



2023 SENATE BILL 579

October 30, 2023 - Introduced by Senators STAFSHOLT, TOMCZYK and COWLES, cosponsored by Representatives DALLMAN, NEYLON, ALLEN, DITTRICH, GUNDRUM, MURPHY, MURSAU, NEDWESKI, NOVAK, RETTINGER, STEFFEN and TUSLER. Referred to Committee on Financial Institutions and Sporting Heritage.

1 **AN ACT to amend** 73.0301 (1) (d) 6., 108.227 (1) (e) 6., 138.14 (3) and 220.02 (3);
2 **and to create** 138.09 (1a) (c), chapter 203 and 220.02 (2) (j) of the statutes;
3 **relating to:** regulating earned wage access services, granting rule-making
4 authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill regulates companies that provide earned wage access services in this state to individuals who reside in this state (consumers) and requires such companies to be licensed by the Division of Banking (division) in the Department of Financial Institutions before providing those services.

Under the bill, “earned wage access service” is defined as the business of delivering to consumers access to earned but unpaid income that is based on 1) the consumer’s representations and the provider’s reasonable determination of the consumer’s earned but unpaid income; or 2) employment, income, or attendance data obtained directly or indirectly from an employer. The bill defines, with exceptions, a “provider” as a business entity that is in the business of providing earned wage access services to consumers. “Earned but unpaid income” is defined 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 the employer’s behalf but has not, at the time of the payment of proceeds, been paid to the consumer by the employer. An “employer” includes a person who is obligated to pay a consumer acting as an independent

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contractor. "Proceeds" are defined as a provider's payment to a consumer based on earned but unpaid income.

The bill requires a provider, before providing earned wage access services in this state, to be licensed by the division. This requirement applies even if the provider is not physically located in this state, such as when the provider conducts business by means of a website. However, these provisions do not apply to financial institutions and their affiliates. An applicant for a license must pay a fee to the division, file and maintain a surety bond, and provide specified information to the division.

The bill imposes various requirements on a licensed provider, including requiring a licensed provider to do all of the following:

1. Develop and implement policies and procedures to respond to consumer questions and complaints.

2. Offer to the consumer at least one reasonable option to obtain proceeds at no cost and explain how to elect this option.

3. 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.

4. Inform the consumer of material changes to the terms and conditions of the earned wage access services before implementing them.

5. 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.

6. If the provider solicits, charges, or receives tips, gratuities, or other donations (tips) 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.

7. If the provider will seek repayment of proceeds remitted to the consumer but not yet repaid (outstanding proceeds) 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.

The bill imposes various limitations on a licensed provider, including prohibiting a licensed provider from doing any of the following:

1. Sharing consumer fees or tips with the consumer's employer.

2. Accepting a consumer's payment of outstanding proceeds, fees, or tips by means of a credit card.

3. Charging a late fee, deferral fee, interest, or other penalty for failure to pay outstanding proceeds, fees, or tips.

4. Reporting to a consumer reporting agency or debt collector information about the consumer's nonpayment to the provider of outstanding proceeds, fees, or tips.

5. Compelling 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

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to a third-party debt collector or debt buyer, unless the consumer acted through fraudulent or other unlawful means.

6. Misleading or deceiving consumers about the voluntary nature of tips or making representations that tips will benefit any specific individual.

7. Advertising, publishing, or broadcasting any statement or representation regarding the provider's earned wage access services that is false, misleading, or deceptive.

The bill specifies that a licensed provider's earned wage access services are not, and do not fall within the scope of current law regulation of, any of the following: 1) a payday loan, or any other form of loan or form of credit or debt; 2) the Wisconsin Consumer Act; 3) money transmission (which current law refers to as a "seller of checks" business); or 4) a violation or noncompliance with state laws governing the sale or assignment of an individual's wages or other compensation earned or accrued but not yet paid. In addition, the bill specifies that fees and tips paid by a consumer to a provider are not considered interest or finance charges.

