

SB281 INTRODUCED



1 SB281
2 SLBF485-1
3 By Senator Shelnuttt
4 RFD: Banking and Insurance
5 First Read: 01-Apr-25



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SYNOPSIS:

Certain technologies and platforms have been developed that allow participating employees to access their earned but unpaid income from their employer using the services of the platform.

This bill would declare that the platforms that provide these payroll services, defined as providers of earned wage access services, are not deemed to be engaging in lending, money transmission, or debt collection if the providers meet certain consumer protection standards.

A BILL
TO BE ENTITLED
AN ACT

Relating to online payroll services; to add Chapter 30 to Title 5, Code of Alabama 1975; to define platforms that allow employees to access their earned but unpaid income as earned wage access services providers; and to provide that earned wage access services providers are not deemed lending, money transmission, or debt collection businesses if the providers provide certain enumerated consumer protection standards.



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29 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

30 Section 1. Chapter 30, commencing with Section 5-30-1,
31 is added to Title 5, Code of Alabama 1975, to read as follows:

32 §5-30-1

33 For the purposes of this chapter, the following terms
34 have the following meanings:

35 (1) CONSUMER. An individual residing in Alabama.

36 (2) EARNED BUT UNPAID INCOME. Salary, wages,
37 compensation, or income that a consumer has earned or accrued
38 or that an employer has represented to be earned or accrued,
39 and that an earned wage access services provider has
40 reasonably determined to have been earned or to have accrued
41 to the benefit of the consumer in exchange for the consumer's
42 provision of services to an employer or on behalf of an
43 employer. The term includes salary, wages, compensation, or
44 income earned or accrued on an hourly, project-based,
45 piecework, or other basis, including where the consumer is
46 acting as an independent contractor of the employer, but, at
47 the time of the payment of proceeds, have not been paid to the
48 consumer by the employer.

49 (3) EARNED WAGE ACCESS SERVICES. The business of
50 delivering to consumers access to earned but unpaid income.
51 Earned wage access services may be based on employment,
52 income, or attendance data obtained directly or indirectly
53 from an employer or may be based on a consumer's
54 representations and a provider's reasonable determination of
55 the consumer's earned but unpaid income.

56 (4) FEE. A fee imposed by a provider for delivery or



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57 expedited delivery of proceeds to a consumer or a subscription
58 or membership fee imposed by a provider for a bona fide group
59 of services that includes earned wage access services. The
60 term does not include a voluntary tip, gratuity, or donation.

61 (5) OUTSTANDING PROCEEDS. Proceeds remitted to a
62 consumer by a provider which have not yet been repaid to the
63 provider.

64 (6) PROCEEDS. A payment of funds to a consumer by a
65 provider that is based on earned but unpaid income.

66 (7) PROVIDER. A person that is engaged in the business
67 of offering and providing earned wage access services to
68 consumers. The term does not include:

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

73 b. An employer that offers a portion of salary, wages,
74 or compensation directly to its employees or independent
75 contractors prior to the normally scheduled pay date; or

76 c. An entity that offers or provides earned wage access
77 services and reports a consumer's payment or nonpayment of
78 either outstanding proceeds of the earned wage access services
79 or fees, voluntary tips, gratuities, or other donations in
80 connection with the earned wage access services to a consumer
81 reporting agency that complies and maintains files on
82 consumers on a nationwide basis, as defined in 15 U.S.C. §
83 1681a(p).

84 §5-30-2



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85 An earned wage access services provider shall not be
86 deemed to be engaging in lending, money transmission, or debt
87 collection in this state or be in violation of any of the
88 following laws, if that provider complies with all of the
89 requirements in Section 5-30-3 and refrains from engaging in
90 any of the prohibited acts described in Section 5-30-4:

91 (1) Laws relating to the payment of the minimum or
92 overtime wage.

93 (2) Laws governing deductions from payroll, salary,
94 wages, compensation, or other income.

95 (3) Laws relating to the purchase, sale, or assignment
96 of, or an order for, unpaid income.

97 §5-30-3

98 An earned wage access services provider shall do all of
99 the following:

100 (1) Develop and implement policies and procedures to
101 respond to questions raised by consumers and address
102 complaints from consumers.

