

1 AN ACT relating to earned income access transactions.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. SUBTITLE 13 OF KRS CHAPTER 286 IS ESTABLISHED,
4 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this subtitle:*

6 *(1) "Consumer" means a natural person who is a resident of this state;*

7 *(2) "Earned but unpaid income" means wages or compensation that has been*
8 *earned by, or has accrued to the benefit of, a consumer for labor or services*
9 *performed for or on behalf of an employer but has not been paid by the employer*
10 *to the consumer;*

11 *(3) "Earned income access provider" means a person that:*

12 *(a) Provides or offers to provide, on behalf of an employer, earned income*
13 *access transactions to consumers earning wages or compensation from the*
14 *employer; or*

15 *(b) Offers earned income access transactions to, or enters into earned income*
16 *transactions with, consumers;*

17 *(4) "Earned income access transaction" or "transaction" means the payment of*
18 *earned but unpaid income to a consumer at a time other than the consumer's*
19 *regular payday or other regularly scheduled time on which an employer pays the*
20 *consumer wages or compensation that has been earned by, or has accrued to the*
21 *benefit of, the consumer;*

22 *(5) "Employer":*

23 *(a) Means a person that is obligated to pay a consumer any sum of money on*
24 *an hourly basis, project-based basis, piecework basis, or other basis for*
25 *labor or services performed by the consumer for or on behalf of the person;*
26 *and*

27 *(b) Does not include:*

- 1 1. A customer of a person referenced in paragraph (a) of this subsection;
 2 or
 3 2. Another third party that has an obligation to make any payment to a
 4 consumer based solely on the consumer's agency relationship with the
 5 person referenced in paragraph (a) of this subsection;

6 (6) "Employer-integrated earned income access transaction" means an earned
 7 income access transaction that is based on employment, income, or attendance
 8 data obtained directly from an:

- 9 (a) Employer; or
 10 (b) Employer's payroll service provider;

11 (7) "Licensee" means a person licensed as an earned income access provider under
 12 Section 2 of this Act; and

13 (8) "Proceeds" means funds received by a consumer pursuant to an earned income
 14 access transaction.

15 ➔SECTION 2. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 16 IS CREATED TO READ AS FOLLOWS:

17 (1) As used in this section, "exempt organization" means any:

18 (a) Bank, bank holding company, trust company, savings and loan association,
 19 savings and loan association holding company, or credit union that is
 20 organized under the laws of this state, another state, or the United States;

21 (b) Instrumentality:

- 22 1. Created by a state or the United States; and
 23 2. That has the power to make mortgage loans;

24 (c) Subsidiary of any entity referenced in paragraph (a) or (b) of this
 25 subsection;

26 (d) Consumer loan company as defined in Section 12 of this Act;

27 (e) Service provider, including a payroll service provider, that:

- 1 1. Verifies available earnings; and
- 2 2. Is not contractually obligated to pay earned but unpaid income as part
- 3 of an earned income access transaction; or
- 4 (f) Employer that offers a portion of wages or compensation directly to its
- 5 employees or independent contractors prior to the regular payday or other
- 6 regularly scheduled time on which the employer pays wages or
- 7 compensation to the employees or independent contractors.
- 8 (2) A person shall not do the following unless the person first obtains an earned
- 9 income access provider license from the commissioner or is an exempt
- 10 organization:
- 11 (a) Provide or offer to provide, on behalf of an employer, earned income access
- 12 transactions to consumers earning wages or compensation from the
- 13 employer; or
- 14 (b) Offer earned income access transactions to, or enter into earned income
- 15 transactions with, consumers.
- 16 (3) An application for an earned income access provider license shall be:
- 17 (a) Made in writing and in the format required by the commissioner; and
- 18 (b) Accompanied by the following:
- 19 1. A license fee of one thousand dollars (\$1,000); and
- 20 2. An investigation fee of two hundred fifty dollars (\$250).
- 21 (4) (a) Upon the filing of a complete application for an earned income access
- 22 provider license, the commissioner shall, after conducting a substantive
- 23 review of the application:
- 24 1. Approve the application and issue the license; or
- 25 2. Subject to subsection (5) of this section, deny the application if the
- 26 commissioner finds that the financial responsibility or experience of
- 27 the applicant, or any person associated with the applicant, is not

1 sufficient to:

2 a. Command the confidence of the community; or

3 b. Reasonably demonstrate that the applicant or person associated
4 with the applicant will operate honestly, lawfully, fairly, and
5 efficiently in accordance with the purposes of this subtitle.

