CSBS Comment Letter: Earned Wage Access Consumer Protection Act

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The Honorable Bryan Steil
Chairman
Subcommittee on Digital Assets, Financial Technology, and Artificial Intelligence
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: Earned Wage Access Consumer Protection Act

Dear Chairman Steil:

On behalf of the Conference of State Bank Supervisors ("CSBS"),1 I urge you to significantly revise the "Earned Wage Access Consumer Protection Act"2 before introducing the bill in the 119th Congress.3 In particular, Section 2(d) would broadly preempt state licensing, registration, and disclosure laws covering Earned Wage Access ("EWA") products – a market that is still developing. We encourage you to revise the bill to avoid such sweeping and unnecessary preemption of state law.

Financial services regulation, particularly of nonbank companies, is traditionally performed by the states. For these products, states are often best positioned to weigh access to credit and consumer protection concerns, police the market for fraud and abuse, respond quickly to emerging risks affecting consumers, and tailor regulatory requirements to meet the needs and expectations of local communities. Where there is a compelling and demonstrated need for federal standards, they should integrate with the state system, rather than displace it. Such federal standards should act as a floor, not a ceiling – ensuring states remain empowered to provide reasonable additional consumer protections based on the needs of their local economies and subject to local democratic accountability.

At the federal and state levels, the regulatory treatment of EWA products and providers is the subject of important, ongoing debate. The Consumer Financial Protection Bureau ("CFPB") has revised its position on EWA multiple times, vacillating between competing views.4 Several states have developed regulatory frameworks for EWA products across various business models.5 Such a diversity of state approaches is

appropriate for an emerging product like EWA, as it allows experimentation and innovation on both product delivery and consumer protection to develop organically.

The draft bill would override the work done by states to regulate EWA products. Section 2(d) would preempt state laws that impose licensing, registration, conduct, or disclosure requirements beyond the proposed federal standard. The draft bill would also grant the CFPB unprecedented licensing authority – authority it does not exercise for any other consumer financial product or service. Federalizing licensing would slow oversight, reduce responsiveness to consumer demand for credit access, and undermine prompt local mitigation of fraud and other consumer harm.

Any regulatory framework for EWA should follow the successful model used elsewhere in the oversight of nonbank consumer financial services, with states serving as the primary licensing and registration authority. States should also retain the ability to impose reasonable additional conduct or disclosure requirements, as they do with other providers of consumer nonbank financial services and products. EWA competes with these existing and future providers, and it would be unfair to advantage EWA firms over other consumer finance companies that are governed by state law.

For these reasons, we strongly oppose the preemption provisions in the discussion draft and urge you to remove or significantly revise Section 2(d) before introducing the bill. We look forward to working with you and the Committee to ensure that any future federal legislation respects and preserves the critical role of states in regulating EWA providers, while enabling innovation and competition that permits consumer access to responsible financial products.

Sincerely,

Brandon Milhorn
President and CEO
cc: The Honorable French Hill
The Honorable Maxine Waters
The Honorable Stephen Lynch
The Honorable Ritchie Torres

- 1

  CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.

- 2

  H.R.__ The “Earned Wage Access Consumer Protection Act.”

- 3

  House Committee on Financial Services’ Subcommittee on Digital Assets, Financial Technology, and Artificial Intelligence Hearing Entitled: “Delivering for American Consumers: A Review of FinTech Innovations and Regulations” (Jan. 13, 2026).

- 4

See CFPB, *Advisory Opinion*, 90 Fed. Reg. 60069 (Dec. 23, 2025). The 2025 non-binding advisory opinion effectively reinstates and modestly expands the agency's position in its 2020 advisory opinion, stating that covered EWA is not credit under Regulation Z. Between the 2020 and 2025 pronouncements, the CFPB issued a proposed interpretive rule in 2024, which would have reached the opposite conclusion.

- 5

Thirteen states now have specific EWA requirements. Indiana, Kansas, Missouri, Nevada, South Carolina, Utah, and Wisconsin have EWA provider licensure or registration requirements. California (direct-to-consumer model only), Connecticut, Maine, and Maryland regulate EWA products as small loans and require EWA providers to be licensed or registered, while two states, Arkansas and Louisiana, define the activity but do not require a license. States have also taken multiple enforcement actions addressing usury concerns and unfair or deceptive practices, demonstrating their central role in overseeing this market. The District of Columbia, New York, Pennsylvania, and Washington have applied lending laws to EWA products through court decisions or enforcement actions.