The bill requires a licensed provider to submit an annual report to the division that includes certain information related to the provider's earned wage access services in this state and to keep certain books and records. The bill gives the division the right to suspend or revoke a provider's license under certain circumstances and provides the division with certain authority to enforce the regulations created in the bill.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 73.0301 (1) (d) 6. of the statutes is amended to read:

2 73.0301 (1) (d) 6. A license or certificate of registration issued by the
3 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
4 138.14, 202.12 to 202.14, 202.22, 203.03, 217.06, 218.0101 to 218.0163, 218.02,
5 218.04, 218.05, 224.72, 224.725, 224.93 or under subch. IV of ch. 551.

6 **SECTION 2.** 108.227 (1) (e) 6. of the statutes is amended to read:

7 108.227 (1) (e) 6. A license or certificate of registration issued by the
8 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
9 138.14, 202.12 to 202.14, 202.22, 203.03, 217.06, 218.0101 to 218.0163, 218.02,
10 218.04, 218.05, 224.72, 224.725, 224.93 or under subch. IV of ch. 551.

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1 including circumstances in which the consumer is acting as an independent
2 contractor of the employer, but has not, at the time of the payment of proceeds, been
3 paid to the consumer by the employer.

4 (6) “Earned wage access service” means the business of providing
5 consumer-directed wage access services or employer-integrated wage access
6 services, or both.

7 (7) (a) Except as provided in par. (b), “employer” means any of the following:

8 1. A person who employs a consumer.

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

14 (b) “Employer” does not include any of the following:

15 1. A customer of an employer.

16 2. Any other person whose obligation to make a payment of salary, wages,
17 compensation, or other income to a consumer is not based on the provision of services
18 by that consumer for or on behalf of the person.

19 (8) “Employer-integrated wage access services” means the business of
20 delivering to consumers access to earned but unpaid income that is based on
21 employment, income, or attendance data obtained directly or indirectly from an
22 employer.

23 (9) (a) Except as provided in par. (b), “fee” includes any of the following:

24 1. A fee imposed by a provider for delivery or expedited delivery of proceeds to
25 a consumer.

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1 2. A subscription or membership fee imposed by a provider for a bona fide group
2 of services that include earned wage access services.

3 (b) “Fee” does not include a voluntary tip, gratuity, or other donation.

4 **(10)** “Licensee” means a business entity that is licensed by the division under
5 s. 203.03 (1) as an earned wage access services provider.

6 **(11)** “Nationwide mortgage licensing system and registry” has the meaning
7 given in 12 USC 5102 (6).

8 **(12)** “Outstanding proceeds” means proceeds remitted to a consumer by a
9 provider that have not yet been repaid to the provider.

10 **(13)** “Proceeds” means a payment in U.S. dollars to a consumer by a provider
11 that is based on earned but unpaid income.

12 **(14)** (a) Except as provided in par. (b), “provider” means a business entity that
13 is in the business of providing earned wage access services to consumers.

14 (b) “Provider” does not include any of the following:

15 1. A service provider, such as a payroll service provider, whose role may include
16 verifying the available earnings but that is not contractually obligated to fund
17 proceeds delivered as part of an earned wage access service.

18 2. An employer that offers a portion of salary, wages, or compensation directly
19 to its employees or independent contractors prior to the normally scheduled pay date.

20 **203.02 Powers of the division.** **(1)** The division may issue any general or
21 special order in execution of or supplementary to this chapter.

22 **(2)** The division may promulgate such rules as it considers necessary for the
23 administration of this chapter.

24 **(3)** The division has the same power to conduct hearings, take testimony, and
25 secure evidence as is provided in ss. 217.17 and 217.18.

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1 (4) The division for the purpose of discovering violations of this chapter may
2 investigate the business of a licensee that is transacted under this chapter and shall
3 investigate convictions reported to the division by any district attorney for violation
4 by a provider of this chapter. The place of business, if any, books of account, papers,
5 records, safes, and vaults of a licensee shall be open to inspection and examination
6 by the division for the purpose of such investigation, and the division may examine
7 under oath all persons whose testimony the division may require relative to such
8 investigation.

