

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7428
OFFERED BY MR. STEIL OF WISCONSIN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Earned Wage Access
3 Consumer Protection Act”.

4 SEC. 2. EARNED WAGE ACCESS SERVICES.

5 (a) PROVISION OF EARNED WAGE ACCESS SERV-
6 ICES.—

7 (1) NO-COST OPTION REQUIRED.—If an earned
8 wage access provider offers a consumer the option to
9 receive earned wages in exchange for a fee, such
10 earned wage access provider shall also offer such
11 consumer the option to obtain the same amount of
12 earned wages at no cost to the consumer.

13 (2) REQUIRED DISCLOSURES.—

14 (A) DISCLOSURES PRECEDING AGREE-
15 MENT.—Each earned wage access provider shall
16 disclose the following before entering into an
17 agreement with a consumer:

1 (i) Any limits on the amount of
2 earned wages a customer may request from
3 such provider, including—

4 (I) any limits on the amount of
5 earned wages a consumer may request
6 from the provider each day;

7 (II) any limits on the amount of
8 earned wages a consumer may request
9 from the provider each pay period;

10 (III) any limits on the amount of
11 earned wages a consumer may request
12 from the provider that are based on a
13 determination by the provider of the
14 ratio between the amount of earned
15 wages requested by the consumer and
16 the total wages earned by the con-
17 sumer, and how such determination is
18 made.

19 (ii) Any fees that such provider may
20 apply, and the amount of such fees, includ-
21 ing fees relating to expedited disbursement
22 and subscriptions.

23 (iii) A description of how the con-
24 sumer may obtain earned wages without
25 paying a fee.

1 (iv) An overview of such provider's
2 use of voluntary payments that describes—

3 (I) whether such provider will ac-
4 cept voluntary payments from the
5 consumer and in what amounts; and

6 (II) whether such provider will
7 suggest the consumer provide vol-
8 untary payments and in what
9 amounts.

10 (B) DISCLOSURES PRECEDING APPROVAL
11 OF REQUEST.—Each earned wage access pro-
12 vider shall disclose the following after approving
13 any request from a consumer for access to
14 earned wages but before disbursing such earned
15 wages to such consumer:

16 (i) The account number such provider
17 has assigned to the consumer, if applicable.

18 (ii) The amount of earned wages that
19 will be provided to the consumer by such
20 provider.

21 (iii) The total amount of any fees ap-
22 plied by such provider.

23 (iv) A list of any voluntary payments
24 the consumer has agreed to provide.

1 (v) The amount that such provider in-
2 tends to collect as repayment after dis-
3 bursing the earned wages, the date on
4 which such provider intends to collect such
5 amount or a description of when such pro-
6 vider intends to collect such amount, and
7 the manner in which such provider intends
8 to collect such amount.

9 (C) ADDITIONAL DISCLOSURES RELATING
10 TO VOLUNTARY PAYMENTS.—If an earned wage
11 access provider solicits, charges, or receives a
12 voluntary payment from a consumer, such pro-
13 vider—

14 (i) shall clearly and conspicuously dis-
15 close to the consumer, before the provider
16 commences the transaction to which the
17 voluntary payment is related, that such
18 voluntary payment—

19 (I) is voluntary;

20 (II) is not a requirement for re-
21 ceiving earned wage access services;
22 and

23 (III) will not impact the fre-
24 quency with which such earned wages
25 are disbursed to such consumer; and

1 (ii) may not state that such voluntary
2 payment will benefit any specific indi-
3 vidual.

4 (D) CHANGES TO TERMS.—Each earned
5 wage access provider shall notify each consumer
6 with which such earned wage access provider
7 has entered an agreement to offer earned wage
8 access services of any material changes to the
9 terms and conditions of service used by such
10 provider not less than 30 days before such ma-
11 terial changes take effect.

12 (E) REGULATIONS.—The Bureau shall,
13 not less than 180 days after the date of the en-
14 actment of this section, issue rules that govern
15 the form and manner in which the disclosures
16 described in this section are provided to con-
17 sumers.

18 (3) CANCELLATION OF SERVICES.—If an
19 earned wage access provider makes earned wage ac-
20 cess services available to a consumer on a recurring
21 basis, such earned wage access provider—

22 (A) shall allow such consumer to dis-
23 continue such services if such consumer pro-
24 vides reasonable notice to such earned wage ac-

1 cess provider that such consumer desires to dis-
2 continue such services; and

3 (B) may not impose any financial penalty
4 on such consumer as a result of any discontinu-
5 ation of services.

6 (4) DISPUTE PROCESS REQUIRED.—Each
7 earned wage access provider shall develop and imple-
8 ment policies and procedures to respond to questions
9 and complaints from consumers relating to—

10 (A) unauthorized disbursement of earned
11 wages;

12 (B) disbursement of earned wages in an
13 incorrect amount;

14 (C) disbursed earned wages that were not
15 received;

16 (D) repayment of disbursed earned wages
17 that is not received or was made in an incorrect
18 amount; and

19 (E) voluntary payments that were not au-
20 thorized or were made in an incorrect amount.

21 (5) COMPELLING REPAYMENT OF DISBURSED
22 WAGES.—

23 (A) IN GENERAL.—An earned wage access
24 provider may not seek repayment of earned

1 wages disbursed to a consumer by such provider
2 by—

3 (i) filing a civil suit;
4 (ii) initiating arbitration proceedings;
5 (iii) using the services of a debt col-
6 lector (as such term is defined in section
7 803 of the Fair Debt Collection Practices
8 Act); or

9 (iv) selling the rights to the repay-
10 ment of the disbursed earned wages to a
11 third-party debt buyer.

