

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on **Financial Institutions and Insurance** recommends **HB 2105**, As Further Amended by House Committee, be amended on page 1, in line 9, before "Sections" by inserting "(a)"; also on page 1, following line 10, by inserting:

"(b) This act shall not apply to a:

(1) Bank holding company regulated by the federal reserve;

(2) depository institution regulated by a federal banking agency; or

(3) a subsidiary of either paragraph (1) or (2) if such subsidiary directly owns 25% of the bank holding company or depository institution's common stock."

Also on page 1, in line 15, before the period by inserting "or the commissioner's designee, who shall be the deputy commissioner of the consumer and mortgage lending division of the office of the state bank commissioner"; in line 19, by striking "Consumer directed" and inserting "Consumer-directed"; also in line 19, by striking all after "means"; by striking all in lines 20 and 21; in line 22, by striking all before "based" and inserting "offering or providing earned wage access services directly to consumers"; in line 27, after "means" by inserting "salary"; also in line 27, after "or" by inserting "other"; in line 30, after "consumer" by inserting "in exchange for the consumer's provision of services to an employer or on behalf of an employer, including on an hourly, project-based, piecework or other basis and including where the consumer is acting as an independent contractor of the employer,"; in line 31, by striking "an obligor" and inserting "the employer";

On page 2, in line 1, by striking "consumer directed" and inserting "consumer-directed"; in

line 4, by striking all after "delivering"; by striking all in lines 5 through 9; in line 10, by striking "obligor" and inserting "to consumers access to earned but unpaid income that is based on employment, income and attendance data obtained directly or indirectly from an employer"; in line 11, by striking all after "(i)"; by striking all in line 12; in line 13, by striking all before the period and inserting ""Fee" means a fee imposed by a provider for delivery or expedited delivery of proceeds to a consumer or a subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services. A voluntary tip, gratuity or donation shall not be deemed a fee"; in line 19, by striking all after "(j)"; by striking all in lines 20 through 34; in line 35, by striking all before the period and inserting ""Member" means someone who has the right to receive upon dissolution, or has contributed 10% or more of the capital, of a limited liability corporation or a limited liability partnership of the registrant or applicant.

(k) "Nationwide multistate licensing system and registry" or "registry" means a multistate licensing system developed by the conference of state bank supervisors and the American association of residential mortgage regulators and operated by the state regulatory agency, LLC, for the licensing and registration of non-depository financial service entities by participating state agencies or any successor to the nationwide multisystem licensing system and registry";

Also on page 2, in line 36, by striking "(k)" and inserting "(l)"; in line 38, by striking "non-mandatory payments" and inserting "fees"; in line 43, by striking "non-mandatory payments" and inserting "fees";

On page 3, in line 3, after "person" by inserting "who employs a consumer or any other person"; in line 4, by striking "or legally"; in line 5, after "income" by inserting "in exchange for

a consumer's provision of services to the employer or on behalf of the employer, including"; also in line 5, after the third comma by inserting "and"; in line 6, by striking all after the period; by striking all in lines 7 through 9; in line 17, by striking "a payment of"; also in line 17, after the second "proceeds" by inserting "remitted"; in line 18, by striking "has" and inserting "have"; in line 26, after "any" by inserting "individual,"; following line 27, by inserting:

"(s) "Principal" of a registrant means a person that oversees the daily operations of a registrant or applicant and is not an owner or key individual of such registrant or applicant.";

Also on page 3, in line 28, by striking "of funds";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 3, in line 43, after "member" by inserting ", partner";

On page 4, in line 1, by striking "partner" and inserting "principal"; in line 11, by striking all after "fee"; in line 12, by striking all before the period; in line 30, by striking all after "fee"; in line 31, by striking all before the period; following line 36, by inserting:

"(f) Not later than the first day of the sixth month beginning after the effective date of this act, the commissioner shall prescribe the form and content of an application for registration to provide earned wage access services pursuant to this act.

