

**FIRST ENGROSSMENT**

**ENGROSSED HOUSE BILL NO. 1393**

Introduced by

Representative Dockter

Senator Klein

1 A BILL for an Act to create and enact a new chapter to title 13 of the North Dakota Century  
2 Code, relating to earned wage access providers; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 13 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

8 1. a. "Charge" means:

9 (1) The amount imposed by a provider for delivery or expedited delivery of  
10 proceeds to a consumer.

11 (2) A subscription or membership imposed by a provider for a bona fide group  
12 of services that include earned wage access services.

13 b. The term does not include a voluntary tip, gratuity, or other donation.

14 2. "Commissioner" means the commissioner of financial institutions.

15 3. "Consumer" means an individual who resides in this state.

16 6.4. "Consumer-directed wage access services" means delivering to a consumer access to  
17 earned but unpaid income that is based on the consumer's representations and the  
18 provider's reasonable determination of the consumer's earned but unpaid income.

19 5. "Earned but unpaid income" means salary, wages, or compensation that a consumer  
20 or an employer has represented, and that a provider reasonably has determined, has  
21 been earned or accrued to the benefit of the consumer in exchange for the consumer's  
22 provision of services to the employer or on behalf of the employer, including on an

- 1           hourly, project-based, piecework, or other basis, and including circumstances in which  
2           the consumer is acting as an independent contractor of the employer, but has not, at  
3           the time of the payment of proceeds, been paid to the consumer by the employer.
- 4       6.   "Earned wage access services" means providing consumer-directed wage access  
5           services or employer-integrated wage access services.
- 6       7.   a.   "Employer" means:  
7           (1)   A person who employs a consumer.  
8           (2)   Any other person who is contractually obligated to pay a consumer earned  
9           but unpaid income in exchange for the consumer's provision of services to  
10          the employer or on behalf of the employer including on an hourly, project-  
11          based, piecework, or other basis and including circumstances in which the  
12          consumer is acting as an independent contractor with respect to the  
13          employer.
- 14       b.   The term does not include:  
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  
18           of services by that consumer for or on behalf of the person.
- 19       8.   "Employer-integrated wage access services" means delivering to a consumer access  
20          to earned but unpaid income that is based on employment, income, and attendance  
21          data obtained directly or indirectly from an employer or an employer's payroll service  
22          provider.
- 23       9.   "Outstanding proceeds" means proceeds remitted to a consumer by a provider that  
24          have not yet been repaid to the provider.
- 25       10.  "Proceeds" means funds received by a consumer under an earned income access  
26          transaction.
- 27       11.  a.   "Provider" or "earned wage access services provider" means a person that is in  
28          the business of providing earned wage access services to consumers.
- 29       b.   The terms do not include:

- 1                   (1) A service provider, such as a payroll service provider, whose role may  
2                   include verifying the available earnings but is not contractually obligated to  
3                   fund any proceeds delivered as part of an earned wage access service; or  
4                   (2) An employer that offers a portion of salary, wages, or compensation directly  
5                   to its employees or independent contractors before the normally scheduled  
6                   pay date.

7                   **Administration.**

8                   The department of financial institutions shall administer and enforce this chapter. The  
9                   department has the power to promulgate rules, in accordance with chapter 28-32, as necessary  
10                  to carry out the provisions of this chapter.