12 (B) EXCEPTIONS.—Subparagraph (A)
13 shall not apply if an earned wage access pro-
14 vider is—

15 (i) seeking repayment of earned wages
16 disbursed to a consumer based on informa-
17 tion provided by the consumer that the
18 consumer knew was false; or

19 (ii) pursuing the employer of the con-
20 sumer to which such provider disbursed
21 earned wages for breach of its contractual
22 obligations to the provider.

23 (6) REIMBURSEMENT REQUIRED.—If an earned
24 wage access provider seeks repayment of disbursed
25 earned wages, payment of a fee, or a voluntary pay-

1 ment directly from a deposit account of a consumer,
2 on an incorrect date or in an incorrect amount, and
3 such attempt triggers an overdraft fee or non-suffi-
4 cient funds fee from the financial institution of the
5 consumer, the earned wage access provider shall re-
6 imburse such consumer for such fee.

7 (7) ADDITIONAL LIMITATIONS.—An earned
8 wage access provider may not—

9 (A) share any fees, tips, gratuities, or
10 other donations that were received from or
11 charged to a consumer for earned wage access
12 services with the employer of such consumer;

13 (B) accept payment of fees or voluntary
14 payments from a consumer through a credit card
15 of the consumer, unless such credit card is pro-
16 vided to the consumer as a part of the earned
17 wage access service; or

18 (C) require a consumer to pay a late fee,
19 deferral fee, interest, or any other penalty or
20 charge as a result of a failure by the consumer
21 to pay a fee, tip, gratuity, or other donation re-
22 quested or applied by such provider.

23 (8) DISCLOSURE TO EMPLOYER.—An earned
24 wage access provider may disclose, to an employer
25 with which such provider has a contract relating to

1 earned wage access services, only such information
2 about earned wage access services used by con-
3 sumers who are employees of such employer as is
4 necessary for such earned wage access provider to
5 recover disbursed wages.

6 (9) NON-DISCRIMINATION.—It shall be unlawful
7 for any earned wage access provider to discriminate
8 against any consumer on the basis of race, color, re-
9 ligion, national origin, sex, pregnancy, marital sta-
10 tus, or age when offering earned wage access serv-
11 ices.

12 (b) RULEMAKING.—The Bureau may issue such rules
13 as the Bureau determines appropriate to carry out this
14 section.

15 (c) DEFINITIONS.—In this section:

16 (1) EARNED WAGES.—

17 (A) IN GENERAL.—The term “earned
18 wages” means salary, wages, compensation, or
19 other income that a consumer or an employer
20 has represented and that an earned wage access
21 provider has reasonably determined have been
22 earned or have accrued to the benefit of the
23 consumer in exchange for the services provided
24 by the consumer, but that have not yet been
25 paid to the consumer by an employer.

1 (B) SERVICES PROVIDED.— Services pro-
2 vided by the consumer to the employer include
3 any services provided—

4 (i) on an hourly, project-based, piece-
5 work, or other basis; or

6 (ii) when the consumer is acting as a
7 contractor of the employer.

8 (2) EARNED WAGE ACCESS SERVICES.—The
9 term “earned wage access services” means the deliv-
10 ery of earned wages to a consumer based on—

11 (A) employment, income, or attendance
12 data provided by the employer of such con-
13 sumer or a payroll service vendor contracted by
14 the employer of such consumer; or

15 (B) representations made by the consumer
16 and the reasonable determination of the earned
17 proceeds of such consumer by an earned wage
18 access provider.

19 (3) EARNED WAGE ACCESS PROVIDER.—

20 (A) IN GENERAL.—The term “earned wage
21 access provider” means a person who provides
22 earned wage access services to consumers.

23 (B) EXCLUSIONS.—The term “earned
24 wage access provider” does not include—

1 (i) a person who is not obligated to
2 provide access to earned wages as part of
3 an earned wage access service;

4 (ii) an employer that offers a portion
5 of salary, wages, or compensation earned
6 by a consumer directly to such consumer
7 prior to a normally scheduled pay date;

8 (iii) a financial institution that per-
9 mits a consumer to access amounts associ-
10 ated with an electronic fund transfer from
11 the employer of the consumer for which
12 the financial institution has received infor-
13 mation but which has not yet settled; or

14 (iv) a payroll service vendor that fa-
15 cilitates payments to a consumer of wages
16 earned by such consumer.

17 (4) PAYROLL SERVICE VENDOR.—The term
18 “payroll service vendor” means a vendor contracted
19 by an employer to facilitate payment of employee
20 wages in accordance with Federal, State, and local
21 law, including the Fair Labor Standards Act of
22 1938.

23 (5) VOLUNTARY PAYMENT.—The term “vol-
24 untary payment” means any payment voluntarily
25 made by a consumer to an earned wage access pro-

1 vider when accessing earned wage services, including
2 a tip, gratuity, or donation.

3 (d) **RULE OF CONSTRUCTION.**—Voluntary payments
4 and any fees paid by a consumer to an earned wage access
5 provider may not be construed to be a “finance charge”
6 as such term is defined in the Truth in Lending Act.

7 **SEC. 3. CONFORMING AMENDMENTS.**

8 Section 103 of the Truth in Lending Act (15 U.S.C.
9 1602) is amended—

10 (1) in subsection (f), by striking “defer its pay-
11 ment” and inserting “defer its payment, but does
12 not include earned wage access services as defined in
13 the Earned Wage Access Consumer Protection
14 Act.”; and

15 (2) in subsection (g), by adding at the end the
16 following: “The term creditor does not include
17 earned wage access providers as such term is defined
18 in the Earned Wage Access Consumer Protection
19 Act.”

