

REFERENCE TITLE: earned wage access; providers; license

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1273

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTIONS 6-101, 6-602 AND 6-1202, ARIZONA REVISED STATUTES;
AMENDING TITLE 6, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 18; RELATING
TO BANKS AND FINANCIAL INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 6-101, Arizona Revised Statutes, is amended to
3 read:
4 6-101. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Automated teller machine" means an automated device that is
7 established by a bank, savings and loan association or credit union and
8 that facilitates customer-bank communications activities, including taking
9 deposits and disbursing cash drawn against a customer's deposit account or
10 a customer's preapproved loan account, at a location separate from the
11 home office or a branch.
12 2. "Bank" means a corporation that holds a banking permit issued
13 pursuant to chapter 2 of this title.
14 3. "Banking office":
15 (a) Means any place of business of the bank at which deposits are
16 received, checks are paid or money is loaned. ~~but~~
17 (b) Does not include the premises used for computer operations,
18 proofing, ~~record keeping~~ RECORDKEEPING, accounting, storage, maintenance
19 or other administrative or service functions.
20 4. "Branch" means any banking office other than the principal
21 banking office.
22 5. "Department" means the department of insurance and financial
23 institutions.
24 6. "Deputy director" means the deputy director of the financial
25 institutions division of the department.
26 7. "Director" has the same meaning prescribed in section 20-102.
27 8. "Division" means the financial institutions division within the
28 department.
29 9. "Enterprise" means any person under the jurisdiction of the
30 department other than a financial institution.
31 10. "Federal deposit insurance corporation" includes any successor
32 to the corporation or other agency or instrumentality of the United States
33 that undertakes to discharge the purposes of the corporation.
34 11. "Financial institution" means banks, trust companies, savings
35 and loan associations, EARNED WAGE ACCESS PROVIDERS AS PRESCRIBED IN
36 CHAPTER 18 OF THIS TITLE, credit unions, consumer lenders, international
37 banking facilities and financial institution holding companies under the
38 jurisdiction of the department.
39 12. "Home state" means the state that has granted the bank its
40 charter, permit or license to operate.
41 13. "Host state" means the state in which a financial institution
42 is doing business and not the state that has granted the bank its charter,
43 permit or license to operate.

1 14. "In-state financial institution" means a state or federal bank,
2 savings bank, savings and loan association or holding company with its
3 home office located in this state.

4 15. "International banking facility" means a facility that is
5 represented by a set of asset and liability accounts segregated on the
6 books and records of a commercial bank, the principal office of which is
7 located in this state, and that is incorporated and doing business under
8 the laws of the United States or of this state, a United States branch or
9 agency of a foreign bank, an edge corporation organized under section
10 25(a) of the federal reserve act (12 United States Code sections 611
11 through 631) or an agreement corporation having an agreement or
12 undertaking with the board of governors of the federal reserve system
13 under section 25 of the federal reserve act (12 United States Code
14 sections 601 through 604(a)) that includes only international banking
15 facility time deposits and international banking facility extensions of
16 credit as defined in 12 Code of Federal Regulations part 204.

17 16. "National credit union administration" includes any successor
18 to the organization or other agency or instrumentality of the United
19 States that undertakes to discharge the purposes of the organization.

20 17. "Out-of-state bank" means a bank, savings bank or savings and
21 loan association that is approved by the deputy director pursuant to
22 section 6-322 and that has a charter, a permit or any other license to
23 operate that is issued by a state other than this state.

24 18. "Out-of-state financial institution" means a state or federal
25 bank, savings bank, savings and loan association, [EARNED WAGE ACCESS](#)
26 [PROVIDER AS PRESCRIBED IN CHAPTER 18 OF THIS TITLE](#) or holding company with
27 its home office in a state other than this state.

28 19. "Title" includes this title, title 32, chapters 9 and 36 and
29 title 44, chapter 2.1.

30 Sec. 2. Section 6-602, Arizona Revised Statutes, is amended to
31 read:

32 6-602. [Exemptions](#)

33 A. This chapter does not apply to:

34 1. A person who does business under any other law of this state, or
35 any other state while regulated by a state agency of that other state, or
36 of the United States, relating to banks, savings banks, trust companies,
37 savings and loan associations, profit sharing and pension trusts, credit
38 unions, insurance companies or receiverships if the consumer lender loan
39 transactions are regulated by the other law or are under the jurisdiction
40 of a court.

41 2. A person who is licensed as a pawnbroker pursuant to title 44,
42 chapter 11, article 3 to the extent that the person's activities are
43 governed by that article.

44 3. A person who is not regularly engaged in the business of making
45 consumer lender loans.

1 4. A person who is licensed pursuant to chapter 9 of this title to
2 the extent that the person's activities are governed by that chapter.

3 5. A PERSON WHO IS LICENSED AS A EARNED WAGE ACCESS PROVIDER
4 PURSUANT TO CHAPTER 18 OF THIS TITLE.

5 B. The requirements of this chapter do not apply to:

6 1. Closed end loans of more than \$10,000.

7 2. Advances on open end revolving loans that are not secured by the
8 consumer's principal residence with an agreed on credit limit of more than
9 \$10,000, regardless of the amount of any advances on these revolving
10 loans.

11 3. Advances on open end revolving loans that are secured by the
12 consumer's principal residence with an agreed on credit limit of more than
13 \$10,000, regardless of the amount of any advances on these revolving
14 loans.

15 4. Consumer lender loans that are lawfully made to nonresidents of
16 the state in any other state under and in accordance with a regulatory
17 consumer lender law similar in principle to this chapter.

18 5. Educational loans that are either:

19 (a) Made, insured or guaranteed pursuant to a program authorized by
20 the United States, this state or any other state.

21 (b) Made by a nonprofit organization that is exempt from taxation
22 under section 501(c)(3) of the internal revenue code to students who
23 attend postsecondary educational institutions in this state.

24 6. EARNED WAGE ACCESS TRANSACTIONS AND RELATED PAYMENTS REGULATED
25 PURSUANT TO CHAPTER 18 OF THIS TITLE.