9 (5) The cost of any investigation, examination, or hearing, including witness
10 fees or any other expenses, conducted by the division under this chapter involving
11 a provider shall be paid by the provider within 30 days after demand therefor by the
12 division, and the state may maintain an action for the recovery of such costs and
13 expenses.

14 (6) Actual costs incurred by the division to examine books and records
15 maintained outside this state shall be paid by the provider.

16 **203.03 Licensure.** (1) (a) Subject to par. (b), a provider, including a provider
17 that is not physically located in this state, may not provide earned wage access
18 services in this state unless the provider has been issued a license by the division.

19 (b) This section does not apply to banks, savings banks, savings and loan
20 associations, trust companies, credit unions, or any of their affiliates.

21 (2) A provider required to be licensed under sub. (1) shall apply to the division
22 for a license on a form and in the manner prescribed by the division. The application
23 shall include all of the following information:

24 (a) The name of the provider.

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1 (b) The name under which the provider transacts business, if different from
2 par. (a).

3 (c) The address of the provider's principal office, which may be outside this
4 state.

5 (d) The addresses of all of the provider's offices or retail stores, if any, in this
6 state.

7 (e) If the provider provides earned wage access services at a location that is not
8 an office or retail store in this state, a brief description of the manner in which the
9 provider provides earned wage access services.

10 (f) The address of the provider's designated agent upon whom service of process
11 may be made in this state.

12 (g) The provider's federal employer identification number.

13 (h) Any other similar information the division requires to administer this
14 chapter.

15 **(3)** In addition to the application under sub. (2), each licensee shall register
16 with, and maintain a valid unique identifier issued by, the nationwide mortgage
17 licensing system and registry.

18 **(4)** Each provider required to be licensed under sub. (1) shall update any
19 information provided in its license application within 15 business days after a
20 material change in that information.

21 **(5)** A provider that submits an application for a license under sub. (2) shall pay
22 a nonrefundable fee to the division determined in accordance with rates set by the
23 division. In setting the rates, the division shall determine the amount of fees needed
24 to provide sufficient funds for the division to meet the budget requirements of
25 administering and enforcing this chapter in each fiscal year.

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1 **(6)** (a) A provider required to be licensed under sub. (1) shall file with the
2 division, and maintain in force, a surety bond that is issued by a surety company
3 admitted to do business in this state that meets all of the following requirements:

4 1. The bond is in an amount equal to \$25,000.

5 2. The bond is in favor of the state for the benefit of any person that is damaged
6 by a violation of this chapter.

7 3. The bond is in favor of any person that is damaged by a violation of this
8 chapter.

9 (b) A person claiming against a bond described under this subsection for a
10 violation of this chapter may maintain an action at law against the provider that
11 obtained the bond and against the surety that issued the bond. The surety is liable
12 only for actual damages and not for punitive damages. The aggregate liability of the
13 surety to all persons damaged by a provider's violation of this chapter does not exceed
14 the amount of the bond.

15 **(7)** (a) In this subsection:

16 1. "Applicant" means a provider that has submitted an application for a license
17 under sub. (2).

18 2. "Director" means a member of the applicant's or licensee's board of directors.

19 3. Except in subd. 2., "member" means a person that has the right to receive
20 upon dissolution, or has contributed, 10 percent or more of the capital of an applicant
21 or licensee that is organized as a limited liability company or association.

22 4. "Officer" means a person who participates or has authority to participate,
23 other than in the capacity of a director, in major policymaking functions of an
24 applicant or licensee, whether or not the person has an official title. "Officer"
25 includes the chief executive officer, chief financial officer, chief operations officer,

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1 chief legal officer, chief credit officer, chief compliance officer, each executive vice
2 president or senior vice president, and any other person meeting the standard under
3 this subdivision.

4 5. "Partner" means a person that has the right to receive upon dissolution, or
5 has contributed, 10 percent or more of the capital of an applicant or licensee that is
6 organized as a partnership.

