

SENATE BILL 998

I4, I3

4lr1883
CF 4lr2345

By: **Senator Klausmeier**

Introduced and read first time: February 2, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Earned Wage Access Services**

3 FOR the purpose of requiring a certain provider of earned wage access services to register
4 with the Commissioner of Financial Regulation; requiring a provider to file a certain
5 surety bond or an irrevocable letter of credit with the Commissioner in a certain
6 manner; regulating providers and earned wage access services; requiring, on or
7 before a certain date each year, a provider to submit a certain report to the
8 Commissioner; authorizing a certain consumer to submit a written complaint to the
9 Commissioner under certain circumstances; conferring on the Commissioner certain
10 investigatory and enforcement authority; establishing certain requirements
11 regarding the confidentiality of certain information and information sharing;
12 authorizing, subject to certain conditions, a provider to provide earned wage access
13 services without being registered with the Commissioner until a certain date; and
14 generally relating to earned wage access services and providers.

15 BY adding to

16 Article – Commercial Law

17 Section 14–4601 through 14–4611 to be under the new subtitle “Subtitle 46. Earned
18 Wage Access Services”

19 Annotated Code of Maryland

20 (2013 Replacement Volume and 2023 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Commercial Law**

24 **SUBTITLE 46. EARNED WAGE ACCESS SERVICES.**

25 **14–4601.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) "BUSINESS ENTITY" MEANS A CORPORATION, A LIMITED LIABILITY
4 COMPANY, A PARTNERSHIP, AN ASSOCIATION, OR ANY OTHER COMMERCIAL ENTITY.

5 (C) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL
6 REGULATION OF THE MARYLAND DEPARTMENT OF LABOR.

7 (D) (1) "CONSUMER" MEANS AN INDIVIDUAL WHO RESIDES IN THE
8 STATE.

9 (2) "CONSUMER" INCLUDES AN INDIVIDUAL FOR WHOM THE
10 PROVIDER USES A MAILING ADDRESS OR STATE OF RESIDENCE PROVIDED BY THE
11 INDIVIDUAL TO DETERMINE THAT THE INDIVIDUAL RESIDES IN THE STATE.

12 (E) "CONSUMER-DIRECTED EARNED WAGE ACCESS SERVICES" MEANS THE
13 BUSINESS OF DELIVERING TO A CONSUMER ACCESS TO EARNED BUT UNPAID
14 INCOME THAT IS BASED ON THE CONSUMER'S REPRESENTATIONS AND THE
15 PROVIDER'S REASONABLE DETERMINATION OF THE CONSUMER'S EARNED BUT
16 UNPAID INCOME.

17 (F) "EARNED BUT UNPAID INCOME" MEANS SALARY, WAGES,
18 COMPENSATION, OR OTHER INCOME THAT A CONSUMER OR AN EMPLOYER
19 REPRESENTS, AND THAT A PROVIDER REASONABLY DETERMINES, HAS BEEN
20 EARNED OR ACCRUED TO THE BENEFIT OF THE CONSUMER IN EXCHANGE FOR THE
21 CONSUMER'S PROVISION OF SERVICES TO OR ON BEHALF OF THE EMPLOYER,
22 INCLUDING ON AN HOURLY, PROJECT-BASED, PIECEWORK, OR OTHER BASIS AND
23 INCLUDING CIRCUMSTANCES IN WHICH THE CONSUMER IS ACTING AS AN
24 INDEPENDENT CONTRACTOR OF THE EMPLOYER, BUT HAS NOT, AT THE TIME OF THE
25 PAYMENT OF PROCEEDS, BEEN PAID TO THE CONSUMER BY THE EMPLOYER.

26 (G) "EARNED WAGE ACCESS SERVICES" MEANS THE BUSINESS OF
27 PROVIDING CONSUMER-DIRECTED EARNED WAGE ACCESS SERVICES OR
28 EMPLOYER-INTEGRATED EARNED WAGE ACCESS SERVICES OR BOTH.

29 (H) (1) "EMPLOYER" MEANS:

30 (I) A PERSON WHO EMPLOYS A CONSUMER; OR

31 (II) ANY OTHER PERSON THAT IS CONTRACTUALLY OBLIGATED
32 TO PAY A CONSUMER EARNED BUT UNPAID INCOME.

(2) “EMPLOYER” DOES NOT INCLUDE:

(I) A CUSTOMER OF AN EMPLOYER; OR

(II) 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.

(I) “EMPLOYER-INTEGRATED EARNED WAGE ACCESS SERVICES” MEANS 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.

(J) (1) “FEE” INCLUDES:

(I) A FEE IMPOSED BY A PROVIDER FOR DELIVERY OR EXPEDITED DELIVERY OF PROCEEDS TO A CONSUMER; AND

(II) A SUBSCRIPTION OR MEMBERSHIP FEE IMPOSED BY A PROVIDER FOR A BONA FIDE GROUP OF SERVICES THAT INCLUDES EARNED WAGE ACCESS SERVICES.