26 C. A consumer loan made pursuant to a consumer lender license is
27 not a secondary motor vehicle finance transaction as defined in section
28 44-281.

29 Sec. 3. Section 6-1202, Arizona Revised Statutes, is amended to
30 read:

31 6-1202. Exemptions

32 A. This article does not apply to any of the following:

33 1. An operator of a payment system that provides processing,
34 clearing or settlement services between or among persons exempted by this
35 section or licensees in connection with wire transfers, credit card
36 transactions, debit card transactions, stored value transactions,
37 automated clearinghouse transfers, EARNED WAGE ACCESS TRANSACTIONS
38 REGULATED PURSUANT TO CHAPTER 18 OF THIS TITLE or similar transfers of
39 money.

40 2. A person appointed as an agent of a payee to collect and process
41 a payment from a payor to the payee for goods or services, other than
42 money transmission, provided to the payor by the payee, if all of the
43 following apply:

1 (a) A written agreement exists between the payee and the agent
2 directing the agent to collect and process payments from payors on the
3 payee's behalf.

4 (b) The payee holds the agent out to the public as accepting
5 payments for goods or services on the payee's behalf.

6 (c) Payment for the goods and services is treated as received by
7 the payee on receipt by the agent so that the payor's obligation is
8 extinguished and there is no risk of loss to the payor if the agent fails
9 to remit the money to the payee.

10 3. A person that acts as an intermediary by processing payments
11 between an entity that has directly incurred an outstanding money
12 transmission obligation to a sender and the sender's designated recipient,
13 if the entity meets all of the following criteria:

14 (a) Is properly licensed or exempt from the licensing requirements
15 under this article.

16 (b) Provides a receipt, electronic record or other written
17 confirmation to the sender identifying the entity as the provider of money
18 transmission in the transaction.

19 (c) Bears sole responsibility to satisfy the outstanding money
20 transmission obligation to the sender, including the obligation to make
21 the sender whole in connection with any failure to transmit the money to
22 the sender's designated recipient.

23 4. The United States or a department, an agency or an
24 instrumentality of the United States or its agent.

25 5. Money transmission by the United States postal service or by an
26 agent of the United States postal service.

27 6. A state, county, city or town or any other governmental agency
28 or governmental subdivision or instrumentality of a state or its agent.

29 7. A federally insured depository financial institution, A bank
30 holding company, AN office of an international banking corporation, A
31 foreign bank that establishes a federal branch pursuant to 12 United
32 States Code section 3102, a corporation organized as a bank service
33 company pursuant to 12 United States Code sections 1861 through 1867 or a
34 corporation organized pursuant to 12 United States Code sections 611
35 through 633.

36 8. AN electronic funds transfer of governmental benefits for a
37 federal, state, county or governmental agency by a contractor on behalf of
38 the United States or a department, agency or instrumentality of the United
39 States or on behalf of a state or governmental subdivision, agency or
40 instrumentality of a state.

41 9. A board of trade designated as a contract market under the
42 commodity exchange act (7 United States Code sections 1 through ~~26~~ 27f) or
43 a person that, in the ordinary course of business, provides clearance and
44 settlement services for a board of trade to the extent of its operation as
45 or for the board of trade.

1 10. A registered futures commission merchant under the federal
2 commodities laws to the extent of its operation as a merchant.

3 11. A person registered as a securities broker or dealer under
4 federal or state securities laws to the extent of the person's operation.

5 12. An individual employed by a licensee, an authorized delegate or
6 any person exempt from the licensing requirements of this article when
7 acting within the scope of employment and under the supervision of the
8 licensee, authorized delegate or exempt person as an employee and not as
9 an independent contractor.

10 13. A person expressly appointed as a third-party service provider
11 to or agent of an entity exempt under paragraph 7 of this subsection
12 solely to the extent that both:

13 (a) The service provider or agent is engaging in money transmission
14 on behalf of and pursuant to a written agreement with the exempt entity
15 that sets forth the specific functions that the service provider or agent
16 is to perform.

17 (b) The exempt entity assumes all risk of loss and all legal
18 responsibility for satisfying the outstanding money transmission
19 obligations owed to purchasers and holders of the outstanding money
20 transmission obligations on receipt of the purchaser's or holder's money
21 or monetary value by the service provider or agent.

22 14. A person exempt by regulation or order if the director finds
23 such exemption to be in the public interest and that regulating the person
24 is not necessary for the purposes of this article.

25 B. The director may require that any person claiming to be exempt
26 from licensing pursuant to this section provide information and
27 documentation to the director demonstrating that the person qualifies for
28 any claimed exemption.

29 Sec. 4. Title 6, Arizona Revised Statutes, is amended by adding
30 chapter 18, to read:

31 CHAPTER 18
32 EARNED WAGE ACCESS
33 ARTICLE 1. GENERAL PROVISIONS

34 6-1801. Definitions

35 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

36 1. "BUSINESS ENTITY" MEANS ANY CORPORATION, LIMITED LIABILITY
37 COMPANY, PARTNERSHIP, ASSOCIATION OR OTHER COMMERCIAL ENTITY.

38 2. "CONSUMER" MEANS AN INDIVIDUAL WHO RESIDES IN THIS STATE.

39 3. "CONSUMER-DIRECTED WAGE ACCESS SERVICE" MEANS DELIVERING TO
40 CONSUMERS ACCESS TO EARNED BUT UNPAID INCOME THAT IS BASED ON THE
41 CONSUMER'S REPRESENTATIONS AND THE PROVIDER'S REASONABLE DETERMINATION OF
42 THE CONSUMER'S EARNED BUT UNPAID INCOME.

43 4. "EARNED BUT UNPAID INCOME" MEANS SALARY, WAGES, COMPENSATION OR
44 OTHER INCOME THAT A CONSUMER OR AN EMPLOYER HAS REPRESENTED AND THAT A
45 PROVIDER HAS REASONABLY DETERMINED HAS BEEN EARNED OR ACCRUED TO THE

1 BENEFIT OF THE CONSUMER IN EXCHANGE FOR THE CONSUMER'S SERVICES TO THE
2 EMPLOYER OR ON BEHALF OF THE EMPLOYER, INCLUDING:

3 (a) ON AN HOURLY, PROJECT-BASED, PIECEWORK OR OTHER BASIS.