7 (b) Upon the filing of an application under sub. (2) and the payment of the fee
8 required under sub. (5) by a provider, the division shall investigate the relevant facts.
9 If the division finds that the character and general fitness and the financial
10 responsibility of the provider, and the provider's partners if the provider is a
11 partnership, the provider's members if the provider is a limited liability company or
12 association, and the provider's officers and directors if the provider is a corporation,
13 warrant the belief that the provider's business will be operated in compliance with
14 this chapter, the division shall issue a license to the provider. If the division does not
15 make the finding, the division shall deny the provider's application.

16 (8) The division may not issue a license under sub. (7) to a provider if any of
17 the following applies:

18 (a) The provider fails to provide any information required under sub. (2).

19 (b) The department of revenue certifies under s. 73.0301 that the provider is
20 liable for delinquent taxes.

21 (c) The department of workforce development certifies under s. 108.227 that
22 the provider is liable for delinquent unemployment insurance contributions.

23 (9) A provider's license remains in force and effect until the division suspends
24 or revokes the license in accordance with this chapter or the provider surrenders the
25 license. A licensee shall, on or before each December 10, pay to the division the

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1 annual license fee established by the division for the next succeeding calendar year.
2 The division may, by rule, provide for the reinstatement of expired licenses
3 consistent with the standards established by the nationwide mortgage licensing
4 system and registry.

5 (10) A provider may not assign a license, except as approved by the division or
6 by operation of law in connection with a merger or conversion authorized under s.
7 178.1121, 178.1141, 179.1121, 179.1141, 180.1101, 180.1161, 183.1021, or 183.1041
8 or a similar law of this or another state.

9 (11) A provider shall conspicuously post its license at the provider's physical
10 place of business, or, if the provider conducts business on a website, the provider shall
11 post its license number on the website.

12 (12) The division shall keep confidential the information contained in an
13 application for a license under sub. (2) and any information obtained during the
14 division's investigation under sub. (7), and this information is not subject to public
15 copying or inspection under s. 19.35 (1).

16 **203.04 Provider requirements; limitations.** (1) A provider required to be
17 licensed under s. 203.03 (1) shall do all of the following:

18 (a) Develop and implement policies and procedures to respond to questions
19 raised by consumers and address complaints from consumers in an expedient
20 manner.

21 (b) Offer to the consumer at least one reasonable option to obtain proceeds at
22 no cost to the consumer and clearly explain how to elect that no-cost option.

23 (c) Before entering into an agreement with a consumer for the provision of
24 earned wage access services, do all of the following:

25 1. Inform the consumer of his or her rights under the agreement.

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1 2. Fully and clearly disclose all fees associated with the earned wage access
2 services.

3 (d) Inform the consumer of the fact of any material changes to the terms and
4 conditions of the earned wage access services before implementing those changes for
5 that consumer.

6 (e) Allow the consumer to cancel use of the provider's earned wage access
7 services at any time, without incurring a cancellation fee or penalty imposed by the
8 provider. If the consumer has initiated an advance of proceeds, the provider may
9 require the effective date of the cancellation to be after the consumer has satisfied
10 any repayment obligation the consumer has to the provider, either through payroll
11 deduction, pre-authorized electronic funds transfer from a consumer's account or
12 depository institution, or other means previously agreed to by the consumer and the
13 provider. Nothing in this paragraph requires a provider to allow a
14 consumer-initiated advance to be canceled, revoked, suspended, or reversed after
15 the consumer initiates the advance.

16 (f) Comply with all local, state, and federal privacy and information security
17 laws.

18 (g) If a provider solicits, charges, or receives a tip, gratuity, or other donation
19 from a consumer, the provider shall do all of the following:

20 1. Clearly and conspicuously disclose to the consumer immediately prior to
21 each transaction that a tip, gratuity, or other donation amount may be zero and is
22 voluntary.

