



May 30, 2024

The Honorable Pam Hunter
Chair
Standing Committee on Banks
Legislative Office Building
Room 424
Albany, NY 12248

Re: A9585: End Loan Sharking Act

Dear Chairwoman Hunter and Members of the Standing Committee on Banks,

On behalf of Chamber of Progress – a tech industry coalition promoting technology’s progressive future – I write to **express our opposition to A9585**, which would regulate earned wage access services.

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.¹ 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.

¹ 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.²

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.³ 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.⁴ 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.⁵ 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, 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.⁶

A9585 Decreases Financial Inclusion and Harms Consumers

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.

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.⁷

² Ibid.

³ FTI Consulting. [Direct to Consumer Earned Access User Key Findings](#). July 7, 2021.

⁴ Ibid.

⁵ Ibid.

⁶ Financial Health Network. [Earned Wage Access and Direct-to-Consumer Advance Usage Trends](#). April 2021.

⁷ Earnin. [Frequently Asked Questions: Voluntary Tip](#). Accessed in May 2024.

A9585 classifies these voluntary payments as “financial arrangements,” subject to New York’s usury laws. This measure places an artificial limit on the amount consumers can donate to show gratitude or appreciation for services provided, directly restricting the resources earned wage access providers need to service underserved communities.

New York’s usury laws were crafted to protect consumers from predatory financial products. However, as presently constructed, A9585 threatens the ability for earned wage access providers to provide no-interest financial services to New Yorkers, potentially driving consumers towards the same high cost products they seek to avoid.⁸

A9585 Should Harmonize with Nationwide Regulation

Earned wage access providers already comply with extensive federal consumer protection and disclosure laws, including the Gramm-Leach-Bliley Act, Electronic Signatures in Global and National Commerce Act, and Electronic Funds Transfer Act.⁹¹⁰¹¹ Additionally, earned wage access providers are subject to state and federal prohibitions against Unfair, Deceptive, or Abusive Acts or Practices.¹²

Notably, the Consumer Financial Protection Bureau, found that earned wage access payouts are not considered loans under Regulation Z of the Truth In Lending Act (TILA).¹³ Additionally, the California Department of Financial Protection and Innovation found that voluntary payments are not “finance charges” under TILA.¹⁴ Therefore, A9585 departs from existing guidance and miscategorizes earned wage access services without a legal basis.

Given the existing national regulatory landscape for earned wage access providers, we urge you to ensure that A9585 maintains regulatory clarity and jurisdictional consistency, without driving New Yorkers toward higher cost financial products.

Sincerely,



Kyle Bligen
Director of Financial Policy
Chamber of Progress

⁸ The New York Times. [High Interest Rates Are Hitting Poorer Americans the Hardest](#). May 14, 2024.

⁹ Federal Trade Commission. [Gramm-Leach-Bliley Act](#). Accessed in May 2024.

¹⁰ Federal Deposit Insurance Corporation. [Electronic Signatures in Global and National Commerce Act](#). January 2014.

¹¹ Federal Deposit Insurance Corporation. [Electronic Funds Transfer Act](#). August 2008.

¹² Consumer Financial Protection Bureau. [Unfair, Deceptive, or Abusive Acts or Practices](#). September 2023.

¹³ Consumer Financial Protection Bureau. [Advisory Opinion](#). December 10, 2020.

¹⁴ California Department of Financial Protection and Innovation. [Memorandum of Understanding](#). January 4, 2021.