11                  **License.**

- 12                  1. An individual or business entity, except for an exempt organization as defined in this  
13                  chapter, may not engage in the business of providing or offering earned income  
14                  access transactions to consumers, or enter an earned income access transaction with  
15                  a consumer, without first obtaining a license under this chapter. An individual or  
16                  business entity is considered to be engaging in the business of earned wage access  
17                  service if the consumer is located in this state.  
18                  2. An application for a license under this chapter must be in writing, under oath, and in  
19                  the form prescribed by the commissioner.  
20                  3. Each applicant shall maintain a tangible net worth of at least twenty-five thousand  
21                  dollars or other amount as the commissioner may determine necessary to protect the  
22                  public interests.  
23                  4. The financial responsibility, financial condition, business experience, character, and  
24                  general fitness of the applicant must reasonably warrant the belief that the applicant's  
25                  business will be conducted lawfully and fairly. In determining whether this qualification  
26                  is met and for the purpose of investigating compliance with this chapter, the  
27                  commissioner may review and consider the relevant business records and the capital  
28                  adequacy of the applicant and the competence, experience, integrity, and financial  
29                  ability of any person that is a member, partner, director, officer, or twenty-five percent  
30                  or more shareholder of the applicant, and whether the applicant has filed any  
31                  appropriate registration with the secretary of state.

- 1       5. Each applicant shall establish that neither the individual nor any officer, director, or  
2           proposed employee of the applicant has been convicted of a crime involving  
3           dishonesty, fraud, or breach of trust. A deferred imposition of sentence or federal  
4           pretrial diversion must be considered a conviction for purposes of this section.
- 5       6. Each applicant shall maintain a bond issued by a surety company authorized to  
6           conduct business in this state, in the amount of fifty thousand dollars, and the  
7           commissioner may require a larger bond if the commissioner determines the larger  
8           bond is necessary based on the volume of the applicant's business.
- 9       7. Each application for a license must include:
  - 10       a. An application fee as determined by the commissioner;
  - 11       b. The legal name of the applicant, residence of the applicant, business address of  
12           the applicant, and, if applicable, the address at which earned wage access  
13           service is provided if different from the business address and, if the applicant is a  
14           business entity, the name and address of every member, officer, and director;
  - 15       c. The location at which the registered office of the applicant is located; and
  - 16       d. Any other data or information the commissioner may require with respect to the  
17           applicant and the applicant's directors, officers, members, and shareholders.
- 18       8. The commissioner may establish relationships or contracts with a nationwide  
19           multistate licensing system and registry or other entities designated by a nationwide  
20           multistate licensing system and registry to collect and maintain records and process  
21           transaction fees or other fees related to licensees or other persons subject to the  
22           chapter. The applicant shall pay directly to the nationwide multistate licensing system  
23           any additional fee relating to participation in the nationwide multistate licensing  
24           system.
- 25       9. In connection with an application for licensure as an earned wage access service  
26           provider, or any license renewals, the applicant shall furnish to the nationwide  
27           multistate licensing system information concerning the applicant's identity, which may  
28           include:
  - 29       a. Fingerprints for submission to the federal bureau of investigation and any  
30           governmental agency or entity authorized to receive information for a state,  
31           national, and international criminal history background check;

1           b. Personal history and experience in a form prescribed by the nationwide multistate  
2           licensing system, including the submission of authorization for the nationwide  
3           multistate licensing system and the commissioner to obtain:

4           (1) An independent credit report obtained from a consumer reporting agency  
5           described in the Fair Credit Reporting Act [15 U.S.C. 1681a]; and

6           (2) Information related to any administrative, civil, or criminal findings by any  
7           governmental jurisdiction; and

8           c. Any other documents, information, or evidence the commissioner deems  
9           necessary.

10       10. The commissioner may use the nationwide multistate licensing system and registry as  
11       a channeling agent for requesting information from and distributing information to the  
12       department of justice or any governmental agency or to any other source.

13       11. Upon receipt of a completed application, the commissioner shall determine whether  
14       the qualifications prescribed under this chapter are satisfied. The commissioner may  
15       refuse to issue the license if the commissioner finds the financial responsibility,  
16       experience, character, or general fitness of the applicant or any person associated  
17       with the applicant are insufficient to warrant the belief the business will be conducted  
18       honestly, fairly, and efficiently. If the commissioner determines the qualifications are  
19       satisfied and approves the documents, the commissioner shall issue a license to  
20       engage in the earned wage access service business.