(2) “FEE” DOES NOT INCLUDE A VOLUNTARY TIP, GRATUITY, OR OTHER DONATION.

(K) “NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY” OR “NMLS” HAS THE MEANING STATED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(L) “OUTSTANDING PROCEEDS” MEANS PROCEEDS REMITTED TO A CONSUMER BY A PROVIDER THAT HAVE NOT YET BEEN REPAID TO THE PROVIDER.

(M) “PERSON” INCLUDES AN INDIVIDUAL, A CORPORATION, A GOVERNMENT OR A GOVERNMENTAL SUBDIVISION OR UNIT, A BUSINESS TRUST, A STATUTORY TRUST, AN ESTATE, A TRUST, A PARTNERSHIP, AN ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST, AND ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(N) “PROCEEDS” MEANS A PAYMENT TO A CONSUMER BY A PROVIDER THAT IS BASED ON EARNED BUT UNPAID INCOME.

(O) (1) "PROVIDER" MEANS A BUSINESS ENTITY THAT IS IN THE BUSINESS OF PROVIDING EARNED WAGE ACCESS SERVICES TO CONSUMERS.

(2) "PROVIDER" DOES NOT INCLUDE:

(I) A SERVICE PROVIDER, SUCH AS A PAYROLL SERVICE PROVIDER, WHOSE ROLE MAY INCLUDE VERIFYING THE AVAILABLE EARNINGS BUT IS NOT CONTRACTUALLY OBLIGATED TO FUND ANY PROCEEDS DELIVERED AS PART OF AN EARNED WAGE ACCESS SERVICE; OR

(II) AN EMPLOYER THAT OFFERS A PORTION OF SALARY, WAGES, OR COMPENSATION DIRECTLY TO ITS EMPLOYEES OR INDEPENDENT CONTRACTORS BEFORE THE NORMALLY SCHEDULED PAY DATE.

(P) "REGISTRANT" MEANS A BUSINESS ENTITY THAT IS REGISTERED WITH THE COMMISSIONER UNDER THIS SUBTITLE AS A PROVIDER.

14-4602.

A PROVIDER SHALL REGISTER EACH YEAR WITH THE COMMISSIONER UNDER THIS SUBTITLE.

14-4603.

(A) TO REGISTER WITH THE COMMISSIONER, A PROVIDER SHALL:

(1) SUBMIT TO THE COMMISSIONER A REGISTRATION ON THE FORM THAT THE COMMISSIONER PROVIDES;

(2) UNLESS GRANTED AN EXEMPTION BY THE COMMISSIONER, FILE WITH THE COMMISSIONER A BOND OR BOND ALTERNATIVE AS REQUIRED UNDER § 14-4604 OF THIS SUBTITLE; AND

(3) FULFILL ANY OTHER REQUIREMENTS FOR REGISTRATION.

(B) THE REGISTRATION SHALL INCLUDE ANY INFORMATION THAT THE COMMISSIONER REQUIRES BY REGULATION.

(C) A REGISTRATION IS NOT COMPLETE UNLESS THE REGISTRATION MEETS THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION.

(D) EXCEPT AS PROVIDED IN § 14-4610 OF THIS SUBTITLE, ALL FEES AND OTHER REVENUES COLLECTED UNDER THIS SUBTITLE SHALL BE DEPOSITED INTO

1 THE NON-DEPOSITORY SPECIAL FUND ESTABLISHED UNDER § 2-120 OF THE
2 FINANCIAL INSTITUTIONS ARTICLE.

3 (E) THE COMMISSIONER MAY REQUIRE A PROVIDER TO REGISTER
4 THROUGH NMLS OR THROUGH OTHER MEANS SPECIFIED BY THE COMMISSIONER
5 BY REGULATION.

6 14-4604.

7 (A) UNLESS THE COMMISSIONER GRANTS AN EXEMPTION IN ACCORDANCE
8 WITH SUBSECTION (B)(9) OF THIS SECTION AND EXCEPT AS PROVIDED IN
9 SUBSECTION (C) OF THIS SECTION, A PROVIDER SHALL FILE A SURETY BOND OR
10 IRREVOCABLE LETTER OF CREDIT WITH THE COMMISSIONER.

11 (B) (1) THE BOND SHALL RUN TO THE COMMISSIONER, AS OBLIGEE, FOR
12 THE BENEFIT OF:

13 (I) THE STATE; AND

14 (II) ANY CONSUMER WHO IS INJURED BY A VIOLATION OF THIS
15 SUBTITLE COMMITTED BY A PROVIDER.

16 (2) THE BOND SHALL BE:

17 (I) IN AN AMOUNT NOT EXCEEDING \$100,000, AS DETERMINED
18 BY THE COMMISSIONER BY REGULATION;

19 (II) ISSUED BY A SURETY COMPANY THAT:

20 1. IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

21 2. HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE
22 MARYLAND INSURANCE COMMISSIONER; AND

23 (III) CONDITIONED ON THE PROVIDER'S COMPLIANCE WITH ALL
24 STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING PROVIDERS.

