

AMERICAN PAYROLL ASSOCIATION

March 18, 2021

The Honorable Ronnie W. Cromer
Chairman, Banking and Insurance Committee
South Carolina Senate
410 Gressette Building
Columbia, SC 29201

The Honorable A. Shane Massey
Majority Leader
South Carolina Senate
311 Gressette Building
Columbia, SC 29201

The Honorable Tom Davis
South Carolina Senate
613 Gressette Building
Columbia, SC 29201

The Honorable Brad Hutto
Minority Leader
South Carolina Senate
510 Gressette Building
Columbia, SC 29201

Re: In support of S. 532 on earned wage access

Dear Senators:

The American Payroll Association (APA)¹ supports South Carolina Bill, S. 532 on earned wage access (EWA) because it would enable employers to offer EWA programs to their employees as a means of promoting financial wellness that is an inexpensive and efficient alternative to payday lending and bank overdraft fees. The APA also supports the bill because it would establish a reasonable approach to employer and employee protections. For example, the APA appreciates the following provisions:

- Early payments must be based on payroll data provided by employers to EWA providers. This adds a layer of oversight on determining earned wages and distinguishes EWA services from any form of lending based on estimates of future earnings.
- The methods identified for paying back the EWA provider offer flexibility for employers to select an appropriate program for employees.
- Employees' personally identifiable information is protected through the contract between the employer and provider and consent of employees to participate in the EWA program.

¹ Established in 1982, the APA is a not-for-profit association serving the interests of about 20,000 payroll professionals nationwide, including more than 230 physically located in South Carolina. The APA's primary mission is to educate its members and the payroll industry about the best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations.

- Provider fees must be communicated to employees along with an explanation that they can receive full wages without a fee on their regularly scheduled payday. Making sure that employees understand the EWA program is important for employees' financial stability.

The APA supports the South Carolina legislature recognizing that EWA is different than payday loans (see Section 37-31-30). This approach is supported by the federal Consumer Financial Protection Bureau (CFPB), which recently issued an [advisory opinion](#) and compliance assistance sandbox (CAS) [approval order](#) that identified certain characteristics for EWA that impact a credit determination under the Truth in Lending Act (TILA). The opinion and order were issued strictly in response to the facts presented in the individual requests regarding the applicability of TILA, Regulation Z, but the CFPB appears to favorably recognize the consumer protections offered by employer-based programs.

In addition, the APA supports the provisions found in Sections 37-31-40 and 37-31-50 requiring providers to register with the state and for the Department of Consumer Affairs to investigate legitimate employee complaints.

To discuss EWA and APA's comments further, please contact me at 202-669-4001 or by email at ajacobsohn@americanpayroll.org.

Sincerely,



Alice P. Jacobsohn, Esq.
Director, Government Relations

For:

APA's Government Relations Task Force
Subcommittee on State and Local Topics
Chairs: Pete Isberg; Carlanna Livingstone, CPP; and Bruce Phipps, CPP

Workgroup on Early Wage Access/On-Demand Pay
Chairs: Pete Isberg and Karen Settembrino, CPP