criminal Identification; or
- 142 (C) another agency of any state that performs criminal background checks.
- 143 (b) The provider shall pay the cost of:
- 144 (i) the fingerprint card described in Subsection (5)(a)(i); and
- 145 (ii) the criminal background check described in Subsection (5)(a)(ii).
- 146 (6) The division may grant or deny the registration application or the renewal application in
- 147 accordance with Section 13-75-105.
- 148 Section 4. Section **13-75-103** is enacted to read:
- 149 **13-75-103 . Regulation of earned wage access services.**
- 150 (1) A provider is exempt from Title 7, Financial Institutions Act, and Title 12, Collection
- 151 Agencies.
- 152 (2) A provider shall:
- 153 (a) develop and implement procedures to address consumer questions and complaints;
- 154 (b) before entering into an agreement for earned wage access services with a consumer,
- 155 clearly and conspicuously disclose:
- 156 (i) the consumer's rights under the agreement;
- 157 (ii) all fees; and
- 158 (iii) voluntary tip, gratuity, or donation;
- 159 (c)(i) obtain customer consent to changes to terms and conditions of the earned wage
- 160 access services; or
- 161 (ii) clearly and conspicuously disclose any material changes to terms and conditions
- 162 of the earned wage access services at least 30 days before the effective date of the
- 163 material changes;
- 164 (d) allow a consumer to cancel the use of earned wage access services at any time

- 165 without incurring a penalty;
- 166 (e) offer at least one no-fee option to receive funds and clearly and conspicuously
- 167 disclose how to select the no-fee option to receive funds;
- 168 (f) comply with all applicable local, state, and federal privacy and information security
- 169 laws;
- 170 (g) deliver funds through any method agreed upon by the consumer and provider;
- 171 (h) reimburse overdraft or non-sufficient fund fees the consumer incurs as a result of the
- 172 provider's error in disclosed or actual payment amount or payment date unless the
- 173 funds were acquired by a consumer through fraudulent means;
- 174 (i) clearly and conspicuously disclose the voluntary nature of tips, gratuities, or
- 175 donations and ensure the availability or terms of the earned wage access services are
- 176 not contingent upon the payment of tips, gratuities, or donations;
- 177 (j) provide information to a consumer on how to file a complaint with the division;
- 178 (k) provide the following disclosures to a consumer at the time the consumer makes a
- 179 request for funds:
- 180 (i) the anticipated timeline the consumer will receive the requested funds;
- 181 (ii) the amount of funds the consumer has requested;
- 182 (iii) the amount of the fee charged;
- 183 (iv) the amount of funds the consumer will receive;
- 184 (v) the account that will receive the funds; and
- 185 (vi) the date the provider is authorized to withdraw funds from the consumer's
- 186 account, including fees and voluntary payments; and
- 187 (l) before initiating an advance, require the customer to acknowledge receiving the
- 188 opportunity to view all disclosures listed in Subsection (2)(k) and any costs and fees.
- 189 (3) A provider may not:
- 190 (a) compel a consumer to repay funds by:
- 191 (i) using or threatening to use civil lawsuits, outbound calls, third-party collections,
- 192 or debt sales;
- 193 (ii) reporting or threatening to report nonpayment to consumer reporting agencies; or
- 194 (iii) charging or threatening to charge interest, finance charges, late fees, or other
- 195 penalties for nonpayment;
- 196 (b) use a consumer's credit report or credit score as defined by 15 U.S.C. Sec. 1681 et
- 197 seq., to determine eligibility for earned wage access services;
- 198 (c) accept payment with a credit card or charge card;

- 199 (d) condition receipt of funds based on fees, tips, gratuities, or donations;
 200 (e) mislead a consumer about the voluntary nature of tips, gratuities, or donations;
 201 (f) charge a consumer a fee, interest, or any other penalty for failure to repay outstanding
 202 proceeds, fees, tips, or gratuities; or
 203 (g) provide earned wage access services in this state without first registering with the
 204 division.

205 (4) Each act performed in violation of Subsection (3) is a separate violation of this chapter.

206 (5) The provider may prohibit a consumer from requesting a transaction if the consumer has
 207 outstanding unpaid proceeds from a previous transaction with the provider.