23 2. Clearly and conspicuously disclose in its service contract with the consumer
24 and elsewhere that tips, gratuities, or donations are voluntary and that the offering
25 of earned wage access services, including the amount of proceeds a consumer is

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1 eligible to request and the frequency with which proceeds are provided to a consumer,
2 is not contingent on whether the consumer pays any tip, gratuity, or other donation
3 or on the size of the tip, gratuity, or other donation.

4 (h) Provide proceeds to a consumer by any means mutually agreed upon by the
5 consumer and the licensee.

6 (i) If the provider will seek repayment of outstanding proceeds or payment of
7 fees or other amounts owed, including voluntary tips, gratuities, or other donations,
8 in connection with the activities covered by this chapter, from a consumer's account
9 at a depository institution, including by means of electronic funds transfer, the
10 provider shall do all of the following:

11 1. Comply with applicable provisions of the federal electronic fund transfer act,
12 15 USC 1693 to 1693r, and regulations adopted under the act.

13 2. Reimburse the consumer for the full amount of any overdraft or
14 non-sufficient funds fees imposed on a consumer by the consumer's depository
15 institution that were caused by the provider attempting to seek payment of any
16 outstanding proceeds, fees, or other payments, in connection with the activities
17 covered by this chapter, including voluntary tips, gratuities, or other donations, on
18 a date before, or in an incorrect amount from, the date or amount disclosed to the
19 consumer. However, the provider is not subject to the requirements in this
20 subdivision with respect to payments of outstanding amounts or fees incurred by a
21 consumer through fraudulent or other unlawful means.

22 (2) A provider required to be licensed under s. 203.03 (1) may not do any of the
23 following:

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1 (a) Share with an employer a portion of any fees, voluntary tips, gratuities, or
2 other donations that were received from or charged to a consumer for earned wage
3 access services.

4 (b) Require a consumer's credit report or a credit score provided or issued by
5 a consumer reporting agency to determine a consumer's eligibility for earned wage
6 access services.

7 (c) Accept payment of outstanding proceeds, fees, voluntary tips, gratuities, or
8 other donations from a consumer by means of a credit card or charge card.

9 (d) Charge a late fee, deferral fee, interest, or any other penalty or charge for
10 failure to pay outstanding proceeds, fees, voluntary tips, gratuities, or other
11 donations.

12 (e) Report to a consumer reporting agency or debt collector any information
13 about the consumer regarding the inability of the provider to be repaid outstanding
14 proceeds, fees, voluntary tips, gratuities, or other donations.

15 (f) Compel or attempt to compel payment by a consumer of outstanding
16 proceeds, fees, voluntary tips, gratuities, or other donations to the provider through
17 any of the following means:

- 18 1. A suit against the consumer in a court of competent jurisdiction.
- 19 2. Use of a 3rd party to pursue collection from the consumer on the provider's
20 behalf.
- 21 3. Sale of outstanding amounts to a 3rd-party collector or debt buyer for
22 collection from the consumer.

23 (g) If the provider solicits, charges, or receives tips, gratuities, or other
24 donations from a consumer, mislead or deceive consumers about the voluntary

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1 nature of the tips, gratuities, or donations or make representations that tips,
2 gratuities, or other donations will benefit any specific individuals.

3 (h) Advertise, print, display, publish, distribute, or broadcast or cause to be
4 advertised, printed, displayed, published, distributed, or broadcast, in any manner,
5 any statement or representation with regard to the earned wage access services
6 offered by the provider, which is false, misleading, or deceptive, or which omits to
7 state material information that is necessary to make the statements therein not
8 false, misleading, or deceptive.

9 (3) The limitations set forth in sub. (2) (f) do not preclude the use by a provider
10 of any of the methods specified in sub. (2) (f) to compel payment of outstanding
11 amounts or fees incurred by a consumer through fraudulent or other unlawful
12 means, nor do they preclude a provider from pursuing an employer for breach of its
13 contractual obligations to the provider.

14 (4) A provider may use the mailing address provided by a consumer to
15 determine the consumer's state of residence for purposes of this chapter.

