

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 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.