25 (3) THE LIABILITY OF THE SURETY:

26 (I) SHALL BE CONTINUOUS;

27 (II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR
28 NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;

(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;

(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;

(V) MAY NOT BE AFFECTED BY:

1. THE INSOLVENCY OR BANKRUPTCY OF THE PROVIDER;

2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE PROVIDER OR AN AGENT OF THE PROVIDER; OR

3. THE SUSPENSION OF THE PROVIDER'S REGISTRATION;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE PROVIDER, FOR ANY REASON, CEASES TO BE REGISTERED.

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE PROVIDER BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

1 (III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS
2 NOT EFFECTIVE UNTIL 90 DAYS AFTER THE COMMISSIONER RECEIVES A NOTICE OF
3 CANCELLATION.

4 (5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

5 (I) A CLAIMANT; OR

6 (II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR
7 THE STATE.

8 (6) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE
9 AMOUNT OF THE BOND, THE SURETY:

10 (I) SHALL PAY THE AMOUNT OF THE BOND TO THE
11 COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND

12 (II) IS RELIEVED OF LIABILITY UNDER THE BOND.

13 (7) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A
14 CLAIM OR JUDGMENT, THE PROVIDER SHALL FILE A NEW OR ADDITIONAL BOND
15 WITH THE COMMISSIONER.

16 (8) A PENALTY IMPOSED AGAINST A PROVIDER UNDER § 14-4610 OF
17 THIS SUBTITLE MAY BE PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER
18 THIS SECTION.

19 (9) IN GRANTING AN EXEMPTION FROM THE BONDING REQUIREMENT
20 UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER
21 THE CONDITIONS THE COMMISSIONER ESTABLISHES BY REGULATION.

22 (10) IN DETERMINING THE AMOUNT OF THE BOND UNDER PARAGRAPH
23 (2)(I) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER THE FACTORS
24 THE COMMISSIONER ESTABLISHES BY REGULATION.

25 (C) (1) INSTEAD OF SATISFYING THE BONDING REQUIREMENT UNDER
26 SUBSECTION (A) OF THIS SECTION, A PROVIDER MAY FILE WITH THE COMMISSIONER
27 AN IRREVOCABLE LETTER OF CREDIT FROM A FINANCIAL INSTITUTION INSURED BY
28 THE FEDERAL DEPOSIT INSURANCE CORPORATION.

29 (2) THE IRREVOCABLE LETTER OF CREDIT SHALL BE IN AN AMOUNT
30 EQUAL TO THE BOND REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(D) THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING:

(1) THE CONDITIONS UNDER WHICH THE COMMISSIONER MAY GRANT TO A PROVIDER AN EXEMPTION FROM THE BONDING REQUIREMENT UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) THE FACTORS THE COMMISSIONER SHALL CONSIDER IN DETERMINING THE AMOUNT OF THE BOND UNDER SUBSECTION (B)(2)(I) OF THIS SECTION.

14-4605.

(A) A PROVIDER REQUIRED TO REGISTER UNDER THIS SUBTITLE SHALL:

(1) DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES TO RESPOND TO QUESTIONS RAISED BY CONSUMERS AND ADDRESS COMPLAINTS FROM CONSUMERS IN AN EXPEDIENT MANNER;

(2) UNDER THE TERMS OF ANY AGREEMENT FOR THE PROVISION OF EARNED WAGE ACCESS SERVICES THAT IS ENTERED INTO, RENEWED, OR MODIFIED ON OR AFTER OCTOBER 1, 2024, OFFER TO CONSUMERS AT LEAST ONE REASONABLE OPTION TO OBTAIN PROCEEDS AT NO COST AND CLEARLY EXPLAIN HOW TO ELECT THE NO-COST OPTION;

(3) BEFORE ENTERING INTO AN AGREEMENT WITH A CONSUMER FOR THE PROVISION OF EARNED WAGE ACCESS SERVICES:

(I) INFORM THE CONSUMER OF THE CONSUMER'S RIGHTS UNDER THE AGREEMENT; AND

(II) FULLY AND CLEARLY DISCLOSE ALL FEES ASSOCIATED WITH THE EARNED WAGE ACCESS SERVICES;

(4) INFORM THE CONSUMER OF ANY MATERIAL CHANGES TO THE TERMS AND CONDITIONS OF THE EARNED WAGE ACCESS SERVICES BEFORE IMPLEMENTING THE CHANGES FOR THE CONSUMER;

(5) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ALLOW THE CONSUMER TO CANCEL THE USE OF THE PROVIDER'S EARNED WAGE ACCESS SERVICES AT ANY TIME, WITHOUT INCURRING A CANCELLATION FEE OR PENALTY IMPOSED BY THE PROVIDER;

1 **(6) COMPLY WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL**
2 **PRIVACY AND INFORMATION SECURITY LAWS;**

3 **(7) IF THE PROVIDER SOLICITS, CHARGES, OR RECEIVES A TIP,**
4 **GRATUITY, OR OTHER DONATION FROM A CONSUMER, CLEARLY AND**
5 **CONSPICUOUSLY DISCLOSE:**