6 (b) As used in this subsection, "applicant" includes:

7 1. If the applicant is a partnership, limited liability company, or
8 association, the members of the applicant; and

9 2. If the applicant is a corporation, the officers and directors of the
10 applicant.

11 (5) (a) The commissioner shall provide written notice to an applicant prior to
12 denying an application for an earned income access provider license.

13 (b) An applicant that receives a notice of the commissioner's intent to deny an
14 application may file a written petition for an administrative hearing in
15 accordance with KRS Chapter 13B within thirty (30) days of the date of the
16 notice.

17 (c) If an applicant fails to timely request a hearing under paragraph (b) of this
18 subsection, the commissioner may enter a default order denying the
19 application.

20 (6) If the commissioner denies an application for an earned income access provider
21 license, the commissioner shall:

22 (a) Return to the applicant the sum paid as a license fee; and

23 (b) Retain the investigation fee to cover the costs of investigating the applicant.

24 (7) An earned income access provider license shall:

25 (a) State:

26 1. The name and address of the licensee;

27 2. If the licensee is a partnership, limited liability company, or

1 association, the name of each member of the partnership, limited
 2 liability company, or association; and

3 3. If the licensee is a corporation, the date and place of its incorporation;

4 (b) Be conspicuously posted:

5 1. In the office of the licensee; and

6 2. On the mobile application or website of the licensee;

7 (c) Be valid unless it is:

8 1. Revoked or suspended by the commissioner;

9 2. Surrendered by the licensee; or

10 3. Expired; and

11 (d) Not be transferred or assigned.

12 (8) (a) On or before December 31, each licensee shall pay to the commissioner an
 13 annual license fee of one thousand dollars (\$1,000) for the following
 14 calendar year.

15 (b) Failure of a licensee to pay the annual license fee required under
 16 paragraph (a) of this subsection shall result in the expiration of the
 17 licensee's license on January 1 of the following year.

18 (c) The commissioner may reinstate an expired license if, within thirty-one (31)
 19 days of expiration, the licensee:

20 1. Satisfies all requirements of this subtitle; and

21 2. Pays a late fee of one hundred dollars (\$100).

22 (d) Any reinstatement of a license under paragraph (c) of this subsection shall
 23 be retroactive to January 1 of the calendar year in which it expired.

24 (9) The commissioner shall promulgate an administrative regulation in accordance
 25 with KRS Chapter 13A to establish the format for the application required under
 26 subsection (3) of this section.

27 ➔SECTION 3. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

1 IS CREATED TO READ AS FOLLOWS:

2 (1) As used in this section:

3 (a) "Control":

4 1. Means possession, directly or indirectly, of the power to direct or cause
5 the direction of the management and policies of a licensee, whether
6 through the ownership of the licensee's voting stock, the ownership of
7 voting stock of any person that possesses such power over the licensee,
8 or otherwise;

9 2. Shall be presumed to exist if any person, directly or indirectly, owns,
10 controls, or holds with power to vote, ten percent (10%) or more of the
11 following:

12 a. The voting stock of a licensee; or

13 b. The voting stock of a person that owns, controls, or holds with
14 power to vote, ten percent (10%) or more of a licensee's voting
15 stock; and

16 3. Shall not be presumed to exist solely because a person is an officer or
17 director of a licensee or person referenced in this paragraph; and

18 (b) "Legal representative" means a person duly appointed by a court of
19 competent jurisdiction to act as executor, administrator, trustee, committee,
20 conservator, or receiver, including a person who, in accordance with the
21 provisions of the court appointment:

22 1. Succeeds a legal representative; or

23 2. Acts in an ancillary capacity to a legal representative.

24 (2) (a) Except as provided in subsection (4) of this section, a person shall not take
25 any action that results in a change of control without prior written approval
26 of the commissioner.