21       **Denial of license - Hearing - Notification of change in status.**

22       1. If the commissioner determines an applicant is not qualified to receive a license, the  
23       commissioner shall notify the applicant, in writing, stating the application is denied and  
24       stating the basis for denial. If the commissioner denies an application, the applicant  
25       may request a hearing in accordance with chapter 28-32 before the commissioner on  
26       the question of whether the license should be granted. The hearing must be scheduled  
27       within thirty days after receipt of the request. At the hearing, the commissioner shall  
28       reconsider the application and issue a written order granting or denying the  
29       application. If an applicant requests a hearing and the commissioner's denial is  
30       upheld, the commissioner may assess the reasonable out-of-pocket costs incurred for  
31       the hearing to the applicant.

1       2. Within fifteen days of the occurrence of any of the following events, a licensee shall file  
2       a written report with the commissioner describing the event and the event's expected  
3       impact on the activities of the licensee:

4       a. The filing for bankruptcy or reorganization by the licensee.

5       b. The institution of revocation or suspension proceedings against the licensee by  
6       any governmental authority.

7       c. The filing of any criminal charges involving dishonesty, fraud, or breach of trust of  
8       the licensee or any of the licensee's members, directors, officers, or  
9       shareholders.

10      d. Any other event the commissioner identifies by rule.

11      **License renewal.**

12      A license may be renewed upon application, continued qualification for licensure as  
13      required in this chapter, and the payment to the commissioner of the annual license fee, which  
14      is not subject to refund, before December first of each year. A renewal application may be  
15      denied upon the same grounds as would justify denial of an initial application for licensure.  
16      When a licensee has been delinquent in renewing the licensee's license, the department may  
17      charge an additional fee of fifty dollars for the renewal of the license. An application must be  
18      filed within forty-five days from the date change of controlling ownership is completed. For  
19      purposes of this section "controlling ownership" means ownership of twenty-five percent or  
20      more of voting shares, or the power to appoint the majority of the board of directors. The earned  
21      wage access license granted to the previous owner continues in effect to the new purchaser  
22      until the application is either granted or denied.

23      **Exemptions and applicability.**

24      1. This chapter does not apply to banks, credit unions, or savings and loan associations.

25      2. Notwithstanding any other provision of law, earned wage access services offered and  
26      provided by a provider in accordance with this chapter may not be considered:

27      a. A violation of any law governing deductions from payroll, salary, wages,  
28      compensation, or other income or the purchase, sale or assignment of, or an  
29      order for earned but unpaid income.

30      b. A loan or other form of credit or debt. The provider may not be considered a  
31      creditor, debt collector, or lender.

- 1           c. Money transmission. The provider may not be considered a money transmitter  
2           with respect to the provision of any earned wage access services.
- 3           3. Notwithstanding any other provision of law, charges, voluntary tips, gratuities, or other  
4           donations paid in accordance with this chapter to a provider may not be considered  
5           interest or finance charges.
- 6           4. If there is a conflict between the provisions of this chapter and any other provision of  
7           law, the provisions of this chapter prevail.

8           **Records.**

- 9           1. Each licensee shall keep and use in the licensee's business any books, accounts, and  
10          records the commissioner may require. A licensee shall preserve required books,  
11          accounts, and records for at least six years. The records of a licensee may be  
12          maintained electronically if the records can be reproduced upon request by the  
13          commissioner and within the time required under this section. When a licensee ceases  
14          operations for any reason, the licensee shall inform the commissioner of the location  
15          of the records. In addition, the licensee shall provide the name of the individual  
16          responsible for maintenance of the records. The licensee shall notify the commissioner  
17          within ten business days of the change of the location of the records or the change of  
18          the individual responsible for maintenance of the records.
- 19          2. An applicant, licensee, or other person subject to this chapter shall comply with any  
20          request for information, documents, or other records from the commissioner within the  
21          time specified in the request, which must be a minimum of ten days, or, if no time is  
22          specified, within thirty days of receipt of the request by the commissioner. If the  
23          request for information is related to a new application or renewal of an existing  
24          application and is not received by the commissioner within the time specified in the  
25          request, or within thirty days of receipt of the request, the commissioner may deny the  
26          application.