4 (b) CIRCUMSTANCES IN WHICH THE CONSUMER IS ACTING AS AN INDEPENDENT
5 CONTRACTOR OF THE EMPLOYER, BUT HAS NOT, AT THE TIME OF THE PAYMENT OF
6 PROCEEDS, BEEN PAID TO THE CONSUMER BY THE EMPLOYER.

7 5. "EARNED WAGE ACCESS SERVICE" MEANS PROVIDING CONSUMER-DIRECTED
8 WAGE ACCESS SERVICES OR EMPLOYER-INTEGRATED WAGE ACCESS SERVICES, OR BOTH.

9 6. "EMPLOYER":

10 (a) MEANS A PERSON THAT EMPLOYS A CONSUMER OR ANY OTHER PERSON THAT
11 IS CONTRACTUALLY OBLIGATED TO PAY A CONSUMER EARNED BUT UNPAID INCOME IN
12 EXCHANGE FOR THE CONSUMER'S PROVISION OF SERVICES TO THE EMPLOYER OR ON
13 BEHALF OF THE EMPLOYER, INCLUDING:

14 (i) ON AN HOURLY, PROJECT-BASED, PIECEWORK OR OTHER BASIS.

15 (ii) CIRCUMSTANCES IN WHICH THE CONSUMER IS ACTING AS AN
16 INDEPENDENT CONTRACTOR WITH RESPECT TO THE EMPLOYER.

17 (b) DOES NOT INCLUDE:

18 (i) A CUSTOMER OF AN EMPLOYER.

19 (ii) ANY OTHER PERSON WHOSE OBLIGATION TO MAKE A PAYMENT OF SALARY,
20 WAGES, COMPENSATION OR OTHER INCOME TO A CONSUMER IS NOT BASED ON THE
21 PROVISION OF SERVICES BY THAT CONSUMER FOR OR ON BEHALF OF THE PERSON.

22 7. "EMPLOYER-INTEGRATED WAGE ACCESS SERVICES" MEANS DELIVERING TO
23 CONSUMERS ACCESS TO EARNED BUT UNPAID INCOME THAT IS BASED ON EMPLOYMENT,
24 INCOME OR ATTENDANCE DATA OBTAINED DIRECTLY OR INDIRECTLY FROM AN
25 EMPLOYER.

26 8. "FEE":

27 (a) MEANS A FEE IMPOSED BY A PROVIDER FOR DELIVERY OR EXPEDITED
28 DELIVERY OF PROCEEDS TO A CONSUMER OR A SUBSCRIPTION OR MEMBERSHIP FEE
29 IMPOSED BY A PROVIDER FOR A BONA FIDE GROUP OF SERVICES THAT INCLUDES
30 EARNED WAGE ACCESS SERVICES.

31 (b) DOES NOT INCLUDE:

32 (i) VOLUNTARY TIPS.

33 (ii) GRATUITY.

34 (iii) OTHER DONATIONS.

35 9. "LICENSEE" MEANS A BUSINESS ENTITY THAT IS LICENSED BY THE
36 DIVISION UNDER SECTION 6-1802 AS A PROVIDER.

37 10. "NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY" MEANS A
38 MORTGAGE LICENSING SYSTEM DEVELOPED AND MAINTAINED BY A CONFERENCE OF
39 STATE BANK SUPERVISORS AND AN AMERICAN ASSOCIATION OF RESIDENTIAL MORTGAGE
40 REGULATIONS FOR THE STATE LICENSING AND REGISTRATION OF LICENSED LOAN
41 ORIGINATORS AND REGISTERED LOAN ORIGINATORS OR SUCH A SYSTEM ESTABLISHED
42 BY THE UNITED STATES DIRECTOR OF THE BUREAU OF CONSUMER FINANCIAL
43 PROTECTION.

44 11. "PROCEEDS" MEANS A PAYMENT IN UNITED STATES DOLLARS TO A
45 CONSUMER BY A PROVIDER THAT IS BASED ON EARNED BUT UNPAID INCOME.