27 (b) A person seeking to acquire control shall:

- 1 1. Make a written application to the commissioner for approval of the
2 change of control; and
- 3 2. Pay an investigation fee.
- 4 (c) The commissioner shall promulgate an administrative regulation in
5 accordance with KRS Chapter 13A to prescribe:
- 6 1. The format for, and any information to be included in, the application
7 required under paragraph (b) of this subsection that the commissioner
8 deems necessary and appropriate for the purpose of making a
9 determination under paragraph (d) of this subsection; and
- 10 2. The amount of the investigation fee required under paragraph (b)2. of
11 this subsection.
- 12 (d) Upon receipt of a complete application for approval of a change of control,
13 the commissioner shall approve or disapprove the application.
- 14 (3) (a) The commissioner may determine whether the ownership, control, or
15 holding of voting stock constitutes, or would constitute, control for purposes
16 of this section.
- 17 (b) The following may make a request to the commissioner for a determination
18 under paragraph (a) of this subsection:
- 19 1. A licensee;
- 20 2. Any person that, directly or indirectly, owns, controls, or holds the
21 power to vote, any voting stock of a licensee; or
- 22 3. Any person that seeks to own, control, or hold power to vote, any
23 voting stock of a licensee.
- 24 (4) For a change of control by operation of law to a legal representative, the legal
25 representative shall, within six (6) months from the date of the legal
26 representative's qualification or within any additional period of time as the
27 commissioner may approve in writing, make an application to the commissioner

1 under subsection (2)(b) of this section for approval of the change of control.

2 ➔SECTION 4. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
3 IS CREATED TO READ AS FOLLOWS:

4 (1) A licensee shall:

5 (a) Use in its business such books, accounts, and records as will enable the
6 commissioner to determine whether the licensee is complying with:

7 1. This subtitle; and

8 2. Any administrative regulations promulgated under this subtitle; and

9 (b) Keep the books, accounts, and records referenced in paragraph (a) of this
10 subsection for a minimum of six (6) years after making the final entry with
11 respect to any earned income access transaction recorded therein.

12 (2) Photographic reproductions or records in photographic form of the books,
13 accounts, and records referenced in subsection (1) of this section shall constitute
14 compliance with subsection (1)(b) of this section.

15 ➔SECTION 5. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
16 IS CREATED TO READ AS FOLLOWS:

17 (1) Each licensee shall annually file a report with the commissioner providing any
18 information as the commissioner may require concerning the licensee's earned
19 income access transaction business operations, and the operations of any
20 business with which the licensee's earned income access transaction business is
21 operationally or financially consolidated, for the preceding calendar year.

22 (2) The commissioner may require additional regular or special reports from a
23 licensee as the commissioner deems necessary for the proper supervision of
24 licensees under this subtitle.

25 (3) Any report submitted under subsection (1) or (2) of this section shall be in a form
26 prescribed by the commissioner.

27 (4) The commissioner shall promulgate an administrative regulation in accordance

1 with KRS Chapter 13A to prescribe the form and requirements for any report
 2 required to be submitted under subsection (1) of this section, which shall, at a
 3 minimum, include:

4 (a) The date by which the report shall be submitted to the commissioner; and

5 (b) The information to be included in the report.

6 ➔SECTION 6. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 7 IS CREATED TO READ AS FOLLOWS:

8 (1) (a) The commissioner may make any investigation that he or she deems
 9 necessary to determine whether any:

10 1. Person has violated this subtitle; or

11 2. Licensee has conducted itself in such a manner as would justify the
 12 revocation of its license.

13 (b) To the extent necessary to make an investigation under paragraph (a) of
 14 this subsection, the commissioner may:

15 1. Compel the attendance of any person or obtain any books, accounts,
 16 or records by subpoenas;

17 2. Administer oaths and affirmations; and

18 3. Examine under oath or affirmation all persons whose testimony he or
 19 she may require.

20 (2) (a) The commissioner may make any examination of the books, accounts, and
 21 records of any licensee's earned income access transaction business, and
 22 any business with which any licensee's earned income access transaction
 23 business is operationally or financially consolidated, as the commissioner
 24 deems necessary to determine whether the licensee has violated this subtitle.

25 (b) 1. Subject to subparagraph 2. of this paragraph, the expenses incurred in
 26 making an examination under paragraph (a) of this subsection shall
 27 be assessed against and paid by the examined licensee.

