



November 9, 2024

The Honorable Kris Mayes  
Attorney General  
Arizona Attorney General's Office  
2005 North Central Avenue  
Phoenix, AZ 85004

**Re: Attorney General Opinion Request R24-018**

Dear Attorney General Mayes,

On behalf of Chamber of Progress, a tech industry coalition promoting technology's progressive future, I write to urge you to **concur with Attorney General Opinion No. 122-005**, maintaining that earned wage access products are not qualified as consumer loans subject to the requirements and limitations of the Consumer Lenders Act ("CLA"), A.R.S. §§ 6-601 to 6-615, and A.R.S. §§ 6-631 to 6-639.<sup>1</sup>

**What is Earned/Early Wage Access?**

We are strong supporters of providing consumers with better alternatives to predatory lending and junk fees at banks. Earned wage and early wage access services help workers bridge the gap from today to payday, and free workers from dependency on the payroll cycle and a financial system that frequently disadvantages them.

Earned wage access operates on an agreement between the service provider and an employer, which allows the provider access to employee timesheets to determine earned wages.<sup>2</sup> On an employee's payday, the provider collects funds from the employer that were disbursed to the employee ahead of payday.

Early wage access is a similar concept, except the service provider does business directly with the consumer, without direct involvement from the employer. In this instance, the consumer downloads an application, establishes an account with the service provider and links their checking account information.

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<sup>1</sup> State of Arizona - Office of the Attorney General. [Re: Earned Wage Access Products](#). December 16, 2022.

<sup>2</sup> Federal Reserve Bank of Kansas City. [Ask the Fed: Exploring the rise of earned wage access programs](#). January 14, 2021.

## Earned Wage Access Promotes Consumer Choice

At any given time, workers have \$1 trillion caught in the payroll system, representing money they have earned but cannot access. However, earned wage access providers allow users to access anywhere between 50-100% of their earned wages before payday, with limits established by the provider based on frequency and consecutive use.<sup>3</sup>

Based on a survey conducted by three direct to consumer earned wage access service providers, an overwhelming number of earned wage access consumers said they understood how the service structure works and consider it the best option to manage their spending.<sup>4</sup> earned wage access provides consumers the opportunity to stretch their dollar farther than the standard two-week pay cycle, enabling them to avoid predatory payday loans.

Consumers overwhelmingly use earned wage access services to pay bills on time, buy groceries and avoid late fees.<sup>5</sup> Notably, 8 out of 10 earned wage access consumers felt these services were the best available options to manage their spending, and 80% of users said that their life significantly improved after using these services.<sup>6</sup> Earned wage access gives consumers a safer alternative to paying bills late and getting charged bank overdraft fees that can cause a further decline into debt.

In this post-COVID, inflationary economy, the usage of earned wage access has increased across the board. From 2018 until now, nationwide polling reflects that these services tripled in usage in response to consumers adapting to a financial environment where they are empowered to spend without a lack of liquidity<sup>7</sup>:

- 82% of hourly workers whose employer offers earned wage access services say it is one of their favorite benefits.<sup>8</sup>
- 72% of earned wage access service users say the offering helps them feel more confident in managing their finances.<sup>9</sup>
- 95% of companies offering an earned wage access solution believe it has a positive impact on employee retention.<sup>10</sup>

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<sup>3</sup> Ibid.

<sup>4</sup> FTI Consulting. [Direct to Consumer Earned Access User Key Findings](#). July 7, 2021.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Financial Health Network. [Earned Wage Access and Direct-to-Consumer Advance Usage Trends](#). April 2021.

<sup>8</sup> The Harris Poll. [Nearly 3 in 4 Hourly Workers Love/Like Their Job](#). March 20, 2024.

<sup>9</sup> Arizent Research. [Earned Wage Access: A Powerful, Cost-Eective Financial Wellness Tool](#). September 2023.

<sup>10</sup> Hanover Research Study. Companies with EWA Solutions. September 2023.

- 77% of earned wage access users state that the services help them save money by avoiding other more expensive alternatives to handle expenses.<sup>11</sup>

### **Earned Wage Access Services Are Not Consumer Loans**

Attorney General Opinion No. 122-005 *rightly concluded* that earned wage access services are not consumer loans.

Unlike traditional credit products that may affect a user's credit score through payment history and credit utilization, earned wage access services do not involve lending-related activities such as pulling credit reports, underwriting, assessing fees based on creditworthiness, charging interest, or imposing origination fees.

Additionally, the largest earned wage access companies by market share are non-recourse, meaning that providers do not have the legal or contractual right to require repayment from consumers; therefore, consumers do not incur a legal obligation to repay wage advances.

As it pertains to finance charges, earned wage access providers earn revenue through expedited transfer fees, tips, or subscription fees. These fees are typically not required or imposed for a transaction to proceed.

On the contrary, consumers opt in voluntarily to receive a premium service. Since earned wage services providers do not extend credit to consumers, none of these functions are considered finance charges under § 6-601(11).

With this in mind, **we urge you to concur with Attorney General Opinion No. 122-005.** Thank you for your leadership in promoting a responsible regulatory structure that protects consumers, increases transparency, and ensures that earned wage access providers can continue to deliver services that countless Arizonans rely on.

Sincerely,



Robert Singleton  
Senior Director of Policy and Public Affairs, California and US West

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<sup>11</sup> Mercator Advisory Group. [Customer Perceived Cost Savings](#). August 2022.