

House Bill 2131

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Commerce and Consumer Protection for Daily Pay)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Says that a person must get a license to provide earned income access services in this state. Says what the person must do to get the license and how a state agency can decide whether to issue the license. Says what the person can and cannot do in providing the services. (Flesch Readability Score: 73.4).

Requires a license to provide earned income access services in this state. Specifies procedures for applying for a license, the contents of an application and criteria under which the Director of the Department of Consumer and Business Services may issue a license. Specifies requirements that a licensee or service provider must meet and prohibitions on certain actions. Imposes a civil penalty of not more than \$2,500 for each violation of a provision of the Act.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to earned income access services; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. As used in sections 1 to 10 of this 2025 Act:

4
5 (1) **"Affiliate" means a person that controls, is controlled by or is under common control**
6 **with another person.**

7 (2) **"Applicant" means a person that applies for a license to engage in the business of**
8 **providing earned income access services in this state.**

9 (3) **"Branch office" means a location at which a licensee provides earned income access**
10 **services other than the licensee's headquarters or principal place of business.**

11 (4) **"Business entity" means a corporation, limited liability company, partnership, limited**
12 **partnership, business trust, joint venture or other form of business organization the con-**
13 **stituent parts of which share a common economic interest.**

14 (5) **"Consumer report" has the meaning given that term in 15 U.S.C. 1681a, as in effect**
15 **on the effective date of this 2025 Act.**

16 (6) **"Consumer reporting agency" has the meaning given that term in 15 U.S.C. 1681a, as**
17 **in effect on the effective date of this 2025 Act.**

18 (7) **"Controller" means:**

19 (a) **A director, officer or general partner of a business entity;**

20 (b) **A managing member of a limited liability company;**

21 (c) **A person that has a direct or indirect right to vote 10 percent or more of the secu-**
22 **rities of a business entity that have voting rights or the power to sell or cause the sale of**
23 **10 percent or more of any class of a business entity's securities;**

24 (d) **A person that has contributed 10 percent or more to a partnership's capital or has**
25 **the right to receive a distribution of 10 percent or more of a partnership's capital or assets**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 upon dissolution; or

2 (e) A person that, under the terms of a contract or because the person has an ownership
3 interest in another person, has the power to manage or set policies for the other person or
4 otherwise direct the other person's operations or affairs.

5 (8) "Earned income access services" means payment to a resident of a sum that is
6 equivalent to all or a portion of unpaid compensation that an employer owes to the resident,
7 or that the resident claims the employer owes to the resident, the amount of which a service
8 provider determines from:

9 (a) Information an employer provides, directly or indirectly, that shows the resident's
10 employment, work hours, pay rate, earnings or other information that shows the compen-
11 sation due from the employer to the resident; or

12 (b) The resident's representations and the service provider's own reasonable estimate of
13 the unpaid compensation the employer owes to the resident.

14 (9)(a) "Employer" means a person that under the terms of a contract or other agreement
15 with a resident, and in exchange for a promise of compensation to the resident, receives
16 from the resident labor, services or the products of labor or services the resident performs
17 for or on behalf of the person, whether as an employee or as an independent contractor.

18 (b) "Employer" does not include:

19 (A) Another person to which the person sells goods or services; or

20 (B) Another person that has an obligation to a resident to make a payment that is not
21 in exchange for the resident's provision of labor, services or the products of labor or services
22 that the resident performs for or on behalf of the other person.

23 (10)(a) "Fee" means an amount that a licensee or service provider charges for the service
24 of providing:

25 (A) A payment or expedited payment of unpaid compensation to a resident; or

26 (B) A subscription or membership under which a licensee or service provider offers ben-
27 efits that include earned income access services.

28 (b) "Fee" does not include a gratuity or donation that a resident pays to a licensee or
29 service provider voluntarily.

30 (11) "Licensee" means a person that has applied for and obtained a license from the Di-
31 rector of the Department of Consumer and Business Services to engage in the business of
32 providing earned income access services in this state.

33 (12) "Manager" means an individual who has supervisory authority over employees and
34 operations at a business entity's branch office or other business location.

35 (13) "Person" means an individual or a business entity.

36 (14) "Resident" means an individual who resides in this state.

37 (15)(a) "Service provider" means a person that provides earned income access services
38 to a resident in exchange for a fee and a right to claim reimbursement for sums the person
39 pays to the resident.

