

Senate Bill 254

By: Senator Brass of the 28th

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia  
2 Annotated, relating to the "Fair Business Practices Act of 1975," so as to provide  
3 requirements for earned wage access services; to provide for fees that may be charged for  
4 such services; to provide that earned wage access payments are nonrecourse and are not  
5 loans; to provide that permitted fees are not interest; to provide for definitions; to provide for  
6 applicability; to provide for related matters; to repeal conflicting laws; and for other  
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
11 relating to the "Fair Business Practices Act of 1975," is amended by adding a new Code  
12 section to read as follows:

13 "10-1-393.18.

14 (a) As used in this Code section, the term:

15 (1) 'Consumer' means a natural person residing in the State of Georgia.

S. B. 254

- 1 -

- 16 (2) 'Consumer elected fee' means an amount paid by a consumer to a provider for earned  
17 wage access services that does not meet the definition of a mandatory fee.
- 18 (3) 'Earned but unpaid wages' means salary, wages, compensation, or other income that  
19 have been earned by or accrued to the benefit of the consumer but that have not, at the  
20 time of the earned wage access payment, been paid to the consumer by an obligor.
- 21 (4) 'Earned wage access payment' or 'payment' means the delivery of earned but unpaid  
22 wages to a consumer prior to the next date on which an obligor is obligated to pay salary,  
23 wages, compensation, or other income to a consumer.
- 24 (5) 'Earned wage access services' means the business of delivering earned wage access  
25 payments to consumers prior to the next date on which an obligor is obligated to pay  
26 salary, wages, compensation, or other income to a consumer.
- 27 (6) 'Earned wage access service provider' or 'provider' means a person that is in the  
28 business of offering or providing earned wage access services through a contractual  
29 arrangement with:
- 30 (A) An obligor;  
31 (B) A consumer; or  
32 (C) An obligor and a consumer.
- 33 (7) 'Mandatory fee' means an amount determined by a provider that must be paid by a  
34 consumer to such provider as a condition of receiving an earned wage access payment.
- 35 (8) 'Obligor' means an employer or other person, including, but not limited to, an  
36 independent contractor, that is contractually or legally obligated to pay a consumer any  
37 sum of money on an hourly, project based, piecework, or other basis. Such term shall not  
38 include a customer of an obligor or another third party that has an obligation to make any  
39 payment to a consumer based solely on the consumer's agency relationship with the  
40 obligor.

41 (b) An earned wage access service provider shall verify a consumer's earned but unpaid  
42 wages through reasonable means, which may include time and attendance data, geolocation  
43 data, work email confirmation, or paycheck history.

44 (c)(1) No earned wage access service provider shall charge a consumer any fee, interest,  
45 or other amount except as provided in this subsection.

46 (2) An earned wage access service provider may charge a mandatory fee which shall not  
47 exceed 10 percent of the earned wage access payment.

48 (3) An earned wage access service provider may charge any of the following consumer  
49 elected fees:

50 (A) A fee for expedited delivery of an earned wage access payment, provided that the  
51 provider offers the consumer at least one option of receiving a payment at no cost to the  
52 consumer;

53 (B) A subscription or membership fee for a group of services that include earned wage  
54 access services, provided that the provider offers the consumer at least one option of  
55 receiving a payment at no cost to the consumer; and

56 (C) A tip or gratuity paid by a consumer, provided that the provider offers the  
57 consumer at least one option of receiving a payment at no cost to the consumer.

58 (4) An earned wage access service provider shall clearly disclose to the consumer all  
59 mandatory fees and consumer elected fees prior to providing earned wage access  
60 services.

61 (d) Except in the case of fraud by a consumer, all earned wage access payments shall be  
62 nonrecourse, meaning that a provider has no legal or contractual right to, and cannot  
63 compel or attempt to compel, repayment by a consumer of any amounts through any  
64 means, including, but not limited to:

65 (1) A civil suit against the consumer;

66 (2) Use of a third party to pursue collection on the provider's behalf;

67 (3) The sale of outstanding amounts to a third-party collector or debt buyer; or

- 68 (4) Reporting outstanding amounts to a consumer credit reporting agency.  
69 (e) No earned wage access services that comply with this Code section shall be considered  
70 lending activity, nor shall earned wage access payments that comply with this Code section  
71 be considered loans. No fees permitted under this Code section shall be considered  
72 interest.  
73 (f) Failure to comply with the provisions of this Code section shall be considered an unfair  
74 or deceptive act or practice which is unlawful and which shall be punishable by the  
75 provisions of this part."

76 **SECTION 2.**

77 This Act shall apply to agreements for earned wage access services that are entered into or  
78 renewed on or after July 1, 2023.

79 **SECTION 3.**

80 All laws and parts of laws in conflict with this Act are repealed.