1 12. "PROVIDER":
2 (a) MEANS A BUSINESS ENTITY THAT PROVIDES EARNED WAGE ACCESS
3 SERVICES TO CONSUMERS.
4 (b) DOES NOT INCLUDE:
5 (i) A SERVICE PROVIDER, SUCH AS A PAYROLL SERVICE PROVIDER, WHOSE
6 ROLE MAY INCLUDE VERIFYING THE AVAILABLE EARNINGS BUT THAT IS NOT
7 CONTRACTUALLY OBLIGATED TO FUND PROCEEDS DELIVERED AS PART OF AN EARNED
8 WAGE ACCESS SERVICE.
9 (ii) AN EMPLOYER THAT OFFERS A PORTION OF SALARY, WAGES OR
10 COMPENSATION DIRECTLY TO ITS EMPLOYEES OR INDEPENDENT CONTRACTORS BEFORE
11 THE NORMALLY SCHEDULED PAY DATE.
12 6-1802. License; application; fees; bond confidentiality;
13 definitions
14 A. A PROVIDER, WHETHER LOCATED IN THIS STATE OR IN ANOTHER STATE,
15 MAY NOT PROVIDE EARNED WAGE ACCESS SERVICES IN THIS STATE UNLESS THE
16 PROVIDER HAS BEEN ISSUED A LICENSE BY THE DIVISION.
17 B. A PROVIDER REQUIRED TO BE LICENSED UNDER THIS SECTION SHALL
18 APPLY FOR A LICENSE ON A FORM AN IN A MANNER AS PRESCRIBED BY THE
19 DIVISION. THE APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:
20 1. THE NAME OF THE PROVIDER.
21 2. THE NAME UNDER WHICH THE PROVIDER TRANSACTS BUSINESS, IF
22 DIFFERENT FROM PARAGRAPH 1 OF THIS SUBSECTION.
23 3. THE ADDRESS OF THE PROVIDER'S PRINCIPAL OFFICE, WHICH MAY BE
24 OUTSIDE OF THIS STATE.
25 4. THE ADDRESSES OF ALL OF THE PROVIDER'S OFFICES OR RETAIL STORES,
26 IF ANY, LOCATED IN THIS STATE.
27 5. IF THE PROVIDER PROVIDES EARNED WAGE ACCESS SERVICES AT A
28 LOCATION THAT IS NOT AN OFFICE OR RETAIL STORE IN THIS STATE, A BRIEF
29 DESCRIPTION OF THE MANNER IN WHICH THE PROVIDER PROVIDES EARNED WAGE
30 ACCESS SERVICES.
31 6. THE ADDRESS OF THE PROVIDER'S DESIGNATED AGENT ON WHOM SERVICE
32 OF PROCESS MAY BE MADE IN THIS STATE.
33 7. THE PROVIDER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER.
34 8. ANY OTHER SIMILAR INFORMATION THE DIVISION REQUIRES TO
35 ADMINISTER THIS CHAPTER.
36 C. IN ADDITION TO THE APPLICATION UNDER SUBSECTION B OF THIS
37 SECTION, EACH LICENSEE SHALL REGISTER WITH AND MAINTAIN A VALID UNIQUE
38 IDENTIFIER ISSUED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND
39 REGISTRY.
40 D. EACH PROVIDER REQUIRED TO BE LICENSED UNDER THIS SECTION SHALL
41 UPDATE ANY INFORMATION PROVIDED IN ITS LICENSE APPLICATION WITHIN FIFTEEN
42 BUSINESS DAYS AFTER ANY MATERIAL CHANGE IN THAT INFORMATION.
43 E. A PROVIDER THAT SUBMITS AN APPLICATION FOR A LICENSE UNDER THIS
44 SECTION SHALL PAY AN APPLICATION FEE IN AN AMOUNT TO BE DETERMINED BY THE
45 DEPUTY DIRECTOR.

1 F. A PROVIDER REQUIRED TO BE LICENSED UNDER THIS SECTION SHALL FILE
2 WITH THE DIVISION AND MAINTAIN IN FORCE A SURETY BOND THAT IS ISSUED BY A
3 SURETY COMPANY ADMITTED TO DO BUSINESS IN THIS STATE AND THAT MEETS ALL OF
4 THE FOLLOWING REQUIREMENTS:

- 5 1. IS IN AN AMOUNT EQUAL TO \$25,000.
- 6 2. IS IN FAVOR OF THIS STATE FOR THE BENEFIT OF ANY PERSON THAT IS
7 DAMAGED BY A VIOLATION OF THIS CHAPTER.
- 8 3. IS IN FAVOR OF ANY PERSON THAT IS DAMAGED BY A VIOLATION OF THIS
9 CHAPTER.

10 G. A PERSON THAT CLAIMS AGAINST A BOND DESCRIBED UNDER SUBSECTION F
11 OF THIS SECTION FOR A VIOLATION OF THIS CHAPTER MAY MAINTAIN AN ACTION AT
12 LAW AGAINST THE PROVIDER THAT OBTAINED THE SURETY THAT ISSUED THE BOND.
13 THE SURETY IS LIABLE ONLY FOR ACTUAL DAMAGES AND NOT FOR PUNITIVE DAMAGES.
14 THE AGGREGATE LIABILITY OF THE SURETY TO ALL PERSONS DAMAGED BY A
15 PROVIDER'S VIOLATION OF THIS CHAPTER DOES NOT EXCEED THE AMOUNT OF THE
16 BOND.

17 H. ONCE THE APPLICANT SUBMITS AN APPLICATION AND REMITS PAYMENT OF
18 THE APPLICATION FEE, THE DIVISION SHALL CONDUCT A CHARACTER AND GENERAL
19 FITNESS AND FINANCIAL RESPONSIBILITY INVESTIGATION OF THE FOLLOWING:

- 20 1. THE APPLICANT.
- 21 2. THE APPLICANT'S PARTNERS IF THE PROVIDER IS A PARTNERSHIP.
- 22 3. THE APPLICANT'S MEMBERS IF THE PROVIDER IS A LIMITED LIABILITY
23 COMPANY OR ASSOCIATION.
- 24 4. THE APPLICANT'S OFFICERS AND DIRECTORS IF THE PROVIDER IS A
25 CORPORATION.

26 I. IF THE INVESTIGATION PURSUANT TO SUBSECTION H OF THIS SECTION
27 FINDS RELEVANT FACTS THAT WARRANT THE BELIEF THAT THE APPLICANT'S BUSINESS
28 WILL BE OPERATED IN COMPLIANCE WITH THIS CHAPTER, THE DIVISION SHALL ISSUE
29 A LICENSE, AND IF NOT, THE DIVISION SHALL DENY THE APPLICATION FOR A
30 LICENSE.

31 J. THE DIVISION MAY NOT ISSUE A LICENSE TO AN APPLICANT IF ANY OF
32 THE FOLLOWING APPLIES:

- 33 1. THE APPLICANT FAILS TO PROVIDE ANY INFORMATION REQUIRED UNDER
34 SUBSECTION B OF THIS SECTION.
- 35 2. THE DEPARTMENT OF REVENUE CERTIFIES THAT THE APPLICANT IS LIABLE
36 FOR DELINQUENT TAXES AS PRESCRIBED IN SECTION 42-1103.

37 K. THE PROVIDER'S LICENSE REMAINS IN FORCE AND EFFECT UNTIL THE
38 DIVISION SUSPENDS OR REVOKES THE LICENSE IN ACCORDANCE WITH THIS CHAPTER
39 OR THE PROVIDER SURRENDERS THE LICENSE. ON OR BEFORE DECEMBER 10 OF EACH
40 YEAR, A LICENSEE SHALL PAY A RENEWAL FEE ESTABLISHED BY THE DIVISION FOR
41 THE NEXT SUCCEEDING CALENDAR YEAR. THE DIVISION MAY ESTABLISH RULES THAT
42 PROVIDE FOR THE REINSTATEMENT OF EXPIRED LICENSES THAT ARE CONSISTENT WITH
43 THE STANDARDS ESTABLISHED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND
44 REGISTRY.