40 (b) "Service provider" does not include:

41 (A) An employer that pays compensation, or offers an advance on compensation the
42 employer owes, directly to a resident; or

43 (B) A person that on behalf of an employer provides payroll services or verifies the
44 amount of compensation the employer owes to a resident, but does not pay the resident with
45 the person's own funds.

1 **(16) “Unpaid compensation” means money that under the terms of a contract or agree-**
 2 **ment an employer owes, but has not yet paid, to a resident in exchange for labor or services**
 3 **the resident performs for or on behalf of the employer or in exchange for the products of**
 4 **labor or services the resident performs for or on behalf of the employer.**

5 **SECTION 2. (1) A person may not directly or indirectly provide earned income access**
 6 **services or otherwise act as a service provider in this state unless the person obtains a li-**
 7 **cence under section 3 of this 2025 Act.**

8 **(2) Subsection (1) of this section does not apply to:**

9 **(a) A financial institution, as defined in ORS 706.008.**

10 **(b) A financial holding company or bank holding company, both as defined in ORS 706.008,**
 11 **if the financial holding company or bank holding company does no more than control an af-**
 12 **iliate or subsidiary, as defined in 12 U.S.C. 1841(d), as in effect on the effective date of this**
 13 **2025 Act, and does not engage in business as a service provider.**

14 **(c) A licensee as defined in ORS 725.010.**

15 **(d) A person that during a 12-month period engages in not more than one transaction**
 16 **that qualifies as providing earned income access services.**

17 **(e) A person that the Director of the Department of Consumer and Business Services**
 18 **designates by rule or order as exempt.**

19 **(3)(a) If the director reasonably believes that a person is subject to sections 1 to 10 of**
 20 **this 2025 Act or is engaging in or is about to engage in an act or practice that constitutes**
 21 **providing earned income access services in this state without first obtaining a license as**
 22 **provided in subsection (1) of this section, the director may:**

23 **(A) Order the person to:**

24 **(i) Cease and desist from the act or practice; or**

25 **(ii) Obtain a license or affirmatively perform another act; or**

26 **(B) Apply to a circuit court of this state to enjoin the person from engaging in the act**
 27 **or practice.**

28 **(b) The director shall state in reasonable detail the facts on which the director bases an**
 29 **order under paragraph (a)(A) of this subsection.**

30 **(c) If a person that is subject to an order under paragraph (a)(A) of this subsection re-**
 31 **quests a hearing, the director shall schedule and give notice of a hearing in accordance with**
 32 **ORS chapter 183. If the person does not request a hearing, the director’s order becomes final**
 33 **30 days after the date of the order.**

34 **SECTION 3. (1)(a) A person that is subject to the requirement to obtain a license under**
 35 **section 2 of this 2025 Act shall submit an application to the Director of the Department of**
 36 **Consumer and Business Services in the manner, on a form and with the contents that the**
 37 **director specifies by rule.**

38 **(b) The director by rule may require an applicant to submit the application described in**
 39 **paragraph (a) of this subsection to the Nationwide Multistate Licensing System instead of,**
 40 **or in addition to, submitting the application to the director.**

41 **(2) An applicant shall submit with or as part of an application under subsection (1) of this**
 42 **section:**

43 **(a) Fingerprints from all of the applicant’s controllers and managers;**

44 **(b) A unique identifier that the applicant applies for and receives from the Nationwide**
 45 **Multistate Licensing System;**

1 (c) The name and address of the applicant's registered agent in this state;

2 (d) The street address of the applicant's principal place of business and of each branch
3 office in this state at or from which the applicant will provide earned income access services;

4 (e) The name of the manager of each branch office the applicant maintains in this state;

5 (f) The assumed business name, if any, that the applicant intends to use or under which
6 the applicant intends to operate; and

7 (g) Other information the director requires to conduct a state and national criminal
8 background history and background check and evaluate the application.

9 (3) At the time an applicant submits an application under subsection (1) of this section,
10 the applicant shall also pay to the director a fee in an amount that the director specifies by
11 rule. The director shall specify a fee that is sufficient, when aggregated with fees from other
12 applicants, to meet the director's cost of administering sections 1 to 10 of this 2025 Act.

