

By: Representative Aguirre

To: Banking and Financial
Services

HOUSE BILL NO. 1307

1 AN ACT TO CREATE THE MISSISSIPPI EARNED WAGE ACCESS SERVICES
2 ACT; TO PROVIDE FOR DEFINITIONS; TO PROVIDE REQUIREMENTS FOR AN
3 EARNED WAGE ACCESS SERVICE PROVIDER TO MEET IN ORDER TO BE DEEMED
4 TO NOT BE ENGAGING IN LENDING, MONEY TRANSMISSION, OR DEBT
5 COLLECTION IN THIS STATE AND OR IN VIOLATION OF ANY LAW GOVERNING
6 DEDUCTIONS FROM PAYROLL, SALARY, WAGES, COMPENSATION, OR OTHER
7 INCOME OR THE PURCHASE, SALE, OR ASSIGNMENT OF OR AN ORDER FOR
8 UNPAID INCOME; TO BRING FORWARD SECTIONS 25-3-29 AND 71-1-35,
9 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
10 AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** This act shall be known and may be cited as the
13 "Mississippi Earned Wage Access Services Act."

14 **SECTION 2.** The following words and phrases used in this act
15 shall have the following meanings unless the context clearly
16 indicates otherwise:

17 (a) "Consumer" means a natural person residing in the
18 State of Mississippi. A provider may use the mailing address
19 provided by a consumer or the consumer's employer to determine
20 such consumer's state of residence for purposes of this act.

21 (b) "Earned but Unpaid Income" means salary, wages,
22 compensation, or other income that a consumer or an employer has



23 represented, and that an earned wage access services provider has
24 reasonably determined, to have been earned or to have accrued to
25 the benefit of the consumer in exchange for the consumer's
26 provision of services to an employer or on behalf of an employer,
27 including on an hourly, project-based, piecework, or other basis
28 and including where the consumer is acting as an independent
29 contractor of the employer, but, at the time of the payment of
30 proceeds, have not been paid to the consumer by the employer.

31 (c) "Earned Wage Access Services" means the business of
32 delivering to consumers access to earned but unpaid income.
33 Earned wage access services may be based on employment, income, or
34 attendance data obtained directly or indirectly from an employer
35 or may be based on a consumer's representations and a provider's
36 reasonable determination of the consumer's earned but unpaid
37 income.

38 (d) "Fee" means a fee imposed by a provider for
39 delivery or expedited delivery of proceeds to a consumer or a
40 subscription or membership fee imposed by a provider for a bona
41 fide group of services that include earned wage access services.
42 A voluntary tip, gratuity, or donation shall not be deemed a fee.

43 (e) "Outstanding proceeds" means proceeds remitted to a
44 consumer by a provider that have not yet been repaid to the
45 provider.

46 (f) "Proceeds" means a payment of funds to a consumer
47 by a provider that is based on earned but unpaid income.



(g) "Provider" means a person that is engaged in the business of offering and providing earned wage access services to consumers. "Provider" does not include either of the following:

(i) A service provider, such as a payroll service provider, whose role may include verifying the available earnings but who is not contractually obligated to fund proceeds delivered as part of an earned wage access service.

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

SECTION 3. An earned wage access services provider shall not be deemed to be engaging in lending, money transmission, or debt collection in this state and or in violation of any law governing deductions from payroll, salary, wages, compensation, or other income or the purchase, sale, or assignment of or an order for unpaid income, if that provider complies with all of the requirements in subsections (1) through (9), inclusive and refrains from engaging in any of the prohibited acts described in subsections (10) through (17), inclusive.

(1) Develops and implements policies and procedures to respond to questions raised by consumers and address complaints from consumers.

(2) Before entering into an agreement with a consumer for the provision of earned wage access services, does all of the following:



73 (a) Informs the consumer of the consumer's rights under
74 the agreement;

75 (b) Fully and clearly discloses to the consumer all
76 provider-imposed fees or a schedule of fees associated with the
77 provision of earned wage access services;

78 (3) Informs the consumer of the fact of any material changes
79 to the terms and conditions of the earned wage access services
80 agreement before implementing those changes for that consumer.

81 (4) Allows the consumer to cancel use of the provider's
82 earned wage access services at any time, without incurring a fee
83 for that cancellation.

84 (5) Whenever it offers a consumer the option to receive
85 proceeds for a fee or solicits a tip, gratuity, or other donation,
86 provides the consumer at least one (1) reasonable option to obtain
87 the same amount of proceeds at no cost and clearly explains how
88 the consumer may select the no-cost option.

89 (6) Complies with all applicable local, state, and federal
90 privacy and information security laws.

91 (7) Provides proceeds to a consumer via any means mutually
92 agreed upon by the consumer and the provider.