(g) Notwithstanding the provisions of subsection (a), a person who, as of January 1, 2024, was engaged in the business of providing earned wage access services in this state may, until the commissioner has processed the person's application for registration, continue to engage in the business of providing earned wage access services in this state without registering if the person has submitted an application for registration within three months after the commissioner has prescribed the form and content of an application pursuant to subsection (f) and otherwise

complies with this act.

(h) The registration requirements of this act shall not apply to individuals acting as employees or independent contractors of business entities required to register.";

On page 5, in line 21, by striking "non-mandatory payments" and inserting "all fees"; in line 23, by striking all after "(b)"; by striking all in lines 24 through 40; in line 41, by striking all before the period and inserting "The registrant shall develop and implement policies and procedures to respond to questions raised by consumers and address complains from consumer in an expedient manner"; in line 42, before "A", by inserting "Before entering into an agreement with a consumer for the provision of earned wage access services, the registrant shall:

- (1) Inform the consumer of their rights under the agreement;
- (2) fully and clearly disclose all fees associated with the earned wage access services; and
- (3) fully and clearly describe how the consumer may obtain proceeds at no cost to such consumer.

(d)";

On page 6, in line 1, by striking all after the period; by striking all in lines 2 and 3; by striking all in lines 6 through 9; in line 10, by striking all after "(f)"; by striking all in lines 11 through 17; in line 18, by striking "consumer" and inserting "The registrant shall allow a 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"; following line 18, by inserting:

"(g) The registrant shall comply with all applicable federal, state and local privacy and information security laws.

(h) If a registrant solicits, charges or receives a tip, gratuity or other donation from a

consumer, the registrant shall disclose:

(1) To the consumer immediately prior to each transaction that a tip, gratuity or other donation amount may be zero and is voluntary; and

(2) in its agreement with the consumer and elsewhere that tips, gratuities or other donations are voluntary and that the offering of earned wage access services, including the amount of proceeds a consumer is eligible to request and the frequency with which proceeds are provided to a consumer, is not contingent on whether the consumer pays any tip, gratuity or donation or on the size of any tip, gratuity or other donation.

(i) If a registrant will seek repayment of outstanding proceeds or payment of fees or other amounts owed, including voluntary tips, gratuities or other donations, in connection with earned wage access services from a consumer's depository institution, including by means of electronic funds transfer, the registrant shall do all of the following:

(1) Inform the consumer when the provider will make each attempt to seek repayment of the proceeds from the consumer;

(2) comply with applicable provisions of the federal electronic fund transfer act, 15 U.S.C. §1693 et seq., and any regulations adopted thereunder; and

(3) reimburse the consumer for the full amount of any overdraft or nonsufficient funds fees imposed on a consumer by the consumer's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees or other payments in connection with earned wage access services, including voluntary tips, gratuities or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. Notwithstanding the provisions of this paragraph, no provider shall be subject to the

requirements of this paragraph with respect to payments of outstanding proceeds or fees incurred by a consumer through fraudulent or other unlawful means.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 6, in line 20, by striking all after "(a)"; in line 21, by striking all before the semicolon and inserting "Compel or attempt to compel repayment by a consumer of outstanding proceeds or payments owed by such consumer to the registrant through any of the following means:

- (1) A civil suit against the consumer in a court of competent jurisdiction;
- (2) use of a third party to pursue collection of outstanding proceeds or payments on the provider's behalf;
- (3) use of outbound telephone calls to attempt collection; or
- (4) sale of outstanding amounts to a third-party debt collector or debt purchaser";

Also on page 6, in line 22, after the comma by inserting "a deferral fee,"; in line 23, after "proceeds" by inserting ", fees, voluntary tips, gratuities or other donations"; in line 24, by striking "seek"; by striking all in lines 25 through 38; in line 39, by striking "(f)" and inserting "charge interest or finance charges:

- (d) charge an unreasonable fee to provide expedited delivery of proceeds to a consumer;
- (e) share with an employer a portion of any fees, voluntary tips, gratuities or other donations that were received from or charged to a consumer for earned wage access services;
- (f) condition the amount of proceeds that a consumer is eligible to request or the frequency with which a consumer is eligible to request proceeds on whether such consumer pays fees, voluntary tips, gratuities or other donations or on the size of any fee, voluntary tip, gratuity

or other donation that such consumer may make to such registrant in connection with the provision of earned wage access services;

(g) mislead or deceive consumers about the voluntary nature of tips, gratuities or other donations or make representations that tips, gratuities or other donations will benefit any specific individuals if the registrant solicits, charges or receives tips, gratuities or other donations from a consumer;

(h)";

On page 7, by striking all on lines 1 through 3; in line 5, after the semicolon by inserting "or"; in line 7, by striking the semicolon; also in line 7, by striking "or"; by striking all in lines 8 and 9;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 7, by striking all in lines 14 through 21; following line 21, by inserting:

"Sec. 7. (a) For purposes of the laws of this state:

(1) Earned wage access services provided by a registrant in accordance with this chapter shall not be considered to be:

(A) A loan or other form of credit or the registrant a creditor or lender with respect thereto;

(B) in violation of or noncompliant with the laws of this state governing the sale or assignment of, or an order for, earned but unpaid income; or

(C) money transmission or the registrant a money transmitter with respect thereto.

(2) Fees, voluntary tips, gratuities or other donations paid to such a registrant in accordance with this chapter shall not be considered interest or finance charges.

(b) A registrant that provides proceeds to a consumer in accordance with this act shall not be subject to the provisions of the uniform consumer credit code in connection with such registrant's earned wage access services.

(c) If there is a conflict between the provisions of this act and any other state statute, the provisions of this act control.";

Also on page 7, in line 41, after "partner" by inserting ", member, principal";

On page 8, in line 1, after "officers," by inserting "members,"; in line 16, by striking "If the registrant's records are located outside this state,"; in line 18, by striking "calendar" and inserting "business"; also in line 18, after "days" by inserting "of the commissioner's request"; in line 41, after "act" by inserting "and applicable federal law";

On page 9, in line 42, after "laws" by inserting "with any attorney general or district attorney with jurisdiction to enforce criminal violations of this act";

On page 10, in line 20, after "partner" by inserting ", member, owner, principal"; in line 23, after "check" by inserting "to be submitted to the office of the state bank commissioner"; in line 26, after "The" by inserting "office of the state bank"; in line 29, after the third "the" by inserting "office of the state bank"; in line 32, by striking all after "The"; by striking all in lines 33 through 36; in line 37, by striking all before the period and inserting "Kansas bureau of investigation shall release all records of adult convictions, adjudications, and juvenile adjudications in Kansas and of another state or country to the office of the state bank commissioner"; in line 37, after "The" by inserting "office of the state bank";

On page 11, in line 3, by striking "2028" and inserting "2029"; in line 5, by striking "2028" and inserting "2029"; in line 8, by striking all before "act" and inserting "rules and regulations

filing"; also in line 8, by striking "and"; in line 10, after "act" by inserting "; and

(14) require use of a nationwide multi-state licensing system and registry for processing applications, renewals, amendments, surrenders and any other activity that the commissioner deems appropriate. The commissioner may establish relationships or contracts with the nationwide multi-state licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants and licensees, as may be reasonably necessary to participate in the nationwide multi-state licensing system and registry. The commissioner may report violations of the law, as well as enforcement actions and other relevant information to the nationwide multi-state licensing system and registry. The commissioner may require any applicant or licensee to file reports with the nationwide multi-state licensing system and registry in the form prescribed by the commissioner";

Also on page 11, in line 22, by striking "2028" and inserting "2029"; in line 24, by striking "2028" and inserting "2029"; in line 43, by striking "2028" and inserting "2029";

On page 12, in line 2, by striking "2028" and inserting "2029";

On page 13, in line 10, by striking "officer designated by the commissioner" and inserting "commissioner's designee"; in line 32, after "the" by inserting "act,"; and the bill be passed as amended.

Chairperson