13 (4)(a) The director may not issue a license under this section unless the director finds
14 that:

15 (A) The applicant submitted a complete application that does not contain a material
16 misstatement;

17 (B) The applicant is registered as a business entity in this state or has an authorization
18 to transact business in this state, if the applicant is not organized or incorporated in this
19 state;

20 (C) The application identifies a registered agent in this state;

21 (D) The application names a manager for each of the applicant's branch offices in this
22 state;

23 (E) The applicant and the applicant's controllers, registered agents and managers have
24 not pleaded guilty or no contest in, or been convicted by, a state, federal, foreign or military
25 court:

26 (i) In the seven years before the date of the application, if the plea or conviction was for
27 a felony, or for a misdemeanor in which an essential element of the misdemeanor involved
28 a false statement or dishonesty; or

29 (ii) At any time before the date of the application if the plea or conviction was for a fel-
30 ony in which an element of the felony was fraud, dishonesty, a breach of trust or laundering
31 a monetary instrument;

32 (F) The applicant and the applicant's controllers, registered agents and managers have
33 demonstrated adequate financial responsibility, character and general fitness to command
34 the confidence of the community and warrant a determination that the applicant will operate
35 honestly, fairly and efficiently under the provisions of sections 1 to 10 of this 2025 Act;

36 (G) The applicant has paid the fee required under subsection (3) of this section; and

37 (H) The applicant has passed the director's background checks and has satisfied any
38 other criteria for evaluating the applicant's financial responsibility and fitness that the di-
39 rector specifies by rule.

40 (b) An applicant need not report a conviction on an application under this section if the
41 conviction was later pardoned or expunged.

42 (5)(a) The director shall determine whether to approve or deny an application for a li-
43 cense within 90 days after receiving the completed application.

44 (b) If the director disapproves the application, or if the applicant withdraws the applica-
45 tion, the director shall:

1 (A) Notify the applicant of any disapproval within seven business days after making the
 2 determination to disapprove and in the notice explain the director's reasons for the disap-
 3 proval; and

4 (B) Refund the fee the applicant paid under subsection (3) of this section, less the amount
 5 of the director's expenses in receiving and processing the application and investigating the
 6 applicant.

7 (6)(a) The director may deny or revoke a license if a fact or condition exists that, had
 8 the director known of the fact or condition, would have caused the director not to issue a
 9 license, or an applicant, a licensee or a service provider:

10 (A) Does not meet criteria set forth in subsection (4) of this section;

11 (B) Is insolvent, has liabilities that exceed the applicant's, licensee's or service provider's
 12 assets or otherwise cannot meet the applicant's, licensee's or service provider's obligations
 13 as the obligations mature or is in such financial condition that the applicant, licensee or
 14 service provider cannot continue in business with safety to residents of this state;

15 (C) Engages in an act, practice or pattern of conduct prohibited under section 7 of this
 16 2025 Act or otherwise engages in a pattern of conduct that violates state or federal law or
 17 that constitutes fraudulent, deceptive or dishonest dealing;

18 (D) Fails to obtain or maintain a registration with the Secretary of State or an authori-
 19 zation to transact business in this state;

20 (E) Fails to pay the annual fee described in subsection (8)(a)(A) of this section by the date
 21 the director specifies;

22 (F) Has had a license to provide earned income access services revoked in another ju-
 23 risdiction;

24 (G) Fails or refuses to comply with the director's written request under section 8 of this
 25 2025 Act to respond to a complaint against the applicant, licensee or service provider; or

26 (H) Fails or refuses to comply with a final order the director issued.

27 (b) The director shall provide a licensee with notice and an opportunity for a hearing
 28 under ORS chapter 183 not less than 10 days before revoking a license.

29 (c) If a licensee has more than one license from the director under this section, the
 30 director's revocation of a license under this subsection applies only to a license that the di-
 31 rector identifies in the director's order as having grounds for the revocation. A licensee may
 32 continue to provide earned income access services under a license for which grounds do not
 33 exist for a revocation and that the director does not identify in the director's order, except
 34 that the licensee may not without the written permission of the director provide earned in-
 35 come access services under a license that the director has not revoked using assets, per-
 36 sonnel or other resources transferred from a service provider whose license the director has
 37 revoked.

38 (d) The director may reinstate a license that the director revoked under this subsection
 39 if the director is satisfied that the licensee has complied or will comply with sections 1 to
 40 10 of this 2025 Act or an order of the director and the licensee pays \$25 plus the outstanding
 41 balance of any fees owed from the date of the revocation to the date on which the director
 42 reinstates the license.

43 (7) The director may without notice or a hearing suspend a license for a period of not
 44 more than 30 days pending the director's investigation of a licensee's actual, threatened or
 45 suspected violation of sections 1 to 10 of this 2025 Act.