6 **(I) TO THE CONSUMER IMMEDIATELY BEFORE EACH**
7 **TRANSACTION THAT A TIP, GRATUITY, OR OTHER DONATION AMOUNT IS VOLUNTARY**
8 **AND MAY BE ZERO; AND**

9 **(II) IN THE PROVIDER'S SERVICE CONTRACT WITH THE**
10 **CONSUMER AND ELSEWHERE THAT TIPS, GRATUITIES, OR DONATIONS ARE**
11 **VOLUNTARY, THAT THE OFFERING OF EARNED WAGE ACCESS SERVICES, INCLUDING**
12 **THE AMOUNT OF PROCEEDS A CONSUMER IS ELIGIBLE TO REQUEST AND THE**
13 **FREQUENCY WITH WHICH PROCEEDS ARE PROVIDED TO A CONSUMER, IS NOT**
14 **CONTINGENT ON:**

15 **1. WHETHER THE CONSUMER PAYS A TIP, GRATUITY, OR**
16 **OTHER DONATION; OR**

17 **2. ON THE SIZE OF ANY TIP, GRATUITY, OR OTHER**
18 **DONATION; AND**

19 **(8) PROVIDE PROCEEDS TO A CONSUMER BY ANY MEANS MUTUALLY**
20 **AGREED ON BY THE CONSUMER AND THE PROVIDER.**

21 **(B) (1) IF A CONSUMER HAS INITIATED AN ADVANCE OF PROCEEDS, A**
22 **PROVIDER MAY REQUIRE THE EFFECTIVE DATE OF A CANCELLATION OF THE**
23 **PROVIDER'S EARNED WAGE ACCESS SERVICES TO OCCUR AFTER THE CONSUMER**
24 **HAS SATISFIED ANY REPAYMENT OBLIGATION THE CONSUMER HAS TO THE**
25 **PROVIDER, EITHER THROUGH:**

26 **(I) PAYROLL DEDUCTION;**

27 **(II) A PREAUTHORIZED ELECTRONIC FUNDS TRANSFER FROM A**
28 **CONSUMER'S ACCOUNT OR DEPOSITORY INSTITUTION; OR**

29 **(III) OTHER MEANS PREVIOUSLY AGREED TO BY THE CONSUMER**
30 **AND THE PROVIDER.**

1 **(2) NOTHING IN THIS SUBSECTION REQUIRES A PROVIDER TO ALLOW**
2 **A CONSUMER-INITIATED ADVANCE TO BE CANCELED, REVOKED, SUSPENDED, OR**
3 **REVERSED AFTER THE CONSUMER INITIATES THE ADVANCE.**

4 **(C) (1) A PROVIDER REQUIRED TO REGISTER UNDER THIS SUBTITLE**
5 **THAT SEEKS REPAYMENT OF OUTSTANDING PROCEEDS OR PAYMENT OF FEES OR**
6 **OTHER AMOUNTS OWED, INCLUDING VOLUNTARY TIPS, GRATUITIES, OR OTHER**
7 **DONATIONS IN CONNECTION WITH THE ACTIVITIES COVERED BY THIS SUBTITLE,**
8 **FROM A CONSUMER'S DEPOSITORY INSTITUTION, INCLUDING BY MEANS OF**
9 **ELECTRONIC FUNDS TRANSFER, SHALL:**

10 **(I) COMPLY WITH APPLICABLE PROVISIONS OF THE FEDERAL**
11 **ELECTRONIC FUNDS TRANSFER ACT, 15 U.S.C. §§ 1693 THROUGH 1693R, AND**
12 **REGULATIONS ADOPTED UNDER THAT ACT; AND**

13 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
14 **SUBSECTION, REIMBURSE THE CONSUMER FOR THE FULL AMOUNT OF ANY**
15 **OVERDRAFT OR INSUFFICIENT FUNDS FEES IMPOSED ON THE CONSUMER BY THE**
16 **CONSUMER'S DEPOSITORY INSTITUTION THAT WERE CAUSED BY THE PROVIDER**
17 **ATTEMPTING TO SEEK PAYMENT OF ANY OUTSTANDING PROCEEDS, FEES, OR OTHER**
18 **PAYMENTS IN CONNECTION WITH THE ACTIVITIES COVERED BY THIS SUBTITLE,**
19 **INCLUDING VOLUNTARY TIPS, GRATUITIES, OR OTHER DONATIONS:**

20 **1. ON A DATE OCCURRING BEFORE THE DATE**
21 **ORIGINALLY DISCLOSED TO THE CONSUMER; OR**

22 **2. IN AN INCORRECT AMOUNT THAT DIFFERS FROM THE**
23 **AMOUNT ORIGINALLY DISCLOSED TO THE CONSUMER.**

24 **(2) THE REQUIREMENTS OF PARAGRAPH (1)(II) OF THIS SUBSECTION**
25 **DO NOT APPLY TO A PROVIDER WITH RESPECT TO PAYMENTS OF OUTSTANDING**
26 **AMOUNTS OR FEES INCURRED BY A CONSUMER THROUGH FRAUDULENT OR OTHER**
27 **UNLAWFUL MEANS.**

