



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 117
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 117's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Lang

Local Impact Statement Procedure Required: No

Terry Steele, Senior Budget Analyst

Highlights

- The bill requires earned wage access (EWA) service providers to register with the Division of Financial Institutions. It also requires EWA applicants to provide an annual nonrefundable application fee of \$300, along with a \$200 base investigation fee to run background checks on key officers of the EWA service provider.
- The fees would be deposited into the Consumer Finance Fund (Fund 5530), which will be used to cover the expenses of operating the EWA registration program.

Detailed Analysis

Overview

The bill requires any company providing earned wage access (EWA) services to obtain a certificate of registration from the Division of Financial Institutions within the Department of Commerce (COM). EWA services allow employees to tap wages earned during a pay period before pay day arrives. Generally, there are two EWA business models, either employer-sponsored services or direct-to-consumer offerings. There are several fintech firms providing these services to employers and employees in this marketplace.

The bill establishes the process by which EWA businesses apply for registration, including investigations and background checks of company officers, and related fees. Overall, the Division of Financial Institutions will incur new costs for overseeing EWA services under the requirements in the bill. These costs would be paid from the Consumer Finance Fund (Fund 5530) and would, in all likelihood, be offset by the application and investigation fees established in the bill.

Registration procedures

The bill requires a company registering as an EWA service provider to submit a written application, along with a nonrefundable registration fee of \$300. Registrations renew annually and are subject to a fee of \$300. If this fee is not sufficient to cover the estimated cost of administering the program, the bill allows the Superintendent of Financial Institutions to assess an additional fee on each registrant. However, the increase may not exceed 10¢ for each \$100 of fees, tips, gratuities, and donations received by a registrant in the previous calendar year. The additional assessment must not be less than \$250 or more than \$2,000 per registrant.

In addition to the \$300 registration fee, the bill requires the applicant to pay a nonrefundable \$200 investigation fee for running civil and criminal records checks on the key officers of an EWA service provider. If the Division needs to investigate outside of Ohio, and it appears that the actual expenses of the investigation will exceed \$200, the Division may ask that the applicant cover that expense. However, the Division must provide an itemized statement of costs exceeding \$200.

If the Division denies an application for registration, the bill requires it to send notice, including an explanation of the denial and notice of the applicant's ability to appeal under the Administrative Procedure Act. The Division could incur some administrative costs to conduct any such hearings under the bill, although it would appear any such hearings would be infrequent.

Finally, the bill provides registration reciprocity for companies that hold a license or registration to offer EWA services in other states, as long as the companies pay all applicable fees and assessments due in Ohio. Seven states (Arkansas, Nevada, Missouri, Wisconsin, Kansas, South Carolina, and Utah) have adopted state oversight laws applying to the EWA provider industry that require EWA providers to register with or obtain licensure to operate. Several states do not recognize EWA services as a financial product. Instead, these states regulate EWA service providers and products in the same fashion as they do consumer loan offerings.

Enforcement and penalties

The bill allows the Superintendent of Financial Institutions or the Deputy Superintendent of Consumer Finance to investigate any company or individual for violations of the bill or of any rule or order promulgated under the bill. Ultimately, this could lead to the Division filing actions in the Court of Common Pleas of Franklin County or other appropriate court of common pleas to obtain an injunction, temporary restraining order, or other relief against any company or individual violating provisions of the bill. Although it is not certain how many investigations would lead to court actions, any impact on the courts of common pleas would probably be minimal. Any costs the Division of Financial Institutions incurs for investigating potential violations, including deposition costs, would be paid from Fund 5530.

Preemption

Finally, the bill prohibits the state or any political subdivision from requiring an EWA provider to pay any fee or assessment, other than those expressly authorized by the bill, as a condition of providing EWA services.