27          **Suspension, nonrenewal, or revocation of license.**

- 28          1. The commissioner may issue and serve upon any licensee an order suspending or  
29          revoking a license if the commissioner finds the licensee has been convicted of a  
30          felony or any crime involving dishonesty, fraud, or breach of trust, or the licensee  
31          knowingly or through lack of reasonable care:

- 1           a. Failed to pay the annual license fee imposed under this chapter or any  
2           examination fee imposed by the commissioner;
- 3           b. Committed any fraud, engaged in any dishonest activities, or made any  
4           misrepresentations;
- 5           c. Violated this chapter or any rule adopted by the commissioner under this chapter  
6           or violated any other law in the course of the licensee's business activities as a  
7           licensee;
- 8           d. Made false statements in the application for the license;
- 9           e. Engaged in any unfair or deceptive acts, practices, or advertising in the conduct  
10          of an earned wage access business;
- 11          f. Failed to fully cooperate with an examination or investigation authorized by the  
12          commissioner;
- 13          g. Continued to allow any current or former officer, director, or employee to provide  
14          earned income access services or participate in any earned income service  
15          transaction after the officer, director, or employee has been suspended or  
16          removed by an order issued by the commissioner;
- 17          h. Failed to maintain the required bond;
- 18          i. Failed to maintain any required registration with the secretary of state; or
- 19          j. No longer meets the requirements for licensure under this chapter.
- 20        2. An order issued by the commissioner under this section must contain a notice of  
21        opportunity for hearing under chapter 28-32.
- 22        3. If a hearing is not requested within twenty business days of the date of service upon  
23        the licensee, the order becomes final.

24        **Temporary suspension - Appeal.**

- 25        1. If the commissioner determines probable cause exists for the suspension or  
26        revocation of a license, that enforcement of this chapter requires immediate  
27        suspension of the license pending investigation, or that probable cause exists to  
28        indicate the continued operation of a licensee's business may create a significant risk  
29        of serious and ongoing harm to the public while a disciplinary action is pending, the  
30        commissioner may, upon written notice to the licensee, issue an ex parte order  
31        suspending the license.



- 1       2. An ex parte order remains in effect until a final order is issued after a full hearing and  
2       appeal is conducted in accordance with chapter 28-32 or until the suspension is  
3       otherwise terminated by the commissioner. If a hearing is not requested within twenty  
4       business days of the date of service of the order upon the licensee, the order becomes  
5       final.
- 6       3. The commissioner shall conduct a full hearing on the merits of the evidence  
7       warranting immediate suspension to determine if disciplinary action must be taken  
8       against the licensee.
- 9       4. The licensee may appeal the ex parte temporary suspension order before a full  
10      hearing is conducted. For purposes of appeal, the district court shall decide whether  
11      the commissioner acted reasonably or arbitrarily. The court shall give priority to the  
12      appeal for prompt disposition.

13      **Suspension and removal of earned wage access service provider officers and**  
14      **employees.**

- 15      1. The commissioner may issue upon any current or former officer, director, or employee  
16      of a licensed business entity, and upon the licensee involved, an order stating:
- 17      a. That the current or former officer, director, or employee is engaging or has  
18      engaged in any of the following conduct:
- 19          (1) Violation of a law, rule, order, or written agreement with the commissioner;  
20          (2) Harassment or abuse, false or misleading representations to the  
21          commissioner, or unfair practices; or  
22          (3) An act of commission or omission or practice which constitutes breach of  
23          trust or a breach of fiduciary duty.
- 24      b. The term of suspension or removal from employment and participation within the  
25      conduct or the affairs of an earned wage access service provider.
- 26      2. An order issued by the commissioner under this section must contain a notice of  
27      opportunity for hearing under chapter 28-32. The order becomes effective immediately  
28      upon issuance on the officer, director, or employee, and remains in effect pending the  
29      outcome of a hearing held in accordance with chapter 28-32.
- 30      3. If a hearing is not requested within twenty business days of the date the order is  
31      served, the order becomes final and the officer, director, or employee must be

1           removed from any further participation in the affairs of, or employment with, the  
2           licensee.