28 **14-4606.**

29 **(A) A PROVIDER REQUIRED TO REGISTER UNDER THIS SUBTITLE MAY NOT:**

30 **(1) SHARE WITH AN EMPLOYER A PORTION OF ANY FEES, VOLUNTARY**
31 **TIPS, GRATUITIES, OR OTHER DONATIONS THAT WERE RECEIVED FROM OR**
32 **CHARGED TO A CONSUMER FOR EARNED WAGE ACCESS SERVICES;**

1 **(2) REQUIRE A CONSUMER'S CREDIT REPORT OR A CREDIT SCORE**
2 **PROVIDED OR ISSUED BY A CONSUMER REPORTING AGENCY TO DETERMINE A**
3 **CONSUMER'S ELIGIBILITY FOR EARNED WAGE ACCESS SERVICES;**

4 **(3) ACCEPT PAYMENT OF OUTSTANDING PROCEEDS, FEES,**
5 **VOLUNTARY TIPS, GRATUITIES, OR OTHER DONATIONS FROM A CONSUMER BY**
6 **MEANS OF A CREDIT CARD OR CHARGE CARD;**

7 **(4) CHARGE A LATE FEE, DEFERRAL FEE, INTEREST, OR ANY OTHER**
8 **PENALTY OR CHARGE FOR FAILURE TO PAY OUTSTANDING PROCEEDS, FEES,**
9 **VOLUNTARY TIPS, GRATUITIES, OR OTHER DONATIONS;**

10 **(5) REPORT TO A CONSUMER REPORTING AGENCY OR DEBT**
11 **COLLECTOR ANY INFORMATION ABOUT THE CONSUMER REGARDING THE INABILITY**
12 **OF THE PROVIDER TO BE REPAID OUTSTANDING PROCEEDS, FEES, VOLUNTARY TIPS,**
13 **GRATUITIES, OR OTHER DONATIONS;**

14 **(6) IF THE PROVIDER SOLICITS, CHARGES, OR RECEIVES TIPS,**
15 **GRATUITIES, OR OTHER DONATIONS FROM A CONSUMER, MISLEAD OR DECEIVE**
16 **CONSUMERS ABOUT THE VOLUNTARY NATURE OF THE TIPS, GRATUITIES, OR**
17 **DONATIONS OR MAKE REPRESENTATIONS THAT TIPS, GRATUITIES, OR OTHER**
18 **DONATIONS WILL BENEFIT ANY SPECIFIC INDIVIDUALS; OR**

19 **(7) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
20 **COMPEL OR ATTEMPT TO COMPEL PAYMENT BY A CONSUMER OF OUTSTANDING**
21 **PROCEEDS, FEES, VOLUNTARY TIPS, GRATUITIES, OR OTHER DONATIONS TO THE**
22 **PROVIDER THROUGH:**

23 **(I) A SUIT AGAINST THE CONSUMER IN A COURT OF**
24 **COMPETENT JURISDICTION;**

25 **(II) USE OF A THIRD PARTY TO PURSUE COLLECTION FROM THE**
26 **CONSUMER ON THE PROVIDER'S BEHALF; OR**

27 **(III) THE SALE OF OUTSTANDING AMOUNTS TO A THIRD-PARTY**
28 **COLLECTOR OR DEBT BUYER FOR COLLECTION FROM THE CONSUMER.**

29 **(B) SUBSECTION (A)(7) OF THIS SECTION DOES NOT PRECLUDE:**

30 **(1) THE USE BY A PROVIDER OF ANY OF THE METHODS SPECIFIED IN**
31 **SUBSECTION (A)(7) OF THIS SECTION TO COMPEL PAYMENT OF OUTSTANDING**
32 **AMOUNTS OR FEES INCURRED BY A CONSUMER THROUGH FRAUDULENT OR OTHER**
33 **UNLAWFUL MEANS; OR**

(2) A PROVIDER FROM PURSUING AN EMPLOYER FOR BREACH OF THE EMPLOYER'S CONTRACTUAL OBLIGATIONS TO THE PROVIDER.

14-4607.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EARNED WAGE ACCESS SERVICES OFFERED AND PROVIDED BY A REGISTRANT IN COMPLIANCE WITH THIS SUBTITLE MAY NOT BE CONSIDERED TO BE:

(1) A VIOLATION OF OR NONCOMPLIANCE WITH ANY LAW OF THIS STATE GOVERNING THE PURCHASE, SALE OR ASSIGNMENT OF, OR AN ORDER FOR EARNED BUT UNPAID INCOME;

(2) A LOAN OR OTHER FORM OF CREDIT OR DEBT; OR

(3) A MONEY TRANSMISSION.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A REGISTRANT IN COMPLIANCE WITH THIS SUBTITLE MAY NOT BE CONSIDERED:

(1) A CREDITOR, CREDIT GRANTOR, CREDIT SERVICES BUSINESS, DEBT COLLECTOR, OR LENDER WITH RESPECT TO EARNED WAGE ACCESS SERVICES OFFERED AND PROVIDED; OR

(2) A MONEY TRANSMITTER UNDER ANY STATE LAW.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FEES, VOLUNTARY TIPS, GRATUITIES, OR OTHER DONATIONS PAID BY A CONSUMER TO A REGISTRANT IN ACCORDANCE WITH THIS SUBTITLE MAY NOT BE CONSIDERED INTEREST OR FINANCE CHARGES.