16 **203.05 Interpretation; applicability.** (1) (a) Notwithstanding any other
17 provision of law, earned wage access services offered and provided by a licensee in
18 compliance with this chapter shall not be considered to be any of the following:

19 1. A violation of or noncompliance with s. 241.09 or other law of this state
20 governing the sale or assignment of, or an order for, earned but unpaid income.

21 2. A loan or other form of credit or debt, nor shall the provider be considered
22 a creditor, debt collector, or lender with respect thereto.

23 3. Money transmission, nor shall the provider be considered a money
24 transmitter with respect thereto.

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1 (b) Notwithstanding any other provision of law, fees paid to a licensee in
2 accordance with this chapter shall not be considered interest or finance charges. If
3 there is a conflict between the provisions of this chapter and any other statute, the
4 provisions of this chapter control.

5 (2) Chapters 421 to 427 do not apply to proceeds a provider provides to a
6 consumer in accordance with this chapter.

7 (3) A voluntary tip, gratuity, or other donation paid by a consumer to a licensee
8 in accordance with this chapter shall not be considered a finance charge.

9 **203.06 Reporting requirements; books and records.** (1) On or before July
10 1 of each year, a provider required to be licensed under s. 203.03 (1) shall submit an
11 annual report to the division that includes all of the following information related to
12 earned wage access services the provider provided in this state during the prior year:

13 (a) Gross revenue attributable to those earned wage access services.

14 (b) The total number of transactions in which the provider provided proceeds
15 to consumers.

16 (c) The total number of unique consumers to whom the provider provided
17 proceeds.

18 (d) The total dollar amount of proceeds the provider provided to consumers.

19 (e) The total dollar amount of fees, voluntary tips, gratuities, or other donations
20 the provider received from consumers.

21 (2) Failure by a provider to submit a timely report as required under sub. (1)
22 is grounds for disciplinary action by the division.

23 (3) The division shall keep confidential the information contained in the
24 annual report under sub. (1), and this information is not subject to public copying or
25 inspection under s. 19.35 (1), but the division may prepare and make publicly

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1 available an aggregated and anonymized analysis of the information submitted by
2 all providers under this section.

3 (4) A provider required to be licensed under s. 203.03 (1) shall keep such books
4 and records that, in the opinion of the division, will enable the division to determine
5 whether the provider is in compliance with this chapter. The provider shall retain
6 records related to proceeds for at least 2 years following the date on which proceeds
7 are provided. The provider may keep books and records at a place of business located
8 outside this state if the provider is able to readily produce those books and records
9 for review by the division upon reasonable request by the division.

10 **203.07 Suspension or revocation of license. (1)** The division may suspend
11 or revoke a provider's license issued under s. 203.03 (7) if the division finds any of
12 the following:

13 (a) That the provider violated any provision of this chapter, any rule
14 promulgated under this chapter, or any lawful order of the division made under this
15 chapter.

16 (b) That any fact or condition exists that, if it had existed at the time of the
17 provider's original application for a license, would have warranted the division
18 refusing to issue the license.

19 (c) That the provider made a material misstatement in an application for a
20 license or in information furnished to the division.

21 (d) That the provider failed to pay the annual license fee or to maintain in effect
22 the bond required under s. 203.03 (6).

23 (2) The division shall revoke a provider's license issued under s. 203.03 (7) if
24 the department of revenue certifies under s. 73.0301 that the provider is liable for
25 delinquent taxes. A provider whose license is revoked under this subsection for

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1 delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and a hearing
2 under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing under this
3 chapter.

4 (3) The division shall revoke a provider's license issued under s. 203.03 (7) if
5 the department of workforce development certifies under s. 108.227 that the
6 provider is liable for delinquent unemployment insurance contributions. A provider
7 whose license is revoked under this subsection for delinquent unemployment
8 insurance contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and a
9 hearing under s. 108.227 (5) (a) but is not entitled to any other notice or hearing
10 under this chapter.

11 (4) Except as provided in subs. (2) and (3), the division may not revoke or
12 suspend a provider's license except after a hearing under this chapter.