1 2. Any traveling and subsistence expenses incurred in making an
 2 examination under paragraph (a) of this subsection shall be included
 3 in the expenses assessed under subparagraph 1. of this paragraph in
 4 the proportion the commissioner deems just and reasonable.

5 (c) Upon written notice of the amount assessed under paragraph (b) of this
 6 subsection, the licensee shall become liable for and pay the assessment to
 7 the department.

8 (3) (a) Except as provided in paragraph (b) of this subsection, all reports of, and all
 9 correspondence and memoranda concerning or arising out of, any
 10 examination or investigation made under this section, including any duly
 11 authenticated copy or copies thereof in the possession of any licensee or the
 12 department, shall:

13 1. Be confidential; and

14 2. Not:

15 a. Be subject to subpoena;

16 b. Be subject to disclosure under KRS 61.870 to 61.884; and

17 c. Otherwise be made public.

18 (b) If in the judgment of the commissioner the ends of justice and public
 19 advantage will be subserved by the publication of any report,
 20 correspondence, or memoranda referenced in paragraph (a) of this
 21 subsection, the commissioner may publish, or authorize the publication of
 22 the report, correspondence, or memoranda, or any part thereof in a manner
 23 the commissioner deems proper.

24 ➔SECTION 7. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 25 IS CREATED TO READ AS FOLLOWS:

26 (1) As used in this section:

27 (a) "Debt collection activity" means the business of:

- 1 1. Collection of any debts, directly or indirectly, owed or due or asserted
2 to be owed or due to another;
- 3 2. A buyer of debts who seeks to collect the debts, directly or indirectly;
4 or
- 5 3. Any creditor collecting its own debts if the creditor uses any name
6 other than its own that would suggest or indicate that a person other
7 than the creditor is collecting or attempting to collect the debt;
- 8 (b) "Employer-integrated earned income access provider" means an earned
9 income access provider engaged in the business of offering or providing
10 employer-integrated earned income access transactions;
- 11 (c) "Fee" means any mandatory amount that is charged or received for an
12 earned income access transaction, including any charge for obtaining
13 proceeds within the timeframe established in subsection (2)(a)6.b. of this
14 section;
- 15 (d) "Nonrecourse" means the unavailability of any legal cause of action or
16 remedy against a consumer relating to an earned income access
17 transaction; and
- 18 (e) "Notice" means communication from a licensee to a consumer in a clear
19 and conspicuous manner.
- 20 (2) A licensee:
- 21 (a) Shall:
- 22 1. Offer to each consumer, and clearly explain how to elect, at least one
23 (1) reasonable option to obtain proceeds at no cost to the consumer;
- 24 2. Prior to entering into an earned income access transaction, provide
25 notice to the consumer of the costs of the transaction, including all
26 fees associated with the transaction;
- 27 3. Provide the consumer with written notice of, and obtain the

- 1 consumer's consent to, any amendment to the contract or terms of
2 service for an earned income access transaction before proceeding
3 with the transaction to which the amendments would apply;
- 4 4. Ensure that each earned income access transaction entered into by the
5 licensee:
- 6 a. Is nonrecourse; and
7 b. Does not result in the proceeds of the transaction rolling over or
8 otherwise being structured in a way that creates any continuing
9 obligation of the consumer to the licensee;
- 10 5. If the licensee takes custody of a consumer's earned but unpaid
11 income before paying proceeds to the consumer, ensure that the
12 proceeds are fully insured by the Federal Deposit Insurance
13 Corporation at the consumer's individual account level;
- 14 6. Ensure that a consumer receives proceeds not later than the earlier of
15 the following:
- 16 a. Three (3) business days after the consumer's request for
17 processing that is not subject to a fee;
- 18 b. One (1) business day after the consumer's request for processing
19 that is subject to a fee; or
- 20 c. One (1) business day prior to the next regularly scheduled date
21 on which the employer is scheduled to pay earned but unpaid
22 income to the consumer;
- 23 7. If the licensee offers consumers the opportunity to tip, make a
24 donation, or otherwise pay an additional amount for an earned
25 income access transaction voluntarily:
- 26 a. Provide written notice to the consumer that paying any
27 additional amount is not required in order for the consumer to