1 L. A PROVIDER MAY NOT ASSIGN A LICENSE UNLESS IT IS APPROVED BY THE
2 DIVISION OR BY OPERATION OF LAW IN CONNECTION WITH A MERGER OR CONVERSION.

3 M. A PROVIDER SHALL CONSPICUOUSLY POST ITS LICENSE AT THE PHYSICAL
4 PLACE OF BUSINESS OR ON THE PROVIDER'S WEBSITE, IF THE PROVIDER CONDUCTS
5 BUSINESS ON A WEBSITE.

6 N. THE DIVISION SHALL KEEP CONFIDENTIAL THE INFORMATION CONTAINED
7 IN AN APPLICATION FOR A LICENSE UNDER SUBSECTION B OF THIS SECTION AND ANY
8 INFORMATION OBTAINED DURING THE DIVISION'S CHARACTER AND GENERAL FITNESS
9 AND FINANCIAL RESPONSIBILITY INVESTIGATION UNDER SUBSECTION H OF THIS
10 SECTION, AND THAT INFORMATION IS NOT SUBJECT TO PUBLIC COPYING OR PUBLIC
11 INSPECTION UNDER SECTION 39-121.

12 O. FOR THE PURPOSES OF THIS SECTION:

13 1. "APPLICANT" MEANS A PROVIDER THAT HAS SUBMITTED AN APPLICATION
14 FOR A LICENSE UNDER SUBSECTION B OF THIS SECTION.

15 2. "DIRECTOR" MEANS A MEMBER OF THE APPLICANT'S OR LICENSEE'S BOARD
16 OF DIRECTORS.

17 3. "MEMBER", EXCEPT UNDER PARAGRAPH 2 OF THIS SUBSECTION, MEANS A
18 PERSON WHO EITHER:

19 (a) HAS THE RIGHT TO RECEIVE ON DISSOLUTION.

20 (b) HAS CONTRIBUTED TEN PERCENT OR MORE OF THE CAPITAL CONTRIBUTION
21 OF AN APPLICANT OR LICENSEE THAT IS ORGANIZED AS A LIMITED LIABILITY
22 COMPANY OR ASSOCIATION.

23 4. "OFFICER":

24 (a) MEANS A PERSON WHO PARTICIPATES OR HAS AUTHORITY TO
25 PARTICIPATE, OTHER THAN IN THE CAPACITY OF A DIRECTOR, IN MAJOR
26 POLICYMAKING FUNCTIONS OF AN APPLICANT OR LICENSEE, WHETHER OR NOT THE
27 PERSON HAS AN OFFICIAL TITLE.

28 (b) INCLUDES THE CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL OFFICER,
29 CHIEF OPERATIONS OFFICER, CHIEF LEGAL OFFICER, CHIEF CREDIT OFFICER AND
30 CHIEF COMPLIANCE OFFICER, EACH EXECUTIVE VICE PRESIDENT OR SENIOR VICE
31 PRESIDENT AND ANY OTHER PERSON MEETING THE STANDARD UNDER THIS PARAGRAPH.

32 5. "PARTNER" MEANS A PERSON THAT EITHER:

33 (a) HAS THE RIGHT TO RECEIVE ON DISSOLUTION.

34 (b) HAS CONTRIBUTED TEN PERCENT OR MORE OF THE CAPITAL CONTRIBUTION
35 OF AN APPLICANT OR LICENSEE THAT IS ORGANIZED AS A PARTNERSHIP.

36 6-1803. Provider requirements; limitations

37 A. A PROVIDER REQUIRED TO BE LICENSED UNDER SECTION 6-1802 SHALL DO
38 ALL OF THE FOLLOWING:

39 1. DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES TO RESPOND TO
40 QUESTIONS RAISED BY CONSUMERS AND ADDRESS COMPLAINTS FROM CONSUMERS IN AN
41 EXPEDIENT MANNER.

42 2. OFFER AT LEAST ONE REASONABLE OPTION TO A CONSUMER ABOUT HOW TO
43 OBTAIN PROCEEDS AT NO COST AND CLEARLY EXPLAIN HOW TO ELECT THAT NO COST
44 OPTION.

1 3. BEFORE ENTERING INTO AN AGREEMENT WITH A CONSUMER FOR EARNED
2 WAGE ACCESS SERVICES, DO ALL OF THE FOLLOWING:

3 (a) INFORM THE CONSUMER OF THE CONSUMER'S RIGHTS UNDER THE
4 AGREEMENT.

5 (b) FULLY AND CLEARLY DISCLOSE ALL FEES ASSOCIATED WITH THE EARNED
6 WAGE ACCESS SERVICES.

7 4. INFORM THE CONSUMER OF ANY MATERIAL CHANGE TO THE TERMS AND
8 CONDITIONS OF THE EARNED WAGE ACCESS SERVICES BEFORE IMPLEMENTING THAT
9 CHANGE TO THE CONSUMER.

10 5. ALLOW THE CONSUMER TO CANCEL USE OF THE PROVIDER'S EARNED WAGE
11 ACCESS SERVICES AT ANY TIME WITHOUT INCURRING A CANCELLATION FEE OR
12 PENALTY.

13 6. COMPLY WITH ALL LOCAL, STATE AND FEDERAL PRIVACY AND INFORMATION
14 SECURITY LAWS.

15 7. IF A PROVIDER SOLICITS, CHARGES, OR RECEIVES A TIP, GRATUITY OR
16 OTHER DONATION FROM A CONSUMER, DO ALL OF THE FOLLOWING:

17 (a) CLEARLY AND CONSPICUOUSLY DISCLOSE TO THE CONSUMER IMMEDIATELY
18 BEFORE EACH TRANSACTION THAT ANY TIP, GRATUITY OR OTHER DONATION AMOUNT
19 MAY BE ZERO AND IS VOLUNTARY.