13 **203.08 Violations and enforcement.** (1) The division may bring a civil
14 action to restrain by temporary or permanent injunction a person from violating this
15 chapter or rules promulgated under this chapter or to restrain a person from
16 engaging in false, misleading, deceptive, or unconscionable conduct in connection
17 with offering earned wage access services.

18 (2) The division may seek a temporary restraining order without written or
19 oral notice to the adverse party. If a court finds that there is reasonable cause to
20 believe that the respondent is engaged in the conduct sought to be restrained and
21 that such conduct violates this chapter or rules promulgated under this chapter, the
22 court may grant a temporary restraining order or any temporary relief the court
23 determines is appropriate. A temporary restraining order granted without notice
24 shall expire by its terms within a stated time after entry, not to exceed 30 days, as
25 the court fixes, unless within this time it is extended by the court, or unless the party

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1 against whom the order is directed consents that it may be extended for a longer
2 period. When a temporary restraining order is granted without notice, the motion
3 for a preliminary injunction shall be set down for a hearing at the earliest possible
4 time. Upon notice to the party who obtained the temporary restraining order without
5 notice, the adverse party may appear and move its dissolution or modification, and,
6 in this event, the court shall proceed to hear and determine such motion as
7 expeditiously as the ends of justice require.

8 (3) The division may recover in a civil action from a person that violates this
9 chapter or rules promulgated under this chapter a civil penalty of not less than \$100
10 and not more than \$1,000 for each violation.

11 (4) In addition to the amount to which the division is entitled under sub. (3),
12 the division may recover in a civil action from a person that knowingly or willfully
13 violates this chapter or rules promulgated under this chapter a civil penalty of not
14 less than \$1,000 and not more than \$10,000 for each violation.

15 **SECTION 6.** 220.02 (2) (j) of the statutes is created to read:

16 220.02 (2) (j) Earned wage access services providers under ch. 203.

17 **SECTION 7.** 220.02 (3) of the statutes is amended to read:

18 220.02 (3) It is the intent of sub. (2) to give the division jurisdiction to enforce
19 and carry out all laws relating to banks or banking in this state, including those
20 relating to state banks, savings banks, savings and loan associations, and trust
21 company banks, and also all laws relating to small loan companies or other loan
22 companies or agencies, finance companies, insurance premium finance companies,
23 earned wage access services providers, motor vehicle dealers, adjustment service
24 companies, community currency exchanges, mortgage bankers, mortgage loan
25 originators, mortgage brokers, and collection agencies and those relating to sellers

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1 of checks under ch. 217, whether doing business as corporations, individuals, or
2 otherwise, but to exclude laws relating to credit unions.

3 **SECTION 8. Nonstatutory provisions.**

4 (1) EARNED WAGE ACCESS SERVICES.

5 (a) *License application form.* Not later than the first day of the 6th month
6 beginning after the effective date of this paragraph, the division of banking in the
7 department of financial institutions shall prescribe the form and content of an
8 application for a license to provide earned wage access services pursuant to this act.

9 (b) *Transitional provision.* Notwithstanding s. 203.03 (1), a person who, as of
10 January 1, 2023, was engaged in the business of providing in this state earned wage
11 access services, as defined in s. 203.01 (6), may, until the first day of the 7th month
12 beginning after the effective date of this paragraph, continue to engage in the
13 business of providing earned wage access services in this state without obtaining a
14 license if the person has submitted an application under s. 203.03 (2) for a license and
15 otherwise complies with ch. 203.

16 **SECTION 9. Initial applicability.**

17 (1) The treatment of s. 203.04 (1) (b) first applies, with respect to a provider that
18 offers proceeds to a consumer under the terms of an agreement that specifies the
19 consumer's cost of obtaining proceeds, to an agreement entered into on the effective
20 date of this subsection.

21 **SECTION 10. Effective dates.** This act takes effect on the first day of the 6th
22 month beginning after publication, except as follows:

23 (1) SECTION 8 (1) (a) of this act takes effect on the day after publication.

24

(END)