1 (8)(a) A license that the director issues under this section remains valid until the direc-
 2 tor suspends or revokes the license, or until the licensee surrenders the license, subject to:

3 (A) The licensee’s payment of an annual fee in an amount and by the date the director
 4 specifies by rule; and

5 (B) The licensee’s diligent compliance with the licensee’s obligation to notify the director
 6 of events described in section 5 of this 2025 Act.

7 (b) A licensee may surrender a license the director issued under this section by providing
 8 the director with written notice of the surrender.

9 (9)(a) A license the director issued under this section is not transferable or assignable.
 10 A licensee shall display a copy of the license at the licensee’s principal place of business and
 11 at each branch office in this state at or from which the licensee provides earned income
 12 access services. If the licensee operates entirely online, the licensee shall display the license
 13 prominently and conspicuously on the website or application the licensee uses to provide
 14 earned income access services.

15 (b) Except as provided in section 4 (3) of this 2025 Act, a licensee shall provide earned
 16 income access services solely under the name displayed on the license.

17 (10)(a) A license the director issues under this section authorizes the licensee to provide
 18 earned income access services in this state. Actions or transactions the licensee performs
 19 within the scope of the license are not subject to regulation as, and are not violations of
 20 statutes or rules that regulate:

21 (A) Deductions from a resident’s wages, salary or other compensation or unpaid com-
 22 pensation;

23 (B) Assignments, purchases, sales or transfers of a resident’s wages, salary, compen-
 24 sation or unpaid compensation;

25 (C) A loan or extension of credit; or

26 (D) Money transmission, as defined in ORS 717.200.

27 (b) Moneys a licensee receives as a fee, gratuity or donation in exchange for providing
 28 earned income access services in accordance with a license the director issues under this
 29 section are not interest or a finance charge.

30 (11) A licensee that ceases providing earned income access services in this state or oth-
 31 erwise ceases transacting business in this state shall, within 10 days after doing so, surren-
 32 der to the director any license the director issued under this section. A licensee’s surrender
 33 of a license under this paragraph or under subsection (8)(b) of this section does not impair
 34 or affect the rights and obligations of a contract between the licensee and a resident or re-
 35 duce or eliminate any civil or criminal liability that arises from any of the licensee’s acts
 36 or omissions that occurred before the surrender.

37 **SECTION 4.** (1) Except as provided in subsection (2) of this section, a licensee shall des-
 38 ignate and maintain a principal place of business at or from which the licensee provides
 39 earned income access services in this state and shall designate a registered agent in this
 40 state.

41 (2) A licensee may operate online without a principal place of business in this state if the
 42 licensee designates a registered agent in this state and otherwise complies with the pro-
 43 visions of sections 1 to 10 of this 2025 Act. The registered agent must be available to receive
 44 on the licensee’s behalf any notice, demand or service of process permitted by law to be
 45 given, made or delivered to, or served upon, the licensee.

1 (3) A licensee may not use or operate under an assumed business name unless the
2 licensee first registers the assumed business name under ORS chapter 648 and lists the name
3 on an application under section 3 of this 2025 Act or, if appropriate, in a notice to the di-
4 rector under section 5 of this 2025 Act.

5 **SECTION 5.** (1)(a) A licensee shall notify the Director of the Department of Consumer
6 and Business Services in writing at least 30 days before the licensee:

7 (A) Relocates or closes the licensee's principal place of business or a branch office in this
8 state; or

9 (B) Opens a branch office that the licensee did not list in an application under section 3
10 of this 2025 Act.

11 (b) In a notice under paragraph (a) of this subsection, the licensee shall list, as applica-
12 ble:

13 (A) The new address to which the licensee relocates the licensee's principal place of
14 business or any branch office; and

15 (B) The address for any new branch office the licensee opens.

16 (2)(a) A licensee shall notify the director in writing not later than 30 days after:

17 (A) Any appointment, resignation or other change occurs in the licensee's controllers,
18 registered agents or managers; or

19 (B) Any material change occurs in the information that the licensee submitted in an
20 application under section 3 of this 2025 Act.

21 (b) The licensee shall provide in a notice under paragraph (a)(A) of this subsection the
22 name, address and title of any new controller, registered agent or manager the licensee ap-
23 points.