20 (b) CLEARLY AND CONSPICUOUSLY DISCLOSE IN ITS SERVICE CONTRACT WITH
21 THE CONSUMER AND ELSEWHERE THAT ANY TIP, GRATUITY OR DONATION IS VOLUNTARY
22 AND THAT OFFERING EARNED WAGE ACCESS SERVICES, INCLUDING THE AMOUNT OF
23 PROCEEDS A CONSUMER IS ELIGIBLE TO REQUEST AND THE FREQUENCY WITH WHICH
24 PROCEEDS ARE PROVIDED TO A CONSUMER, IS NOT CONTINGENT ON WHETHER THE
25 CONSUMER PAYS ANY TIP, GRATUITY OR OTHER DONATION OR ON THE SIZE OF THE
26 TIP, GRATUITY OR OTHER DONATION.

27 8. PROVIDE PROCEEDS TO A CONSUMER BY ANY MEANS MUTUALLY AGREED ON
28 BY THE CONSUMER AND THE LICENSEE.

29 9. IF THE PROVIDER SEEKS REPAYMENT OF OUTSTANDING PROCEEDS OR
30 PAYMENT OF FEES OR OTHER AMOUNTS OWED, INCLUDING VOLUNTARY TIPS,
31 GRATUITIES OR OTHER DONATIONS IN CONNECTION WITH THE ACTIVITIES COVERED BY
32 THIS CHAPTER FROM A CONSUMER'S ACCOUNT AT A DEPOSITORY INSTITUTION BY
33 MEANS OF AN ELECTRONIC FUNDS TRANSFER, DO ALL OF THE FOLLOWING:

34 (a) COMPLY WITH APPLICABLE PROVISIONS OF THE FEDERAL ELECTRONIC
35 FUND TRANSFER ACT AS PRESCRIBED IN 15 UNITED STATES CODE SECTION 1693 AND
36 SECTION 1693r AND THE REGULATIONS ADOPTED UNDER 15 UNITED STATES CODE
37 SECTION 1693 AND SECTION 1693r.

38 (b) REIMBURSE THE CONSUMER FOR THE FULL AMOUNT OF ANY OVERDRAFT OR
39 NON-SUFFICIENT FUND FEES IMPOSED ON A CONSUMER BY A CONSUMER'S DEPOSITORY
40 INSTITUTION THAT WERE CAUSED BY THE PROVIDER ATTEMPTING TO SEEK PAYMENT OF
41 ANY OUTSTANDING PROCEEDS, FEES OR OTHER PAYMENTS IN CONNECTION WITH THE
42 ACTIVITIES COVERED BY THIS CHAPTER, INCLUDING VOLUNTARY TIPS, GRATUITIES
43 OR OTHER DONATIONS ON A DATE BEFORE, OR IN AN INCORRECT AMOUNT FROM, THE
44 DATE OR AMOUNT DISCLOSED TO THE CONSUMER. THE PROVIDER IS NOT SUBJECT TO
45 THE REQUIREMENTS IN THIS SUBSECTION WITH RESPECT TO PAYMENTS OF

1 OUTSTANDING AMOUNTS OR FEES INCURRED BY A CONSUMER THROUGH FRAUDULENT OR
2 OTHER UNLAWFUL MEANS.

3 B. A PROVIDER THAT IS REQUIRED TO BE LICENSED UNDER SECTION 6-1802
4 MAY NOT DO ANY OF THE FOLLOWING:

5 1. SHARE WITH AN EMPLOYER A PORTION OF ANY FEES, VOLUNTARY TIPS,
6 GRATUITIES OR OTHER DONATIONS THAT WERE RECEIVED FROM OR CHARGED TO A
7 CONSUMER FOR EARNED WAGE ACCESS SERVICES.

8 2. REQUIRE A CONSUMER'S CREDIT REPORT OR A CREDIT SCORE PROVIDED OR
9 ISSUED BY A CONSUMER REPORTING AGENCY TO DETERMINE A CONSUMER'S
10 ELIGIBILITY FOR EARNED WAGE ACCESS SERVICES.

11 3. ACCEPT PAYMENT OF OUTSTANDING PROCEEDS, FEES, VOLUNTARY TIPS,
12 GRATUITIES OR OTHER DONATIONS FROM A CONSUMER BY MEANS OF A CREDIT CARD OR
13 CHARGE CARD.

14 4. CHARGE A LATE FEE OR DEFERRAL FEE, INTEREST OR ANY OTHER PENALTY
15 OR CHARGE FOR FAILURE TO PAY OUTSTANDING PROCEEDS, FEES, VOLUNTARY TIPS,
16 GRATUITIES OR OTHER DONATIONS.

17 5. REPORT TO A CONSUMER REPORTING AGENCY OR DEBT COLLECTOR ANY
18 INFORMATION ABOUT THE CONSUMER REGARDING THE INABILITY OF THE PROVIDER TO
19 BE REPAID OUTSTANDING PROCEEDS, FEES, VOLUNTARY TIPS, GRATUITIES OR OTHER
20 DONATIONS.

21 6. COMPEL OR ATTEMPT TO COMPEL PAYMENT BY A CONSUMER OF OUTSTANDING
22 PROCEEDS, FEES, VOLUNTARY TIPS, GRATUITIES OR OTHER DONATIONS TO THE
23 PROVIDER THROUGH ANY OF THE FOLLOWING MEANS:

24 (a) A SUIT AGAINST THE CONSUMER IN A COURT OF COMPETENT
25 JURISDICTION.

26 (b) USE OF A THIRD PARTY TO PURSUE COLLECTION FROM THE CONSUMER ON
27 THE PROVIDER'S BEHALF.

28 (c) SALE OF OUTSTANDING AMOUNTS TO A THIRD-PARTY COLLECTOR OR DEBT
29 BUYER FOR COLLECTION FROM THE CONSUMER.