93 (8) In any case in which a provider seeks repayment of
94 outstanding proceeds, fees, voluntary tips, gratuities, or other
95 donations from a consumer's account at a depository institution,
96 including via electronic transfer, does all of the following:



97 (a) Complies with applicable provisions of the federal
98 Electronic Fund Transfer Act (15 USC 1693 et seq.) and its
99 implementing regulations; and

100 (b) Reimburses the consumer for the full amount of any
101 overdraft or nonsufficient funds fees imposed on that consumer by
102 the consumer's depository institution, which are caused by the
103 provider attempting to seek payment of any outstanding proceeds,
104 fees, voluntary tips, gratuities, or other donations on a date
105 before, or in an incorrect amount from, the date or amount
106 disclosed to the consumer. However, this requirement shall not
107 apply with respect to payments of outstanding proceeds, fees,
108 tips, gratuities, or other donations incurred by a consumer
109 through fraudulent means.

110 (9) In any case in which a provider solicits or receives a
111 tip, gratuity, or donation from a consumer, does both of the
112 following:

113 (a) Clearly and conspicuously discloses to the consumer
114 immediately prior to each transaction that a tip, gratuity, or
115 donation amount may be zero (0) and is voluntary.

116 (b) Clearly and conspicuously discloses in its
117 agreement with the consumer that tips, gratuities, or donations
118 are voluntary and that the offering of earned wage access
119 services, including the amount of proceeds a consumer is eligible
120 to request and the frequency with which proceeds are provided to a
121 consumer, is not contingent on whether the consumer pays any tip,



gratuity, or donation or on the size of any tip, gratuity, or donation.

(10) Does not compel or attempt to compel repayment by a consumer of outstanding proceeds, fees, voluntary tips, gratuities, or other donations through any of the following means:

(a) A civil suit against the consumer in a court of competent jurisdiction;

(b) Use of unsolicited, outbound telephone calls;

(c) Use of a third party to pursue collection of outstanding proceeds or payments on the provider's behalf;

(d) Sale of outstanding amounts to a third-party debt collector or debt purchaser.

(11) Does not require a consumer's credit report or credit score to determine a consumer's eligibility for earned wage access services.

(12) Does not report any information about the consumer regarding the inability of the provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities, or other donations to a consumer reporting agency or a debt collector;

(13) Does not accept payment from a consumer of outstanding proceeds, fees, voluntary tips, gratuities, or donations via credit card or charge card.

(14) Does not charge a late fee, deferral fee, interest, or any other penalty or charge for failure to repay outstanding proceeds, fees, voluntary tips, gratuities, or other donations.



(15) Does not charge interest or finance charges.

(16) Does not condition the amount of proceeds a consumer is eligible to request or the frequency with which a consumer is eligible to request proceeds on whether such consumer pays fees, voluntary tips, gratuities or other donations or on the size of any fee, voluntary tip, gratuity, or donation.

(17) If a provider solicits or accepts voluntary tips, gratuities, or other donations, does not mislead or deceive consumers about the voluntary nature of the tips, gratuities, or other donations or make representations that tips, gratuities, or other donations will benefit any specific individuals.

SECTION 4. The provisions of this act shall not apply to any bank, trust company, savings association, savings and loan association, savings bank or credit union which is chartered under the laws of this state or under federal law and domiciled in this state.

SECTION 5. Section 25-3-29, Mississippi Code of 1972, is brought forward as follows:

25-3-29. Except as otherwise therein provided, the salaries mentioned in the foregoing sections shall be paid monthly out of the general county fund, and the salaries and allowances shall be included in the budget of each county; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month or every two (2)



172 weeks. If a pay date falls on a weekend or legal holiday, salary
173 payments shall be made on the workday immediately preceding the
174 weekend or legal holiday.

175 **SECTION 6.** Section 71-1-35, Mississippi Code of 1972, is
176 brought forward as follows:

177 71-1-35. (1) Every corporation, company, association,
178 partnership and individual person engaged in manufacturing of any
179 kind in this state employing as many as fifty (50) or more
180 employees and employing public labor, and every public service
181 corporation doing business in this state shall be required to make
182 full payment to employees for services performed as often as once
183 every two (2) weeks or twice during each calendar month, or on the
184 second and fourth Saturday, respectively, of each month. Such
185 payment or settlement shall include all amounts due for labor or
186 services performed up to not more than ten (10) days previous to
187 the time of payment, except that public service corporations shall
188 not be required to make payment for labor or services performed up
189 to more than fifteen (15) days prior to the time of payment.

190 (2) For the purposes of this section, the term "employee"
191 shall not include any individual employed in a bona fide
192 executive, administrative or professional capacity.

193 **SECTION 7.** This act shall take effect and be in force from
194 and after July 1, 2025.