24 (3)(a) A licensee shall notify the director in writing not later than 10 days after:

25 (A) Filing for bankruptcy or reorganization;

26 (B) A controller, registered agent or manager of the licensee becomes subject to an
27 indictment that is related in any manner to the licensee's activities;

28 (C) The licensee receives notice of a final order issued in this or another state that:

29 (i) Demands that the licensee cease and desist from any act;

30 (ii) Suspends or revokes a license or registration; or

31 (iii) Constitutes any other formal or informal regulatory action against the licensee;

32 (D) The licensee registers or changes and uses or operates under an assumed business
33 name;

34 (E) The licensee ceases doing business or ceases providing earned income access services;
35 or

36 (F) Any other change in the licensee's operations or governance occurs in a manner or
37 with an effect that the director determines by rule is significant enough to warrant the
38 licensee notifying the director.

39 (b) A licensee shall specify in a notice under paragraph (a)(C) of this subsection the
40 reasons any final order sets forth for taking a regulatory action against the licensee.

41 (c) A licensee shall identify in a notice under paragraph (a)(E) of this subsection the lo-
42 cation in which the licensee stores records related to providing earned income access ser-
43 vices in this state and shall provide the name and contact information for an individual with
44 authority to provide access to the records.

45 (4) A licensee shall notify the director immediately if the licensee changes registered

1 agents or if the name or address of the licensee’s registered agent in this state changes. In
 2 the notice, the licensee shall update the name and address of the registered agent.

3 **SECTION 6.** (1) The Director of the Department of Consumer and Business Services has
 4 general supervisory authority over:

5 (a) Each licensee in this state;

6 (b) A service provider or any other person that provides earned income access services
 7 in this state, if the person is subject to sections 1 to 10 of this 2025 Act or if the director
 8 required the service provider or person to obtain a license under section 2 (3)(a)(A)(ii) of this
 9 2025 Act; and

10 (c) Any person that had a license that the director withdrew, canceled, suspended, con-
 11 ditioned or revoked, if the person continues to provide earned income access services in this
 12 state.

13 (2)(a) The authority described in subsection (1) of this section includes the authority to:

14 (A) Examine a licensee, a service provider or a person described in subsection (1) of this
 15 section at any time; and

16 (B) Prescribe the form, format and contents of the books, accounts, papers, records,
 17 files, correspondence, contracts and agreements, disclosures, documentation and other in-
 18 formation, material or evidence the licensee, service provider or person keeps for the pur-
 19 pose of compliance with sections 1 to 10 of this 2025 Act.

20 (b) The director may charge and collect from a licensee, service provider or person the
 21 director examines under this section the costs the director incurs in conducting the exam-
 22 ination.

23 (c) A licensee, service provider or person described in subsection (1) of this section shall
 24 keep the books, accounts, papers, records, files, correspondence, contracts and agreements,
 25 disclosures, documentation and other information, material or evidence the licensee, service
 26 provider or person keeps for the purpose of compliance with sections 1 to 10 of this 2025 Act
 27 for at least two years after making a final entry on any transaction related to providing
 28 earned income access services in this state.

29 (3) In order to conduct an examination under this section, the director may:

30 (a) Retain attorneys, accountants or other professionals and specialists as examiners,
 31 auditors or investigators.

32 (b) Compel a licensee, service provider or other person to produce books, accounts, pa-
 33 pers, records, files, correspondence, contracts and agreements, disclosures, documentation
 34 and other information, material or evidence the director requires for an examination.

35 (c) Compel the attendance of witnesses and examine the witnesses under oath.

36 (d) Enter into agreements or relationships with other government officials or regulatory
 37 associations to share resources, to use and create standardized methods, procedures, docu-
 38 ments, databases, records, information or evidence, to reduce the director’s regulatory bur-
 39 den or to improve efficiency.

40 (e) Participate in multistate examinations that authorities in other states conduct. In
 41 participating in an examination under this paragraph, the director shall follow the protocol
 42 that the other authority establishes for the examination.

43 (f) Accept and rely on examination or investigation reports from other government offi-
 44 cials in this or another state.

45 (4) A licensee, service provider or other person shall give the director access to the

1 licensee’s place of business and to any place in which the licensee keeps or maintains the
 2 licensee’s books, accounts, papers, records, files, correspondence, contracts and agreements,
 3 disclosures, documentation and other information, material or evidence the director requires
 4 for an examination. Materials the director obtains in an examination under this section are
 5 confidential and subject to the provisions of ORS 705.137.

6 (5) The director may adopt rules for the purpose of implementing sections 1 to 10 of this
 7 2025 Act.