3           4. A contested or default suspension or removal order is effective immediately upon  
4           issuance of the final order on the current or former officer or employee and upon the  
5           licensee. A consent order is effective as agreed upon in the order. Any current or  
6           former officer or employee suspended or removed from employment and participation  
7           within the conduct or the affairs of a licensee under this section is not eligible, while  
8           under suspension or removal, to be employed or otherwise participate in the affairs of  
9           any financial corporation, financial institution, credit union, or any other entity licensed  
10          by the department of financial institutions.

11          5. When a current or former officer or employee or other person participating in the  
12          conduct of the affairs of a licensee is charged with a felony in state or federal court  
13          which involves dishonesty, fraud, or breach of trust, the commissioner may  
14          immediately suspend the individual from office or prohibit the individual from further  
15          participation in the earned wage access service provider affairs, or both. The order is  
16          effective immediately upon issuance of the order on the licensee and the individual  
17          charged and remains in effect until the criminal charge is finally disposed of or until  
18          modified by the commissioner. If a judgment of conviction, federal pretrial diversion, or  
19          similar state order or judgment is entered, the commissioner may order the  
20          suspension or prohibition be made permanent. A finding of not guilty or other  
21          disposition of the charge does not preclude the commissioner from pursuing  
22          administrative or civil remedies.

23          6. The commissioner may deny an application to renew a license if the licensee no  
24          longer meets the criteria for licensure or otherwise fails to comply with this chapter.

25          **Violations - Cease and desist orders - Penalties.**

26          Except as otherwise provided in this chapter, any person that provides earned wage access  
27          services without a license is guilty of a class C felony and any person that violates any other  
28          provision of this chapter or any rule adopted under this chapter is guilty of an infraction. If the  
29          commissioner finds, whether without a hearing or after a hearing if a hearing is requested within  
30          twenty days of notice of an action by the commissioner, a person violated this chapter or any  
31          rule adopted under chapter, the commissioner may:

- 1       1. Order the person to cease and desist violating this chapter or the rule;
- 2       2. Require the refund of any charges collected by the person in violation of this chapter;
- 3       or
- 4       3. Impose a civil penalty not to exceed one hundred thousand dollars per violation upon
- 5       a person that willfully violates a law, rule, written agreement, or order under this
- 6       chapter. An interested party may appeal the assessment of a civil money penalty
- 7       under chapter 28-32 by filing a written notice of appeal within twenty days after service
- 8       of the assessment of civil money penalties. A civil money penalty collected under this
- 9       section must be paid to the state treasurer and deposited in the financial institutions
- 10       regulatory fund.

11       **Investigations and examinations.**

- 12       1. A licensee shall pay an examination or visitation fee, and the commissioner shall
- 13       charge the licensee for the actual cost of the examination or visitation at an hourly rate
- 14       set by the commissioner which is sufficient to cover all reasonable expenses
- 15       associated with the examination or visitation.
- 16       2. a. Except as otherwise provided in Public Law 110-289, section 1512, the
- 17       requirements under any federal law, chapter 44-04, or section 6-01-07.1,
- 18       regarding the privacy or confidentiality of any information or material provided to
- 19       the nationwide multistate licensing system and registry, and any privilege arising
- 20       under federal or state law, including the rules of any federal or state court, with
- 21       respect to the information or material, continue to apply to the information or
- 22       material after the information or material has been disclosed to the nationwide
- 23       multistate licensing system and registry. Any information and material may be
- 24       shared with all state and federal regulatory officials with mortgage industry
- 25       oversight authority without the loss of privilege or the loss of confidentiality
- 26       protections provided by federal law, chapter 44-04, or section 6-01-07.1.
- 27       b. The commissioner may enter agreements or sharing arrangements with other
- 28       governmental agencies, the conference of state bank supervisors, the American
- 29       association of residential mortgage regulators, or other associations representing
- 30       governmental agencies.