- 1 receive proceeds; and
- 2 b. Offer zero dollars (\$0) among any amounts suggested to the
- 3 consumer, including when the licensee:
- 4 i. Offers amount options from which the consumer may
- 5 select;
- 6 ii. Prefills the additional amount in any form used in the
- 7 transaction process; and
- 8 iii. Uses any other transaction process designed to require the
- 9 consumer to take an affirmative action to avoid or opt-out
- 10 of paying the additional amount;
- 11 8. Comply with:
- 12 a. The National Automated Clearing House Association rules; and
- 13 b. All applicable local, state, and federal privacy and information
- 14 security laws and administrative regulations;
- 15 9. If repayment is to be made through a debit of the consumer's account,
- 16 including any subsequent initiation of a debit after an initial debit is
- 17 returned for insufficient or uncollected funds, ensure that the debit
- 18 complies with the requirements established under subsection (5)(a) of
- 19 this section; and
- 20 10. Not less than annually, provide a written notice to each consumer to
- 21 whom the licensee has paid proceeds in the previous year that contains
- 22 at a minimum:
- 23 a. An itemization of the consumer's transactions and costs,
- 24 including the total amount the consumer has paid in:
- 25 i. Fees; and
- 26 ii. Tips, donations, and other additional amounts paid
- 27 voluntarily;

- 1 b. An explanation of the costs of the services provided;
2 c. Information on how to report complaints to the:
3 i. Licensee; and
4 ii. Commissioner;
5 d. Definitions of terms used in the notice; and
6 e. Other information prescribed by the commissioner; and

7 (b) Except as provided in subsection (3) of this section, shall not:

- 8 1. Pull a credit report or otherwise assess the credit risk of a consumer
9 prior to, during, or after entering into an earned income access
10 transaction with the consumer, except the licensee may verify the
11 consumer's source of income as part of determining the amount of the
12 proceeds;
13 2. Report on any earned income access transaction to a consumer
14 reporting agency prior to, during, or after entering into the
15 transaction;
16 3. Require a consumer to waive the right to class action relief as a
17 condition of an earned income access transaction;
18 4. Enter into an earned income access transaction unless:
19 a. The consumer is eighteen (18) years of age or older; and
20 b. The total proceeds received by the consumer from all
21 outstanding transactions does not exceed five hundred dollars
22 (\$500);
23 5. Charge or receive a fee for an earned income access transaction that
24 exceeds five dollars (\$5) per one hundred dollars (\$100) of the
25 proceeds;
26 6. Charge for a subscription or membership service unless the charge is:
27 a. Optional; and

- 1 *b. For a bona fide group of services that include earned income*
2 *access transactions;*
- 3 *7. Use any earned but unpaid income, or any portion thereof, to be paid*
4 *as part of an earned income access transaction before receipt by the*
5 *consumer to settle or pay down an obligation arising from a prior*
6 *transaction;*
- 7 *8. Impose a late fee or prepayment penalty on an earned income access*
8 *transaction;*
- 9 *9. Engage in, or retain the services of another to engage in, debt*
10 *collection activity in connection with an earned income access*
11 *transaction;*
- 12 *10. Convey debt created by an earned income access transaction; or*
- 13 *11. Directly or indirectly make, orally, in writing, or by any other method,*
14 *practice, or device, a representation that the licensee is licensed under*
15 *the banking laws other than a representation that the licensee is*
16 *licensed as an earned income access provider under this subtitle.*
- 17 *(3) An employer-integrated earned income access provider shall not:*
- 18 *(a) Enter into an employer-integrated earned income access transaction unless*
19 *the total proceeds received by the consumer for the transaction does not*
20 *exceed the consumer's earned but unpaid income less any taxes and*
21 *deductions to the consumer; or*
- 22 *(b) Be subject to subsection (2)(b)4.b. or 5. of this section for an employer-*
23 *integrated earned income access transaction.*
- 24 *(4) Tips, donations, and other amounts paid voluntarily for an earned income access*
25 *transaction made in accordance with this section shall not be subject to usury*
26 *laws.*
- 27 *(5) The commissioner shall promulgate an administrative regulation in accordance*

1 with KRS Chapter 13A to establish the following for earned income access
 2 transactions entered into by licensees:

3 (a) Requirements for the repayment of earned income access transactions
 4 through a debit of a consumer's account; and

5 (b) Information to be included in the notice required under subsection (2)(a)10.
 6 of this section.

