
Wisconsin Legislative Council

ACT MEMO



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2023 Wisconsin Act 131
[2023 Assembly Bill 574]

**Earned Wage Access Service
Providers**

CURRENT LAW

Current law does not explicitly regulate companies that provide earned wage access services to individuals who reside in Wisconsin.

2023 WISCONSIN ACT 131

2023 Wisconsin Act 131 regulates companies that offer earned wage access services to Wisconsin consumers and requires those companies to be licensed by the Wisconsin Department of Financial Institutions (DFI) as a condition of doing business in Wisconsin. The act defines the provision of earned wage access services as either or both of the following:

- The business of delivering, to consumers, access to earned but unpaid income that is based on the consumer's representations and the provider's reasonable determination of the consumer's earned but unpaid income.
- The business of delivering, to consumers, access to earned but unpaid income that is based on employment, income, or attendance data obtained directly or indirectly from an employer.

Under the act, the definition of an employer includes:

- A person who employs a consumer; or
- Any other person who is contractually obligated to pay a consumer earned but unpaid income in exchange for the consumer's provision of services to the employer or on behalf of the employer including on an hourly, project-based, piecework, or other basis and including circumstances in which the consumer is acting as an independent contractor with respect to the employer.

But does not include:

- A customer of an employer; or
- Any other person whose obligation to make a payment of salary, wages, compensation, or other income to a consumer is not based on the provision of services by that consumer for or on behalf of the person.

The act defines earned but unpaid income as salary, wages, compensation, or other income that a consumer or an employer has represented, and that a provider has reasonably determined, has been earned or accrued to the benefit of the consumer in exchange for the consumer's provision of services to the employer or on behalf of the employer, including on an hourly, project-based, piecework, or other basis and including circumstances in which the consumer is acting as an independent contractor of the employer, but has not, at the time of the payment of proceeds, been paid to the consumer by the employer.

Under the act, a provider of earned wage access services doing business in Wisconsin must do the following:

- Develop and implement policies and procedures to respond to consumer questions and complaints.
- Offer to the consumer at least one reasonable option to obtain proceeds at no cost and explain how to elect this option.
- Before entering into an earned wage access services agreement with a consumer, inform the consumer of his or her rights under the agreement and disclose all fees associated with these services.
- Inform the consumer of material changes to the terms and conditions of the earned wage access services before implementing them.
- Allow the consumer to cancel use of the provider's earned wage access services at any time, without incurring a cancellation fee or penalty imposed by the provider.
- If the provider solicits, charges, or receives tips, gratuities, or other donations from consumers, disclose in its service contract that tips are voluntary and the provider's services are not contingent on tips and further disclose before each transaction that a tip is voluntary.
- If the provider will seek repayment of proceeds remitted to the consumer but not yet repaid or payment of fees or other amounts from a consumer's bank account, including through electronic funds transfer, reimburse the consumer for overdraft or non-sufficient funds fees caused by the provider's attempted payment before the date, or in an amount different from that disclosed to the consumer.

In addition, a provider of earned wage access services doing business in Wisconsin may not do any of the following:

- Share consumer fees or tips with the consumer's employer.
- Accept a consumer's payment of outstanding proceeds, fees, or tips by means of a credit card.
- Charge a late fee, deferral fee, interest, or other penalty for failure to pay outstanding proceeds, fees, or tips.
- Report to a consumer reporting agency or debt collector information about the consumer's nonpayment to the provider of outstanding proceeds, fees, or tips.
- Compel the consumer's payment of outstanding proceeds, fees, or tips through a lawsuit in court, use of a third-party debt collector, or sale of the obligation to a third-party debt collector or debt buyer, unless the consumer acted through fraudulent or other unlawful means.
- Mislead or deceive consumers about the voluntary nature of tips or make representations that tips will benefit any specific individual.
- Advertise, publish, or broadcast any statement or representation regarding the provider's earned wage access services that is false, misleading, or deceptive.

Finally, the act requires companies that offer earned wage access services to Wisconsin consumers to submit an annual report to DFI.

Effective date: March 23, 2023

For a full history of the act, visit the Legislature's [bill history page](#).

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