8 **SECTION 7. (1) A licensee or a service provider shall:**

9 (a) Develop and implement policies and procedures for responding expediently to
 10 questions and complaints from residents.

11 (b) Offer at least one reasonable option for a resident to obtain at no cost to the resident
 12 payment of unpaid compensation from the licensee or service provider, and explain clearly
 13 how to obtain the payment at no cost.

14 (c) Provide the following information and make the following disclosures to a resident
 15 before entering into an agreement with the resident to provide earned income access ser-
 16 vices:

17 (A) All rights the resident has under the agreement;

18 (B) All fees the resident must pay to receive earned income access services; and

19 (C) Whether the earned income access services are provided on a subscription or mem-
 20 bership basis and, if so, the products, services or benefits that the subscription or member-
 21 ship provides.

22 (d) Provide clearly and conspicuously before conducting each transaction involved in
 23 providing earned income access services and in any agreement the licensee or service pro-
 24 vider has with a resident to provide earned income access services the following disclosures,
 25 if the licensee or service provider solicits a gratuity or donation from the resident:

26 (A) Gratuities or donations are voluntary and may be zero; and

27 (B) Earned income access services, including the amount or frequency of a payment of
 28 unpaid compensation the resident may receive, are not contingent on whether the resident
 29 pays a gratuity or donation or the amount of the gratuity or donation the resident pays.

30 (e) Take the following actions if the licensee or service provider seeks or obtains payment
 31 from a resident’s account in a financial institution, by electronic transfer or otherwise, of
 32 any sum, including a fee, gratuity or donation or a repayment or reimbursement of an
 33 amount the licensee or service provider paid to the resident:

34 (A) Comply with applicable provisions of the federal Electronic Fund Transfer Act of 1978,
 35 15 U.S.C. 1693 et seq., and regulations adopted under that Act, both as in effect on the ef-
 36 fective date of this 2025 Act.

37 (B) Reimburse the resident for the full amount of any overdraft fees or charges for in-
 38 sufficient funds that the financial institution imposes on the resident as a result of the
 39 licensee’s or service provider’s attempt to obtain a fee, gratuity, donation, repayment or
 40 reimbursement from the resident if the licensee’s or service provider’s attempt occurred at
 41 a time or on a date that differs from the time or date on which the licensee or service pro-
 42 vider stated the attempt would occur. The licensee or service provider need not reimburse
 43 a resident that fraudulently, or by unlawful means, incurs an overdraft fee or fee for insuf-
 44 ficient funds.

45 (f) Inform residents about material changes the licensee or service provider proposes to

1 make to the earned income access services or the agreement under which the licensee or
2 service provider provides earned income access services before the licensee or service pro-
3 vider makes the changes.

4 (g) Permit a resident to cancel a subscription, a membership or earned income access
5 services at any time without incurring a cancellation fee or charge.

6 (h) Make all payments to the resident in United States currency, by any means upon
7 which the resident and the licensee or service provider agree.

8 (2) A licensee or service provider may not, directly or indirectly:

9 (a) Employ any device, scheme or artifice to defraud another person.

10 (b) Knowingly make an untrue statement of a material fact or omit a material fact that
11 is necessary to make the licensee's or service provider's statement true in light of the cir-
12 cumstances in which the licensee or service provider makes the statement, or misrepresent
13 the amount, nature or terms of any fee or payment due, or claimed to be due, in exchange
14 for providing earned income access services.

15 (c) Obtain property by fraud or misrepresentation.

16 (d) Engage in an act, practice or course of business that operates, or that the licensee
17 or service provider intends to operate, as a fraud or deceit upon another person.

18 (e) Make or file with the Department of Consumer and Business Services, or cause to
19 be made or filed with the department, a statement, report or document that the licensee or
20 service provider knows is false in any material respect or manner.

21 (f) Fail to respond to a complaint from a resident within 30 calendar days or within a
22 reasonable time that the director specifies in a notice under section 8 of this 2025 Act.

23 (g) Share with an employer any fee, gratuity or donation the licensee or service provider
24 received from a resident in exchange for providing earned income access services.

25 (h) Require a resident to provide or authorize the provision of a consumer report or
26 credit score as a condition of obtaining earned income access services.

27 (i) Report to a consumer reporting agency or debt collector any information about a
28 resident's inability to pay a fee, gratuity or donation or repay or reimburse an amount the
29 licensee or service provider paid to the resident.

30 (j) Accept from a resident a payment of a fee, gratuity or donation, or a repayment or
31 reimbursement of an amount the licensee or service provider paid to the resident, by means
32 of a credit card or charge card.