- 1           c. Information or material subject to a privilege or confidentiality under this section is  
2           not subject to:
- 3           (1) Disclosure under any federal or state law governing the disclosure to the  
4           public of information held by an officer or an agency of the federal  
5           government or the respective state; or
- 6           (2) Subpoena or discovery, or admission into evidence, in any administrative  
7           process, unless with respect to any privilege held by the nationwide  
8           multistate licensing system and registry with respect to the information or  
9           material, the person to which the information or material pertains waives, in  
10          whole or in part, in the discretion of the person, that privilege.
- 11          d. The commissioner shall take all necessary steps, under any applicable law or  
12          rule, to protect the disclosure of information or material subject to a privilege or  
13          confidentiality under this section. Records subject to a privilege or confidentiality  
14          may be required to be disclosed only pursuant to an order of the court. The court  
15          ordering the disclosure shall issue a protective order to protect the confidential  
16          nature of the records.

17          **Required acts and practices.**

18          A person required to be licensed under this chapter shall:

- 19          1. Develop and implement policies and procedures to respond to questions raised by  
20          consumers and address complaints from consumers in an expedient manner.
- 21          2. Offer to the consumer at least one reasonable option to obtain proceeds at no cost to  
22          the consumer and clearly explain how to elect the no-cost option when the person  
23          offers a consumer the option to receive proceeds for a charge or solicits an optional  
24          tip, gratuity, or other donation.
- 25          3. Before entering into an agreement with a consumer for the provision of earned wage  
26          access services:
- 27                  a. Inform the consumer of the consumer's rights under the agreement; and
- 28                  b. Fully and clearly disclose all charges associated with the earned wage access  
29                  services.
- 30          4. Inform the consumer of any material changes to the terms and conditions of the  
31          earned wage access services before implementing those changes for that consumer.

- 1       5. Allow the consumer to cancel use of the provider's earned wage access services at  
2       any time, without incurring a cancellation charge imposed by the provider.
- 3       6. Comply with all applicable local, state, and federal privacy and information security  
4       laws.
- 5       7. If soliciting, charging, or receiving a tip, gratuity, or other donation from a consumer,  
6       clearly and conspicuously disclose to the consumer immediately before each  
7       transaction that a tip, gratuity, or other donation amount may be zero and is voluntary.
- 8       8. If soliciting, charging, or receiving a tip, gratuity, or other donation from a consumer,  
9       clearly and conspicuously disclose in its service contract with the consumer and  
10       elsewhere that tips, gratuities, or donations are voluntary and that the offering of  
11       earned wage access services, including the amount of proceeds a consumer is eligible  
12       to request and the frequency with which proceeds are provided to a consumer, is not  
13       contingent on whether the consumer pays a tip, gratuity, or other donation or on the  
14       size of the tip, gratuity, or other donation.
- 15       9. Provide proceeds to a consumer by any means mutually agreed upon by the  
16       consumer and the provider.
- 17       10. If the provider will seek repayment of outstanding proceeds or payment of charges or  
18       other amounts owed, including voluntary tips, gratuities, or other donations, in  
19       connection with the activities covered by this chapter, from a consumer's account at a  
20       depository institution, including by means of electronic fund transfer:
  - 21       a. Comply with applicable provisions of the Electronic Fund Transfer Act of 1978,  
22       [15 U.S.C. 1693-1693r], and regulations adopted under the the Electronic Fund  
23       Transfer Act; and
  - 24       b. Reimburse the consumer for the full amount of any overdraft or nonsufficient  
25       funds charges imposed on a consumer by the consumer's depository institution  
26       which were caused by the provider attempting to seek payment of any  
27       outstanding proceeds, charges, or other payments, in connection with the  
28       activities covered by this chapter, including voluntary tips, gratuities, or other  
29       donations, on a date before, or in an incorrect amount from, the date or amount  
30       disclosed to the consumer. The provider is not subject to the requirements in this

1                   subdivision with respect to payments of outstanding proceeds or charges  
2                   incurred by a consumer through fraudulent or other unlawful means.