(2) IF THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS SUBTITLE AND ANY OTHER PROVISION OF LAW, THE PROVISIONS OF THIS SUBTITLE SHALL PREVAIL.

14-4608.

(A) ON OR BEFORE JULY 1 EACH YEAR, A PROVIDER REQUIRED TO REGISTER UNDER THIS SUBTITLE SHALL SUBMIT A REPORT TO THE COMMISSIONER THAT INCLUDES ALL OF THE FOLLOWING INFORMATION RELATED TO EARNED WAGE ACCESS SERVICES THE PROVIDER PROVIDED IN THIS STATE DURING THE IMMEDIATELY PRECEDING YEAR:

1 (1) GROSS REVENUE ATTRIBUTABLE TO THE EARNED WAGE ACCESS
2 SERVICES;

3 (2) THE TOTAL NUMBER OF TRANSACTIONS IN WHICH THE PROVIDER
4 PROVIDED PROCEEDS TO CONSUMERS;

5 (3) THE TOTAL NUMBER OF UNIQUE CONSUMERS TO WHOM THE
6 PROVIDER PROVIDED PROCEEDS;

7 (4) THE TOTAL DOLLAR AMOUNT OF PROCEEDS THE PROVIDER
8 PROVIDED TO CONSUMERS; AND

9 (5) THE TOTAL DOLLAR AMOUNT OF FEES, VOLUNTARY TIPS,
10 GRATUITIES, OR OTHER DONATIONS THE PROVIDER RECEIVED FROM CONSUMERS.

11 (B) FAILURE BY A PROVIDER TO SUBMIT A TIMELY REPORT AS REQUIRED
12 UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GROUNDS FOR DISCIPLINARY
13 ACTION BY THE COMMISSIONER.

14 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
15 THE INFORMATION CONTAINED IN THE ANNUAL REPORT UNDER SUBSECTION (A) OF
16 THIS SECTION IS CONFIDENTIAL AND NOT SUBJECT TO PUBLIC COPYING OR
17 INSPECTION UNDER TITLE 4, SUBTITLES 1 THROUGH 5 OF THE GENERAL
18 PROVISIONS ARTICLE.

19 (2) THE COMMISSIONER MAY PREPARE AND MAKE PUBLICLY
20 AVAILABLE AN AGGREGATED AND ANONYMIZED ANALYSIS OF THE INFORMATION
21 SUBMITTED BY ALL PROVIDERS UNDER THIS SECTION.

22 (D) (1) A PROVIDER REQUIRED TO REGISTER UNDER THIS SUBTITLE
23 SHALL:

24 (I) KEEP BOOKS AND RECORDS THAT, IN THE OPINION OF THE
25 COMMISSIONER, WILL ENABLE THE COMMISSIONER TO DETERMINE WHETHER THE
26 PROVIDER IS IN COMPLIANCE WITH THIS SUBTITLE; AND

27 (II) RETAIN RECORDS RELATED TO PROCEEDS FOR AT LEAST 2
28 YEARS FOLLOWING THE DATE ON WHICH PROCEEDS ARE PROVIDED.

29 (2) A PROVIDER MAY KEEP BOOKS AND RECORDS AT A PLACE OF
30 BUSINESS LOCATED OUTSIDE THIS STATE IF THE PROVIDER IS ABLE TO READILY

1 PRODUCE THE BOOKS AND RECORDS FOR REVIEW BY THE COMMISSIONER ON
2 REASONABLE REQUEST BY THE COMMISSIONER.

3 14-4609.

4 (A) A CONSUMER WHO HAS REASON TO BELIEVE THAT THIS SUBTITLE, OR
5 ANY OTHER LAW REGULATING EARNED WAGE ACCESS SERVICES, HAS BEEN
6 VIOLATED BY A PERSON SUBJECT TO THIS SUBTITLE MAY FILE WITH THE
7 COMMISSIONER A WRITTEN COMPLAINT DESCRIBING THE DETAILS OF THE
8 ALLEGED VIOLATION.

9 (B) THE COMMISSIONER MAY INITIATE AN INVESTIGATION IF THE
10 COMMISSIONER HAS REASON TO BELIEVE THAT THIS SUBTITLE OR ANY OTHER LAW
11 UNDER THE COMMISSIONER'S JURISDICTION REGULATING PROVIDERS HAS BEEN
12 VIOLATED.