33 (k) Charge or collect a late fee, deferral fee, interest or other penalty or charge for a
34 resident's failure to pay a fee, gratuity or donation or to repay or reimburse an amount the
35 licensee or service provider paid to the resident.

36 (L) Compel or attempt to compel a resident to pay a fee, gratuity or donation or repay
37 or reimburse an amount the licensee or service provider paid to the resident by:

38 (A) Bringing an action against the resident;

39 (B) Employing a debt collector as defined in ORS 646.639, or collection agency, as defined
40 in ORS 697.005; or

41 (C) Selling or assigning a right to collect the amount to another person.

42 (m) Mislead or deceive a resident about the voluntary nature, or the use or recipients,
43 of a gratuity or donation, if the licensee or service provider solicits gratuities or donations
44 in exchange for providing earned income access services.

45 (n) Advertise, print, display, publish, distribute or broadcast in any manner, or cause to

1 be advertised, printed, displayed, published, distributed or broadcast, any statement or rep-
 2 resentation concerning the licensee's or service provider's provision of earned income access
 3 services that is false, misleading or deceptive or that omits material information that is
 4 necessary to make the statement or representation not false, misleading or deceptive.

5 (o) Charge and collect in any transaction involved in providing earned income access
 6 services a fee that exceeds seven dollars.

7 (3) A licensee or service provider may use methods prohibited under subsection (2)(L) of
 8 this section to collect a fee, repayment or reimbursement that a resident incurred by
 9 fraudulent or unlawful means or to obtain payment from an employer that breached an
 10 agreement with the licensee or service provider to provide earned income access services.

11 (4) Subsections (1) and (2) of this section do not apply to:

12 (a) A financial institution, as defined in ORS 706.008.

13 (b) A financial holding company or bank holding company, both as defined in ORS 706.008,
 14 if the financial holding company or bank holding company does no more than control an af-
 15 filiate or subsidiary, as defined in 12 U.S.C. 1841(d), and does not provide earned income ac-
 16 cess services.

17 **SECTION 8.** (1) If the Director of the Department of Consumer and Business Services
 18 receives a complaint concerning a licensee or a service provider, the director:

19 (a) Shall notify the licensee or service provider of the complaint, provide a copy of the
 20 complaint in the notice and require the licensee or service provider to respond to the com-
 21 plaint and to the director within 30 days after the date of the notice;

22 (b) May investigate the complaint and require the licensee or service provider to provide
 23 books, accounts, papers, records, files, correspondence, contracts and agreements, disclo-
 24 sures, documentation and other information, material or evidence necessary for the
 25 director's investigation; and

26 (c) May investigate the licensee or service provider and the licensee's or service
 27 provider's policies and practices with respect to providing earned income access services and
 28 require the licensee or service provider to provide books, accounts, papers, records, files,
 29 correspondence, contracts and agreements, disclosures, documentation and other informa-
 30 tion, material or evidence necessary for the director's investigation.

31 (2)(a) Except as provided in paragraph (b) of this subsection, books, accounts, papers,
 32 records, files, correspondence, contracts and agreements, disclosures, documentation and
 33 other information, material or evidence the director receives or possesses as a consequence
 34 of an investigation under subsection (1) of this section are confidential unless state or federal
 35 law or a court order permits or requires disclosure.

36 (b) The director may share any item listed in paragraph (a) of this subsection with any
 37 state or federal agency.

38 (3) The director may charge and collect from a licensee or service provider the director
 39 investigates under this section the costs the director incurs in conducting the investigation.

40 (4) This section does not apply to:

41 (a) A financial institution, as defined in ORS 706.008.

42 (b) A financial holding company or bank holding company, both as defined in ORS 706.008,
 43 if the financial holding company or bank holding company does no more than control an af-
 44 filiate or subsidiary, as defined in 12 U.S.C. 1841(d), and does not provide earned income ac-
 45 cess services.

1 **SECTION 9.** (1) On or before February 15 of each year, or a date that the Director of the
 2 Department of Consumer and Business Services specifies by rule, a licensee shall report on
 3 a form, in a format and with contents the director specifies at least the following informa-
 4 tion for the preceding calendar year:

5 (a) The gross revenue the licensee earned from providing earned income access services;

6 (b) The total number of transactions with residents the licensee conducted in the course
 7 of providing earned income access services;

8 (c) The total number of unique residents to whom the licensee provided earned income
 9 access services;

10 (d) The total dollar amount of unpaid compensation that the licensee paid to residents;

11 (e) The total dollar amount of all fees, gratuities and donations the licensee received from
 12 residents in exchange for providing earned income access services; and

13 (f) Any other information the director requires.