7 ➔SECTION 8. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 8 IS CREATED TO READ AS FOLLOWS:

9 (1) The commissioner shall:

10 (a) Implement a common database with real-time access through an internet or
 11 application programming interface connection for use by the department
 12 and licensees in accordance with this section; and

13 (b) Either:

14 1. Operate the database; or

15 2. Contract with a third-party provider to operate the database.

16 (2) If the commissioner contracts with a third-party provider to operate the database,
 17 all of the following apply:

18 (a) The commissioner shall:

19 1. Ensure that the third-party provider selected as the database provider
 20 operates the database in accordance with this subtitle; and

21 2. Consider ability to meet all the requirements of this subtitle in
 22 selecting a third-party provider as the database provider;

23 (b) The third-party provider shall use the data collected under this subtitle only
 24 as prescribed in this subtitle and the contract with the department and for
 25 no other purpose;

26 (c) If the third-party provider violates this subtitle:

27 1. The commissioner may terminate the third-party provider's contract;

- 1 and
- 2 2. The third-party provider may be barred from becoming a party to any
- 3 other state contracts; and
- 4 (d) A person injured by the third-party provider's violation of this subtitle may:
- 5 1. Maintain a civil cause of action against the third-party provider; and
- 6 2. Recover actual damages plus reasonable attorney's fees and court
- 7 costs in the civil action.
- 8 (3) The database shall be accessible to:
- 9 (a) Licensees to:
- 10 1. Verify whether entering into an earned income access transaction with
- 11 a particular consumer would be in violation of subsection (2)(b)4.b. of
- 12 Section 7 of this Act; and
- 13 2. Submit data under subsection (4) of this section; and
- 14 (b) The commissioner to administer and enforce this subtitle.
- 15 (4) Before entering into an earned income access transaction, a licensee shall submit
- 16 the following data into the database in a format prescribed by the commissioner:
- 17 (a) The consumer's:
- 18 1. Name;
- 19 2. Social Security number, alien registration number as shown on an
- 20 employment authorization document, or a unique identifier
- 21 established by the commissioner;
- 22 3. Address; and
- 23 4. Driver's license number;
- 24 (b) The amount of the transaction;
- 25 (c) The date of the transaction;
- 26 (d) The date that the transaction is closed; and
- 27 (e) Any additional information required by the commissioner.

1 (5) (a) Except as provided in paragraph (b) of this subsection, the commissioner
2 shall impose a fee not to exceed three dollars (\$3) per transaction for data
3 required to be submitted for an earned income access transaction, which
4 may be charged to the consumer.

5 (b) The fee referenced in paragraph (a) of this subsection shall not:

6 1. Be charged to a consumer for a no-cost earned income access
7 transaction; or

8 2. Apply to an employer-integrated earned income access transaction.

9 (6) A licensee:

10 (a) May rely on information contained in the database as accurate; and

11 (b) Shall not be subject to any administrative penalty or civil liability due to
12 reliance on inaccurate information contained in the database.

13 (7) The commissioner shall use the database to administer and enforce this subtitle.

14 (8) If the commissioner contracts with a third-party to operate the database, the
15 commissioner shall require the database provider to file a report containing the
16 following information by April 1 of each year:

17 (a) The total number and dollar amount of earned income access transactions:

18 1. Entered into in the calendar year ending December 31 of the previous
19 year; and

20 2. Outstanding as of December 31 of the previous year;

21 (b) The total dollar amount of the following collected for earned income access
22 transactions as of December 31 of the previous year:

23 1. Fees, as defined in Section 7 of this Act;

24 2. Tips, donations, and other amounts paid voluntarily;

25 (c) As of December 31 of the previous year, the following per consumer:

26 1. The average earned income access transaction amount;

27 2. The average number of transactions; and

1 3. The average aggregate earned income access transaction amount
 2 entered into;

3 (d) The average number of days a consumer was engaged in an earned income
 4 access transaction for the previous year;

5 (e) An estimate of the average total amount of the following paid per consumer
 6 for earned income access transactions for the previous year:

7 1. Fees, as defined in Section 7 of this Act; and

8 2. Tips, donations, and other amounts paid voluntarily;

9 (f) The total number of unique consumers that entered into an earned income
 10 access transaction for the previous year;

11 (g) For the previous year, the total number of earned income access
 12 transactions in which the proceeds were issued:

13 1. Directly to the consumer; and

14 2. Through an integrated employer; and

15 (h) Any other information required by the commissioner.