30 7. SOLICIT, CHARGE OR RECEIVE TIPS, GRATUITIES OR OTHER DONATIONS
31 FROM A CONSUMER, MISLEAD OR DECEIVE CONSUMERS ABOUT THE VOLUNTARY NATURE
32 OF THE TIPS, GRATUITIES OR OTHER DONATIONS OR MAKE REPRESENTATIONS THAT
33 THE TIPS, GRATUITIES OR OTHER DONATIONS WILL BENEFIT SPECIFIC INDIVIDUALS.

34 8. ADVERTISE, PRINT, DISPLAY, PUBLISH, DISTRIBUTE OR BROADCAST OR
35 CAUSE TO BE ADVERTISED, PRINTED, DISPLAYED, PUBLISHED, DISTRIBUTED OR
36 BROADCAST, IN ANY MANNER, ANY STATEMENT OR REPRESENTATION WITH REGARD TO
37 THE EARNED WAGE ACCESS SERVICES THAT ARE OFFERED BY THE PROVIDER THAT IS
38 FALSE, MISLEADING OR DECEPTIVE, OR THAT OMITTS OR STATES MATERIAL
39 INFORMATION THAT IS NECESSARY TO MAKE THE STATEMENTS NOT FALSE, MISLEADING
40 OR DECEPTIVE.

41 C. THE LIMITS SET FORTH IN SUBSECTION B, SUBDIVISION 6 OF THIS
42 SECTION DO NOT APPLY TO A PROVIDER THAT IS:

43 1. SEEKING PAYMENT OF ANY OUTSTANDING AMOUNT OR FEE THAT WAS
44 INCURRED BY A CONSUMER THROUGH FRAUD OR OTHER UNLAWFUL MEANS.

1 2. SUING AN EMPLOYER FOR BREACH OF THE EMPLOYER'S CONTRACT TO THE
2 PROVIDER.

3 D. A PROVIDER MAY USE THE MAILING ADDRESS PROVIDED BY A CONSUMER TO
4 DETERMINE THE CONSUMER'S STATE OF RESIDENCE FOR THE PURPOSES OF THIS
5 CHAPTER.

6 6-1804. Interpretation; applicability

7 A. NOTWITHSTANDING ANY OTHER LAW, EARNED WAGE ACCESS SERVICES
8 OFFERED AND PROVIDED BY A LICENSEE IN COMPLIANCE WITH THIS CHAPTER ARE NOT
9 CONSIDERED ANY OF THE FOLLOWING:

10 1. A VIOLATION OF OR NONCOMPLIANCE WITH SECTION 23-1068, SUBSECTION
11 A OR ANY OTHER LAW OF THIS STATE GOVERNING A SALE, ASSIGNMENT OR ORDER FOR
12 EARNED BUT UNPAID LEAVE.

13 2. A LOAN OR OTHER FORM OF CREDIT OR DEBT, AND THE PROVIDER IS NOT
14 CONSIDERED A CREDITOR, DEBT COLLECTOR OR LENDER.

15 3. MONEY TRANSMISSION, AND THE PROVIDER IS NOT CONSIDERED A MONEY
16 TRANSMITTER.

17 B. NOTWITHSTANDING ANY OTHER LAW, FEES PAID TO A LICENSEE IN
18 ACCORDANCE WITH THIS CHAPTER ARE NOT CONSIDERED INTEREST OR FINANCE
19 CHARGES. IF THERE IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER
20 STATUTE, THIS CHAPTER CONTROLS.

21 C. TITLE 32, CHAPTER 9 DOES NOT APPLY TO PROCEEDS A PROVIDER
22 PROVIDES TO A CONSUMER IN ACCORDANCE WITH THIS CHAPTER.

23 D. A VOLUNTARY TIP, GRATUITY, OR OTHER DONATION PAID BY A CONSUMER
24 TO A LICENSEE IN ACCORDANCE WITH THIS CHAPTER ARE NOT CONSIDERED A FINANCE
25 CHARGE.

26 6-1805. Annual report; books and records

27 A. ON OR BEFORE JULY 1 OF EACH YEAR, A PROVIDER THAT IS REQUIRED TO
28 BE LICENSED UNDER SECTION 6-1802 SHALL SUBMIT AN ANNUAL REPORT TO THE
29 DIVISION THAT INCLUDES ALL OF THE FOLLOWING INFORMATION RELATED TO EARNED
30 WAGE ACCESS SERVICES THAT THE PROVIDER PROVIDED IN THIS STATE DURING THE
31 PRIOR YEAR:

32 1. GROSS REVENUE THAT IS ATTRIBUTED TO EARNED WAGE ACCESS SERVICES.

33 2. THE TOTAL NUMBER OF TRANSACTIONS IN WHICH THE PROVIDER PROVIDED
34 PROCEEDS TO CONSUMERS.

35 3. THE TOTAL NUMBER OF UNIQUE CONSUMERS TO WHOM THE PROVIDER
36 PROVIDED PROCEEDS.

37 4. THE TOTAL DOLLAR AMOUNT OF PROCEEDS THE PROVIDER PROVIDED TO
38 CONSUMERS.

39 5. THE TOTAL DOLLAR AMOUNT OF FEES, VOLUNTARY TIPS, GRATUITIES OR
40 OTHER DONATIONS THE PROVIDER RECEIVED FROM CONSUMERS.

41 B. THE DIVISION MAY TAKE DISCIPLINARY ACTION AGAINST A PROVIDER IF
42 THE PROVIDER FAILS TO SUBMIT A TIMELY REPORT AS REQUIRED UNDER THIS
43 SECTION.

1 C. THE DIVISION SHALL KEEP CONFIDENTIAL THE INFORMATION CONTAINED
2 IN THE ANNUAL REPORT UNDER SUBSECTION A OF THIS SECTION, AND THAT
3 INFORMATION IS NOT SUBJECT TO PUBLIC COPYING OR PUBLIC INSPECTION UNDER
4 SECTION 39-121. THE DIVISION MAY PREPARE AND MAKE PUBLICLY AVAILABLE AN
5 AGGREGATED AND ANONYMIZED ANALYSIS OF THE INFORMATION SUBMITTED BY ALL
6 PROVIDERS UNDER THIS SECTION.