103 (2) Before entering into an agreement with a consumer
104 for the provision of earned wage access services:

105 a. Inform the consumer of the consumer's rights under
106 the agreement; and

107 b. Fully and clearly disclose to the consumer all
108 provider-imposed fees or a schedule of fees associated with
109 the provision of earned wage access services.

110 (3) Inform the consumer of the fact of any material
111 changes to the terms and conditions of the earned wage access
112 services agreement before implementing those changes for that



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113 consumer.

114 (4) Allow the consumer to cancel use of the provider's
115 earned wage access services at any time, without incurring a
116 fee for that cancellation.

117 (5) Whenever a provider offers a consumer the option to
118 receive proceeds for a fee or solicits a tip, gratuity, or
119 other donation, provide the consumer at least one reasonable
120 option to obtain the same amount of proceeds at no cost and
121 clearly explain how the consumer may select the no-cost
122 option.

123 (6) Comply with all applicable local, state, and
124 federal privacy and information security laws.

125 (7) Provide proceeds to a consumer via any means
126 mutually agreed upon by the consumer and the provider.

127 (8) In any case in which a provider seeks repayment of
128 outstanding proceeds, fees, voluntary tips, gratuities, or
129 other donations from a consumer's account at a depository
130 institution, including via electronic transfer:

131 a. Comply with applicable provisions of the federal
132 Electronic Fund Transfer Act, 15 U.S.C, § 1693 et seq., and
133 its implementing regulations; and

134 b. Reimburse the consumer for the full amount of any
135 overdraft or non-sufficient funds fees imposed on that
136 consumer by the consumer's depository institution, which are
137 caused by the provider attempting to seek payment of any
138 outstanding proceeds, fees, voluntary tips, gratuities, or
139 other donations on a date before, or in an incorrect amount
140 from, the date or amount disclosed to the consumer. However,



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141 this requirement shall not apply with respect to payments of
142 outstanding proceeds, fees, tips, gratuities, or other
143 donations incurred by a consumer through fraudulent means.

144 (9) In any case in which a provider solicits or
145 receives a tip, gratuity, or donation from a consumer:

146 a. Clearly and conspicuously disclose to the consumer
147 immediately prior to each transaction that a tip, gratuity, or
148 donation amount may be zero and is voluntary; and

149 b. Clearly and conspicuously disclose in its agreement
150 with the consumer that tips, gratuities, or donations are
151 voluntary and that the offering of earned wage access
152 services, including the amount of proceeds a consumer is
153 eligible to request and the frequency with which proceeds are
154 provided to a consumer, is not contingent on whether the
155 consumer pays any tip, gratuity, or donation or on the size of
156 any tip, gratuity, or donation.

157 §5-30-4

158 An earned wage access services provider shall not do
159 any of the following:

160 (1) Compel or attempt to compel repayment by a consumer
161 of outstanding proceeds, fees, voluntary tips, gratuities, or
162 other donations through:

163 a. A civil suit against the consumer in a court of
164 competent jurisdiction;

165 b. Use of unsolicited, outbound telephone calls;

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

168 d. Sale of outstanding amounts to a third-party debt



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169 collector or debt purchaser.

170 (2) Require a consumer's credit score from a credit
171 report to determine a consumer's eligibility for earned wage
172 access services.

173 (3) Accept payment from a consumer of outstanding
174 proceeds, fees, voluntary tips, gratuities, or donations by
175 way of a credit card or charge card.

176 (4) Charge a late fee, deferral fee, interest, or any
177 other charge for failure to repay outstanding proceeds, fees,
178 voluntary tips, gratuities, or other donations.

179 (5) Charge interest or finance charges.

180 (6) Condition the amount of proceeds a consumer is
181 eligible to request or the frequency with which a consumer is
182 eligible to request proceeds on whether the consumer pays
183 fees, voluntary tips, gratuities, or other donations or on the
184 size of any fee, voluntary tip, gratuity, or donation.

185 (7) If a provider solicits or accepts voluntary tips,
186 gratuities, or other donations, mislead or deceive consumers
187 about the voluntary nature of the tips, gratuities, or other
188 donations or make representations that tips, gratuities, or
189 other donations will benefit any specific individuals.

190 Section 2. This act shall become effective on October
191 1, 2025.