16 (9) The commissioner may promulgate an administrative regulation in accordance
 17 with KRS Chapter 13A to administer this section and ensure that the database is
 18 used by licensees in accordance with this section.

19 ➔SECTION 9. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 20 IS CREATED TO READ AS FOLLOWS:

21 (1) Subject to subsection (2) of this section, a license issued under Section 2 of this
 22 Act shall not be renewed, and shall be revoked or suspended, by the commissioner
 23 upon a finding that:

24 (a) The licensee has:

25 1. Not complied with any applicable reporting requirements;

26 2. Violated:

27 a. This subtitle; or

1 b. Any administrative regulation promulgated under this subtitle;

2 or

3 3. Been convicted under any federal law or administrative regulation
4 governing crimes involving moral turpitude;

5 (b) Any fact or condition exists that clearly would have warranted the
6 commissioner denying the license if that fact or condition had existed at the
7 time of the original application for the license; or

8 (c) The licensee has failed to:

9 1. Pay any sum of money lawfully demanded by the department; or

10 2. Comply with any demand, ruling, or requirement of the commissioner
11 or department.

12 (2) (a) Except as provided in paragraph (b) of this subsection:

13 1. The commissioner shall provide written notice to the licensee prior to
14 suspending or revoking a license issued under Section 2 of this Act;

15 2. A licensee that receives a notice of the commissioner's intent to
16 suspend or revoke a license may file a written petition for an
17 administrative hearing in accordance with KRS Chapter 13B within
18 thirty (30) days of the date of the notice; and

19 3. If a licensee fails to timely request a hearing under subparagraph 2. of
20 this paragraph, the commissioner may enter a default order of
21 revocation or suspension.

22 (b) 1. The commissioner may, on good cause shown or where there is a
23 substantial risk of public harm, suspend any license issued under
24 Section 2 of this Act for not more than thirty (30) days pending
25 investigation without notice and hearing.

26 2. For purposes of subparagraph 1. of this paragraph, good cause shown
27 shall only exist when the licensee:

1 a. Has engaged in, or is likely to engage in, a practice prohibited by
 2 this subtitle; or

3 b. Engages in dishonest or inequitable practices which may cause
 4 substantial harm to the persons afforded protection under this
 5 subtitle.

6 (c) The commissioner may reinstate a suspended license, or issue a new license
 7 to a person whose license was revoked, if no fact or condition exists at the
 8 time of the application or reinstatement which clearly warrants the
 9 commissioner's denial of the license.

10 (3) (a) 1. A license issued under Section 2 of this Act may be surrendered by the
 11 licensee by delivering written notice of the surrender to the
 12 department.

13 2. For purposes of this paragraph, "written notice" includes electronic
 14 notice.

15 (b) The surrender of a license shall not affect the licensee's civil or criminal
 16 liability for acts committed prior to the surrender.

17 ➔SECTION 10. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 18 IS CREATED TO READ AS FOLLOWS:

19 The commissioner may promulgate administrative regulations in accordance with KRS
 20 Chapter 13A, conduct hearings, and make specific rulings, orders, demands, and
 21 findings as may be necessary for:

22 (1) Proper conduct of business authorized under this subtitle; and

23 (2) The enforcement of this subtitle.

24 ➔SECTION 11. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 25 IS CREATED TO READ AS FOLLOWS:

26 (1) (a) The commissioner may levy a civil penalty against any person that:

27 1. Violates or participates in the violation of any:

- 1 a. Provision of this subtitle;
- 2 b. Administrative regulation promulgated under this subtitle; or
- 3 c. Order of the commissioner issued under this subtitle;
- 4 2. Knowingly makes any incorrect statement of material fact in any
- 5 application, report, or statement filed under this subtitle;
- 6 3. Knowingly omits any material fact necessary to provide the
- 7 commissioner any information lawfully required by him or her under
- 8 this subtitle; or
- 9 4. Refuses to permit any investigation or examination authorized under
- 10 this subtitle.