7 D. A PROVIDER REQUIRED TO BE LICENSED UNDER SECTION 6-1802 SHALL
8 KEEP SUCH BOOKS AND RECORDS THAT, IN THE OPINION OF THE DIVISION, WILL
9 ENABLE THE DIVISION TO DETERMINE WHETHER THE PROVIDER IS IN COMPLIANCE
10 WITH THIS CHAPTER.

11 6-1806. Suspension or revocation of license

12 A. THE DIVISION MAY SUSPEND OR REVOKE A PROVIDER'S LICENSE THAT IS
13 ISSUED UNDER THIS CHAPTER IF THE DIVISION FINDS ANY OF THE FOLLOWING:

14 1. THE PROVIDER VIOLATED THIS CHAPTER, ANY RULE ADOPTED UNDER THIS
15 CHAPTER OR ANY LAWFUL ORDER OF THE DIVISION MADE UNDER THIS CHAPTER.

16 2. THE DIVISION DISCOVERED A FACT OR CONDITION THAT WOULD HAVE BEEN
17 GROUNDS TO DENY THE APPLICATION IF THE FACT OR CONDITION HAD EXISTED AT
18 THE TIME THE PROVIDER SUBMITTED AN ORIGINAL APPLICATION.

19 3. THE PROVIDER MADE A MATERIAL MISSTATEMENT IN AN APPLICATION OR
20 IN THE INFORMATION PROVIDED TO THE DIVISION.

21 4. THE PROVIDER FAILED TO PAY THE ANNUAL LICENSE FEE OR TO MAINTAIN
22 IN EFFECT THE SURETY BOND REQUIRED UNDER SECTION 6-1802, SUBSECTION G.

23 B. THE DIVISION SHALL REVOKE A PROVIDER'S LICENSE IF THE DEPARTMENT
24 OF REVENUE CERTIFIES UNDER SECTION 42-1103 THAT THE PROVIDER IS LIABLE FOR
25 DELINQUENT TAXES.

26 C. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, THE DIVISION
27 MAY NOT REVOKE OR SUSPEND A PROVIDER'S LICENSE EXCEPT AFTER A HEARING
28 PURSUANT TO SECTION 6-1807.

29 6-1807. Violations; civil action; temporary restraining
30 order; hearing; enforcement; civil penalty

31 A. THE DIVISION MAY BRING A CIVIL ACTION TO RESTRAIN BY TEMPORARY
32 OR PERMANENT INJUNCTION A PERSON FROM VIOLATING THIS CHAPTER OR RULES
33 ADOPTED UNDER THIS CHAPTER OR TO RESTRAIN A PERSON FROM ENGAGING IN FALSE,
34 MISLEADING, DECEPTIVE OR UNCONSCIONABLE CONDUCT IN CONNECTION WITH
35 OFFERING EARNED WAGE ACCESS SERVICES.

36 B. THE DIVISION MAY SEEK A TEMPORARY RESTRAINING ORDER WITHOUT
37 WRITTEN OR ORAL NOTICE TO THE ADVERSE PARTY. IF A COURT FINDS THAT THERE
38 IS REASONABLE CAUSE TO BELIEVE THAT THE RESPONDENT IS ENGAGED IN THE
39 CONDUCT SOUGHT TO BE RESTRAINED AND THAT SUCH CONDUCT VIOLATES THIS
40 CHAPTER OR RULES ADOPTED UNDER THIS CHAPTER, THE COURT MAY GRANT A
41 TEMPORARY RESTRAINING ORDER OR ANY TEMPORARY RELIEF THE COURT DETERMINES
42 IS APPROPRIATE. A TEMPORARY RESTRAINING ORDER GRANTED WITHOUT NOTICE
43 SHALL EXPIRE BY ITS TERMS WITHIN A STATED TIME AFTER ENTRY, NOT TO EXCEED
44 THIRTY DAYS, UNLESS WITHIN THIS TIME IT IS EXTENDED BY THE COURT OR THE
45 PARTY AGAINST WHOM THE ORDER IS DIRECTED CONSENTS THAT IT MAY BE EXTENDED

1 FOR A LONGER PERIOD. WHEN A TEMPORARY RESTRAINING ORDER IS GRANTED
2 WITHOUT NOTICE, THE MOTION FOR A PRELIMINARY INJUNCTION SHALL BE SET FOR A
3 HEARING AT THE EARLIEST POSSIBLE TIME. ON NOTICE TO THE PARTY WHO
4 OBTAINED THE TEMPORARY RESTRAINING ORDER WITHOUT NOTICE, THE ADVERSE PARTY
5 MAY APPEAR AND MOVE FOR DISSOLUTION OR MODIFICATION OF THE TEMPORARY
6 RESTRAINING ORDER, AND THE COURT SHALL PROCEED TO HEAR AND DETERMINE SUCH
7 MOTION AS EXPEDITIOUSLY AS THE ENDS OF JUSTICE REQUIRE.

8 C. THE DIVISION MAY RECOVER IN A CIVIL ACTION FROM A PERSON THAT
9 VIOLATES THIS CHAPTER OR RULES ADOPTED UNDER THIS CHAPTER A CIVIL PENALTY
10 OF NOT LESS THAN \$100 AND NOT MORE THAN \$1,000 FOR EACH VIOLATION.

11 D. IN ADDITION TO THE AMOUNT TO WHICH THE DIVISION IS ENTITLED
12 UNDER SUBSECTION C OF THIS SECTION, THE DIVISION MAY RECOVER IN A CIVIL
13 ACTION FROM A PERSON THAT KNOWINGLY OR WILFULLY VIOLATES THIS CHAPTER OR
14 RULES ADOPTED UNDER THIS CHAPTER A CIVIL PENALTY OF NOT LESS THAN \$1,000
15 AND NOT MORE THAN \$10,000 FOR EACH VIOLATION.