3                   **Prohibited acts and practices.**

- 4                   1. A person required to be licensed under this chapter may not:
- 5                   a. Make or cause to be made any material false statement or representation in any  
6                   application or other document or statement required to be filed under any  
7                   provision of this chapter, or to omit any material statement or fact necessary to  
8                   make the statements not misleading.
- 9                   b. Fail to make disclosures as required by this chapter and rules adopted under this  
10                   chapter.
- 11                   c. Fail to comply with this chapter or rules adopted under this chapter applicable to  
12                   any business authorized or conducted under this chapter.
- 13                   d. Negligently make a false statement or an omission of material fact in connection  
14                   with any information or reports filed with a governmental agency of this state or  
15                   the nationwide multistate licensing system and registry or in connection with any  
16                   investigation conducted by the commissioner or another governmental agency or  
17                   this state.
- 18                   e. Share with an employer a portion of any charges, voluntary tips, gratuities, or  
19                   other donations that were received from or charged to a consumer for earned  
20                   wage access services.
- 21                   f. Require a consumer's credit report or a credit score provided or issued by a  
22                   consumer reporting agency to determine a consumer's eligibility for earned wage  
23                   access services.
- 24                   g. Accept payment of outstanding proceeds, charges, voluntary tips, gratuities, or  
25                   other donations from a consumer by means of a credit card or charge card.
- 26                   h. Charge a consumer a late charge, deferral charge, interest, or any other penalty  
27                   or charge for failure to pay outstanding proceeds, charges, voluntary tips,  
28                   gratuities, or other donations.
- 29                   i. Report to a consumer reporting agency or debt collector any information about  
30                   the consumer regarding the inability of the provider to be repaid outstanding  
31                   proceeds, charges, voluntary tips, gratuities, or other donations.

- 1           j. Compel or attempt to compel payment by a consumer of outstanding proceeds,  
2           charges, voluntary tips, gratuities, or other donations to the provider through:  
3           (1) A suit against the consumer in a court of competent jurisdiction.  
4           (2) Use of a third party to pursue collection from the consumer on the provider's  
5           behalf.  
6           (3) Sale of outstanding proceeds, charges, voluntary tips, gratuities, or other  
7           donations to a third-party collector or debt buyer for collection from a  
8           consumer.  
9           k. Mislead or deceive a consumer about the voluntary nature of the tips, gratuities,  
10           or donations or represent the amounts will benefit any specific individuals or  
11           group of individuals.  
12        2. The limitations in subdivision j of subsection 1 do not preclude the use by a provider of  
13           any of the methods specified in that subdivision to compel payment of outstanding  
14           proceeds or charges incurred by a consumer through fraudulent or other unlawful  
15           means. The limitations in subdivision j of subsection 1 do not preclude a provider from  
16           pursuing an employer for breach of the employer's contractual obligations to the  
17           provider.

18        **Reporting requirements.**

19        A licensee shall file with the commissioner, at a time and in the manner specified by the  
20        commissioner, a report containing data requested by the commissioner. The report must be filed  
21        under oath.

22        **Regulations and rulings.**

23        The commissioner may adopt rules and regulations, conduct hearings, and make specific  
24        rulings, orders, demands, and findings as may be necessary for the proper conduct of the  
25        business authorized and licensed under and for the enforcement of this chapter.

26        **Operation of existing providers.**

- 27        1. A provider operating in this state on January 1, 2025, may continue to act as a  
28           provider if the person:  
29           a. Applies for licensure in accordance with this section within six months of the date  
30           the commissioner makes an application available to potential applicants; and  
31           b. Complies with the requirements of this chapter.

- 1        2. A person operating in this state on January 1, 2025, may continue to act as a provider
- 2            until the commissioner grants or denies the person's application for licensure under
- 3            this section.