14 (2) The director may impose a civil penalty of \$10 for each day after the date specified
 15 in subsection (1) of this section during which the licensee failed to provide the report de-
 16 scribed in subsection (1) of this section.

17 **SECTION 10.** (1) If, after conducting an investigation, the Director of the Department
 18 of Consumer and Business Services determines that a licensee or service provider has vio-
 19 lated a provision of sections 1 to 10 of this 2025 Act, violated a rule the director adopted or
 20 an order the director issued under sections 1 to 10 of this 2025 Act or violated another ap-
 21 plicable law, the director may order the licensee or service provider to:

22 (a) Cease and desist from any act that constitutes a violation of sections 1 to 10 of this
 23 2025 Act.

24 (b) Resolve any complaint the director received under section 8 of this 2025 Act and pay
 25 the resident that submitted the complaint any damages to which the resident would be en-
 26 titled under law.

27 (c) Pay a resident any amount the licensee or service provider received from the resident
 28 as compensation while engaging in any action that constituted a violation of a provision of
 29 sections 1 to 10 of this 2025 Act.

30 (d) Remove a controller or manager of the licensee or service provider from the
 31 controller's or manager's position if the investigation finds that the licensee's or service
 32 provider's controller or manager is dishonest, reckless, incompetent or has violated or failed
 33 to comply with, or caused the licensee or service provider to violate or fail to comply with,
 34 a provision of sections 1 to 10 of this 2025 Act, an order the Director of the Department of
 35 Consumer and Business Services issued under sections 1 to 10 of this 2025 Act or other ap-
 36 plicable law.

37 (2) A licensee or service provider is not personally liable for an act or omission the per-
 38 son makes in good faith and in compliance with an order of the director even if the order is
 39 later amended, rescinded or determined to be invalid by a court or other authority.

40 (3)(a) In addition to and not in lieu of any other penalty provided by law, the Director
 41 of the Department of Consumer and Business Services may impose a civil penalty under ORS
 42 183.745 in an amount of not more than \$2,500 for each instance in which a licensee or service
 43 provider violates, aids or abets another person in violating, or procures a violation of, a
 44 provision of sections 1 to 10 of this 2025 Act or an order the director issues under sections
 45 1 to 10 of this 2025 Act.

1 **(b) Each instance described in paragraph (a) of this subsection is a separate violation and**
2 **each day in which a licensee or service provider engages in a continuous violation is a sepa-**
3 **rate violation. The director may not impose for a continuous violation a penalty that exceeds**
4 **\$10,000.**

5 **(4) The director may assess the costs of conducting an administrative proceeding under**
6 **this section against a licensee or service provider that is the subject of the administrative**
7 **proceeding or may include the costs of the administrative proceeding in any civil penalty the**
8 **director imposes under this section.**

9 **(5) A licensee or service provider that is subject to a civil penalty under this section may**
10 **appeal the penalty as provided in ORS chapter 183.**

11 **(6) The director shall deposit any amount the director receives under this section to the**
12 **General Fund of the State Treasury.**

13 **SECTION 11.** (1) Sections 1 to 10 of this 2025 Act become operative on January 1, 2026.

14 **(2) The Director of the Department of Consumer and Business Services may adopt rules**
15 **and take any other action before the operative date specified in subsection (1) of this section**
16 **that is necessary to enable the director, on and after the operative date specified in sub-**
17 **section (1) of this section, to undertake and exercise the duties, functions and powers con-**
18 **ferred on the director by sections 1 to 10 of this 2025 Act.**

19 **(3) A person that was engaged in the business of providing earned income access services**
20 **before the operative date specified in subsection (1) of this section may continue to provide**
21 **earned income access services without a license for a period of 180 days after the operative**
22 **date specified in subsection (1) of this section if the person submitted an application under**
23 **section 3 of this 2025 Act and:**

24 **(a) The application remains pending after the operative date specified in subsection (1)**
25 **of this section; and**

26 **(b) The person otherwise complies with the requirements of sections 1 to 10 of this 2025**
27 **Act.**

28 **SECTION 12.** This 2025 Act takes effect on the 91st day after the date on which the 2025
29 regular session of the Eighty-third Legislative Assembly adjourns sine die.