11 (b) The civil penalty levied under paragraph (a) of this subsection shall not be
 12 less than one thousand dollars (\$1,000) nor more than five thousand dollars
 13 (\$5,000) per violation for each day the violation is outstanding, plus the
 14 state's costs and expenses for examination, investigation, and prosecution of
 15 the matter, including reasonable attorney's fees and court costs.

16 (2) Any earned income access transaction made in violation of subsection (2) of
 17 Section 2 of this Act shall be void and the earned income access provider shall
 18 not have a right to collect any principal, fee, or recompense whatsoever.

19 (3) Any civil penalties imposed under this section shall be in addition to any other
 20 remedy or penalty authorized under this subtitle.

21 ➔Section 12. KRS 286.4-410 is amended to read as follows:

- 22 (1) As used in this subtitle, unless the context requires otherwise:
- 23 (a) "Applicant" means a person filing an application under this subtitle;
- 24 (b) "Consumer loan company" means a person licensed under this subtitle to
- 25 engage in the business of making loans to a consumer for personal, family, or
- 26 household use in the amount or value of fifteen thousand dollars (\$15,000) or
- 27 less;

- 1 (c) "Control" means the power to direct the management or policies of a licensee
2 or applicant, whether through ownership of securities, by contract, or
3 otherwise;
- 4 (d) "Executive officer" means a natural person holding the title or responsibility
5 of president, vice president, chief executive officer, chief financial officer,
6 chief operational officer, or chief compliance officer;
- 7 (e) "Licensee" means a person licensed under this subtitle;
- 8 (f) "Managing principal" means a natural person who meets the requirements of
9 KRS 286.4-450 and actively participates in and is primarily responsible for
10 the operations of a licensee;
- 11 (g) "Material fact" means a fact that a reasonable person knows, or should know,
12 that could reasonably be expected to influence any decision or action taken by
13 the commissioner under this subtitle;
- 14 (h) "Nationwide consumer reporting agency" means a consumer reporting agency
15 that compiles and maintains files on consumers on a nationwide basis as
16 defined by Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. sec.
17 1681a(p); and
- 18 (i) "Person in control of a licensee or applicant" means, with respect to an
19 applicant or licensee, any of the following:
- 20 1. A director, general partner, or executive officer;
 - 21 2. In the case of a limited liability company, a managing member or
22 manager;
 - 23 3. Any person who directly or indirectly has the right to vote twenty-five
24 percent (25%) or more of a class of voting securities;
 - 25 4. Any person who has the power to sell or direct the sale of twenty-five
26 percent (25%) or more of a class of voting securities;
 - 27 5. In the case of a partnership or limited liability company, any person that

1 has the right to receive twenty-five percent (25%) or more of the capital
2 upon dissolution; or

3 6. Any person that exercises control.

4 (2) This subtitle shall not apply to:

5 (a) Any person doing business under and as permitted by any law of this state or
6 of the United States relating to banks, savings banks, trust companies, savings
7 and loan associations, agricultural cooperative associations, credit unions, or
8 licensed pawnbrokers; ~~[- This subtitle does not apply to -]~~

9 (b) The purchase or acquisition, directly or indirectly, of notes, chattel mortgages,
10 installment or conditional sales contracts, embodying liens or evidencing title
11 retention arising from the bona fide sale of goods or services by a seller of the
12 goods or services; or

13 (c) *Any person doing business under and as permitted by Subtitle 13 of this*
14 *chapter.*

15 ➔Section 13. KRS 371.150 is amended to read as follows:

16 KRS 371.110 to 371.150 do not apply to any:

17 (1) National or state bank; ~~[- or to any -]~~

18 (2) Credit union; ~~[- or -]~~

19 (3) Trust company; or

20 (4) *Person doing business under and as permitted by Subtitle 13 of KRS Chapter 286.*

21 ➔Section 14. Sections 1 to 11 of this Act may be cited as the Kentucky Earned
22 Wage Access Act.

23 ➔Section 15. If any provision of this Act or the application thereof to any person
24 or circumstance is held invalid, the invalidity thereof shall not affect other provisions or
25 applications of the Act which can be given effect without the invalid provision or
26 application, and to this end the provisions and applications of this Act are severable.

27 ➔Section 16. This Act applies to earned income access transactions offered or

1 provided on or after January 1, 2026.