208 (6) A provider is not entitled to the exemption described by Subsection 13-11-22(1)(d).

209 Section 5. Section **13-75-104** is enacted to read:

210 **13-75-104 . Penalties and Enforcement -- Powers -- Legal counsel -- Fees.**

211 (1) The attorney general, upon request, shall give legal advice to, and act as counsel for, the
 212 division in the exercise of the division's responsibilities under this chapter.

213 (2)(a) In addition to the division's enforcement powers under Chapter 2, Division of
 214 Consumer Protection:

215 (i) the division director may impose an administrative fine of up to \$2,500 for each
 216 violation of this chapter; and

217 (ii) the division may bring an action in court to enforce a provision of this chapter.

218 (b) In a court action by the division to enforce a provision of this chapter, the court may:

219 (i) declare that an act or practice violates a provision of this chapter;

220 (ii) issue an injunction for a violation of this chapter;

221 (iii) order disgorgement of any money received in violation of this chapter;

222 (iv) order payment of disgorged money to an injured purchaser or consumer;

223 (v) impose a fine of up to \$2,500 for each violation of this chapter; or

224 (vi) award any other relief that the court deems reasonable and necessary.

225 (3) If a court grants judgment or injunctive relief to the division, the court shall award the
 226 division:

227 (a) reasonable attorney fees;

228 (b) court costs; and

229 (c) investigative fees.

230 (4)(a) A person that violates an administrative or court order issued for a violation of
 231 this chapter is subject to a civil penalty of no more than \$5,000 for each violation.

232 (b) The court may impose a civil penalty authorized under this section in any civil action

233 brought by the attorney general on behalf of the division.

234 (5) The division shall deposit money received for the payment of a fine or civil penalty
235 imposed under this section into the Consumer Protection Education and Training Fund
236 created in Section 13-2-8.

237 Section 6. Section **13-75-105** is enacted to read:

238 **13-75-105 . Denial, suspension, or revocation of provider registration.**

239 In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter
240 4, Administrative Procedures Act, the division may initiate adjudicative proceedings to deny,
241 suspend, or revoke a registration if:

242 (1) the division finds that the denial, suspension, or revocation is in the public interest; and

243 (2)(a) the registration is incomplete, false, or misleading; or

244 (b) the provider or the provider's principal has:

245 (i) violated, caused a violation, or allowed a violation of a provision of:

246 (A) this chapter; or

247 (B) a rule made by the division under this chapter;

248 (ii) violated Chapter 11, Utah Consumer Sales Practices Act;

249 (iii) been enjoined by a court, or is the subject of an administrative or judicial order
250 issued in Utah or another state, if the order:

251 (A) includes a finding or admission of fraud, breach of fiduciary duty, or material
252 misrepresentation; or

253 (B) was based on a finding of lack of integrity, truthfulness, or mental competence;

254 (iv) been convicted of a crime involving theft, fraud, or dishonesty;

255 (v) obtained or attempted to obtain a registration by misrepresenting any material fact;

256 (vi) failed to provide information the division requests;

257 (vii) failed to pay an administrative fine that the division or an administrative or
258 judicial order imposed;

259 (viii) failed to pay the fee to file a registration application or a renewal application; or

260 (ix) failed to satisfy the requirements of this chapter or rule made by the division
261 under this chapter.

262 Section 7. Section **13-75-106** is enacted to read:

263 **13-75-106 . Applicability.**

264 (1) A provider offering or providing earned wage access services in this state:

265 (a) does not violate state law governing deductions from payroll, salary, wages,

266 compensation, or other income or the purchase, sale or assignment of, or an order for

267 earned but unpaid income;
268 (b) is not offering a loan or other form of credit or debt, if the provider is not a creditor,
269 a debt collector, or a lender; or
270 (c) is not offering a money transmission, if the provider is not a money transmitter.
271 (2) Fees, voluntary tips, gratuities, or other donations paid to the provider, in accordance
272 with this chapter, are not interest or finance charges.
273 Section 8. **Effective Date.**
274 This bill takes effect on May 7, 2025.