13 (C) AFTER RECEIVING A WRITTEN COMPLAINT OR INITIATING AN
14 INVESTIGATION UNDER THIS SECTION, THE COMMISSIONER MAY INSPECT THE
15 BOOKS, RECORDS, LETTERS, AND CONTRACTS OF A PROVIDER RELATING TO THE
16 SPECIFIC WRITTEN COMPLAINT OR THE ALLEGED VIOLATION.

17 14-4610.

18 (A) THE COMMISSIONER, IN ADDITION TO TAKING ANY OTHER ACTION
19 AUTHORIZED BY LAW, MAY:

20 (1) HOLD A HEARING ON THE COMPLAINT AT A TIME AND PLACE IN
21 THIS STATE REASONABLY CONVENIENT TO THE PARTIES INVOLVED;

22 (2) SUBPOENA AND TAKE DEPOSITIONS OF WITNESSES;

23 (3) CONDUCT INVESTIGATIONS THAT THE COMMISSIONER
24 CONSIDERS NECESSARY;

25 (4) ADMINISTER OATHS;

26 (5) ISSUE ORDERS FOR COMPLIANCE WITH THIS SUBTITLE; AND

27 (6) ISSUE CEASE AND DESIST ORDERS IF AFTER A HEARING THE
28 COMMISSIONER FINDS A VIOLATION OF THIS SUBTITLE.

1 **(B) (1) INSTEAD OF OR IN ADDITION TO ANY OTHER ACTION THE**
2 **COMMISSIONER MAY TAKE UNDER THIS SECTION OR ANY OTHER PROVISION OF LAW,**
3 **THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING:**

4 **(I) \$1,000 FOR A FIRST VIOLATION; AND**

5 **(II) \$2,500 FOR EACH SUBSEQUENT VIOLATION.**

6 **(2) IN DETERMINING THE AMOUNT OF A CIVIL PENALTY IMPOSED**
7 **UNDER THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER:**

8 **(I) THE SERIOUSNESS OF THE VIOLATION;**

9 **(II) THE GOOD FAITH OF THE VIOLATOR;**

10 **(III) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;**

11 **(IV) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE**
12 **PUBLIC;**

13 **(V) THE ASSETS AND FINANCIAL STATUS OF THE VIOLATOR;**
14 **AND**

15 **(VI) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION**
16 **OF THE AMOUNT OF THE FINANCIAL PENALTY.**

17 **(3) THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES**
18 **COLLECTED BY THE COMMISSIONER UNDER THIS SUBSECTION INTO THE GENERAL**
19 **FUND OF THE STATE.**

20 **(C) IF A PERSON FAILS TO COMPLY WITH ANY LAWFUL ORDER OF THE**
21 **COMMISSIONER OR IF ANY WITNESS FAILS TO APPEAR AND TESTIFY TO ANY MATTER**
22 **REGARDING WHICH THE WITNESS MAY BE LAWFULLY INTERROGATED, ON PETITION**
23 **OF THE COMMISSIONER SETTING FORTH THE FACTS, THE CIRCUIT COURT OF ANY**
24 **COUNTY SHALL:**

25 **(1) COMPEL OBEDIENCE TO THE REQUIREMENTS OF THE SUBPOENA**
26 **OR ORDER;**

27 **(2) COMPEL THE PRODUCTION OF CONTRACTS, FORMS, FILES, AND**
28 **OTHER EVIDENCE; AND**

1 **(3) ORDER COMPLIANCE WITH ANY LAWFUL ORDER ISSUED BY THE**
2 **COMMISSIONER.**

3 **(D) IF A PERSON FAILS, REFUSES, OR NEGLECTS TO COMPLY WITH THE**
4 **ORDER OF THE COURT, THE COURT MAY PUNISH THAT PERSON FOR CONTEMPT OF**
5 **COURT.**

6 **(E) THE ADMINISTRATIVE PROCEDURE ACT, INCLUDING PROVISIONS FOR**
7 **JUDICIAL REVIEW OF A FINAL DECISION IN A CONTESTED CASE, APPLIES TO**
8 **PROCEEDINGS BEFORE THE COMMISSIONER UNDER THIS SUBTITLE.**

9 **(F) THE COMMISSIONER SHALL ADOPT REGULATIONS NECESSARY TO**
10 **CARRY OUT THIS SUBTITLE.**

11 **(G) A PROVIDER SHALL PAY TO THE COMMISSIONER A PER-DAY FEE SET BY**
12 **THE COMMISSIONER FOR EACH OF THE COMMISSIONER'S EMPLOYEES ENGAGED IN**
13 **ANY INVESTIGATION OF THE PROVIDER CONDUCTED UNDER THIS SECTION THAT**
14 **THE COMMISSIONER CONSIDERS NECESSARY.**

15 **14-4611.**

16 **(A) (1) THE REQUIREMENTS UNDER ANY FEDERAL LAW AND TITLE 4,**
17 **SUBTITLES 1 THROUGH 5 OF THE GENERAL PROVISIONS ARTICLE REGARDING THE**
18 **PRIVACY OR CONFIDENTIALITY OF INFORMATION OR MATERIAL PROVIDED TO**
19 **NMLS, AND ANY PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW, INCLUDING**
20 **THE RULES OF ANY FEDERAL OR STATE COURT WITH RESPECT TO THAT**
21 **INFORMATION OR MATERIAL, SHALL CONTINUE TO APPLY TO THAT INFORMATION**
22 **OR MATERIAL AFTER THE INFORMATION OR MATERIAL HAS BEEN DISCLOSED TO**
23 **NMLS.**

24 **(2) THE INFORMATION AND MATERIAL MAY BE SHARED WITH ALL**
25 **STATE AND FEDERAL REGULATORY OFFICIALS HAVING AUTHORITY OVER PERSONS**
26 **REQUIRED TO BE REGISTERED UNDER THIS SUBTITLE, INCLUDING THE FINANCIAL**
27 **CRIMES ENFORCEMENT NETWORK AND THE OFFICE OF FOREIGN ASSETS**
28 **CONTROL, WITHOUT THE LOSS OF PRIVILEGE OR THE LOSS OF CONFIDENTIALITY**
29 **PROTECTIONS PROVIDED BY FEDERAL LAW OR TITLE 4, SUBTITLES 1 THROUGH 5**
30 **OF THE GENERAL PROVISIONS ARTICLE.**

31 **(B) THE COMMISSIONER MAY:**

32 **(1) ENTER INTO INFORMATION-SHARING AGREEMENTS WITH ANY**
33 **FEDERAL OR STATE REGULATORY AGENCY HAVING AUTHORITY OVER PROVIDERS**
34 **OR WITH ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY, INCLUDING THE**

1 FINANCIAL CRIMES ENFORCEMENT NETWORK AND THE OFFICE OF FOREIGN
2 ASSETS CONTROL, AND ANY SUCCESSOR TO THESE AGENCIES IF THE AGREEMENTS
3 PROHIBIT THE AGENCIES FROM DISCLOSING ANY SHARED INFORMATION WITHOUT
4 PRIOR WRITTEN CONSENT FROM THE COMMISSIONER REGARDING DISCLOSURE OF
5 THE PARTICULAR INFORMATION; AND

6 (2) EXCHANGE INFORMATION ABOUT A PROVIDER, INCLUDING
7 INFORMATION OBTAINED OR GENERATED DURING AN INVESTIGATION, WITH:

8 (I) ANY FEDERAL OR STATE REGULATORY AGENCY HAVING
9 AUTHORITY OVER PROVIDERS; OR

10 (II) ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY.

11 (C) INFORMATION OR MATERIAL THAT IS SUBJECT TO A PRIVILEGE OR
12 CONFIDENTIALITY UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE SUBJECT
13 TO:

14 (1) DISCLOSURE UNDER ANY FEDERAL OR STATE LAW GOVERNING
15 THE DISCLOSURE TO THE PUBLIC OF INFORMATION HELD BY AN OFFICER OR
16 AGENCY OF THE FEDERAL GOVERNMENT OR A STATE THAT HAS RECEIVED THE
17 INFORMATION OR MATERIAL; OR

18 (2) SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE, IN ANY
19 PRIVATE CIVIL LITIGATION OR ADMINISTRATIVE PROCESS, UNLESS, WITH RESPECT
20 TO ANY PRIVILEGE HELD BY NMLS, THE PERSON TO WHOM THE INFORMATION OR
21 MATERIAL PERTAINS WAIVES, WHOLLY OR PARTLY, THAT PRIVILEGE.

22 (D) ANY PROVISIONS OF TITLE 4, SUBTITLES 1 THROUGH 5 OF THE
23 GENERAL PROVISIONS ARTICLE RELATING TO THE DISCLOSURE OF ANY
24 INFORMATION OR MATERIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT
25 ARE INCONSISTENT WITH SUBSECTION (A) OF THIS SECTION SHALL BE SUPERSEDED
26 BY THE REQUIREMENTS OF THIS SECTION.

27 (E) THIS SECTION DOES NOT APPLY TO INFORMATION OR MATERIAL
28 RELATING TO PUBLICLY ADJUDICATED DISCIPLINARY AND ENFORCEMENT ACTIONS
29 AGAINST A PROVIDER THAT IS INCLUDED IN NMLS AND DESIGNATED FOR ACCESS
30 BY THE PUBLIC.

31 SECTION 2. AND BE IT FURTHER ENACTED, That a person required to register
32 with the Commissioner of Financial Regulation of the Maryland Department of Labor as a
33 provider of earned wage access services under § 14-4602 of the Commercial Law Article,
34 as enacted by Section 1 of this Act, may continue to provide earned wage access services,

1 as defined in § 14–4601 of the Commercial Law Article, as enacted by Section 1 of this Act,
2 in the State without being registered as required until April 1, 2025, if the person:

3 (1) was a provider of earned wage access services on or before January 1,
4 2023;

5 (2) has an application for registration pending with the Commissioner; and

6 (3) otherwise complies with the requirements of Title 14, Subtitle 46 of the
7 Commercial Law Article, as enacted by Section 1 of this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2024.