NO MORE LOAN SHARKS
A PROJECT OF
ARIZONANS FOR RESPONSIBLE LENDING
www.NoMoreLoanSharks.com

Dear Representatives,

The undersigned organizations on behalf of the Arizona Responsible Lending Coalition, urge you to please vote NO on HB2309. Earned wage advances are payday loans, plain and simple.

“Payday loans” are small dollar cash loans due on the borrower’s next payday and paid via cash, the check held for future deposit, or a debit from the borrower’s bank account. Payday loans cost triple-digit rates, trap consumers in repeat borrowing, and target vulnerable families struggling to make ends meet.

Earned Wage Advance (EWA) loans are the same as payday loans, without the brick-and-mortar building. Just as with payday loans, a borrower applies directly to the lender, provides information on finances, receives the loan deposited into a bank account or payroll card, and is charged triple-digit rates disguised as expedited fees. The loan is paid when the lender debits the borrower’s account for the advance and fee. Third party apps also ask the borrower for tips, often with countless prompts urging them to donate tips to keep them “running for millions of members like you.”

Arizonans Have Seen This All Before

Nearly thirty years ago, payday lenders came to Arizona peddling their product as the answer to the budget shortfalls of Arizonans. A decade later, Arizona voters rejected the payday loan industry’s Prop 200, leading to the sunset of Arizona’s payday loan law in 2010. Since then, predatory lending industry has tried and failed to win legislation to ***legally*** reenter the Arizona market.

This year’s tactic is to disguise payday loans as a “earned wage advance” (EWA) in HB2309.

The EWA industry is saying that there needs to be consumer protections and that they need to be regulated, but the fees that they are charging and the absolutely meaningless protections in the bill have no real enforcement and are a tactic to divert what their real goal is -- *they want to be codified into law as a product and not a loan, so that they won’t be subject to Arizona’s Consumer Lender Act and the 36% rate cap on small dollar loans that protect consumers from high-cost lending.*

HB2309 Isn’t Sufficient to Protect Consumers, Would Let Payday Lenders Back In

HB2309 lumps together third-party apps and employer integrated EWAs. EWA payday lending apps only lend very small amounts at a time. For example, the bill's fee caps—

$5 for advances of $75 or less and $7.50 for larger advances—translate to effective APRs exceeding 240% [1]

The bill legalizes 'voluntary' tips without counting them as finance charges, creating the exact loophole that allows providers to charge 400%+ APRs while claiming products are "free". HB2309 includes no monthly transaction limits, and no APR disclosure requirements to help consumers compare the cost of credit options.

HB2309 imposes no limit as to how many transactions per week/month can be taken out and there is no way to limit a consumer from borrowing from more than one EWA entity on the same paycheck. Most transactions are under $100, which leads to borrowers taking out loan after loan to meet their needs. While there is a free option for users, the bill as written states that they shall charge fees for delivery **OR** expedited delivery of proceeds not to exceed the amounts per transaction mentioned above ($5 or $7.50). That sounds like a mandatory transaction fee for using the service. It also doesn't address the EWAs who charge monthly subscription fees.

If the fees are for expedited receipt of the funds, it does not allow the borrower to access the money immediately, defeating the purpose of obtaining one of these loans. According to data gather through the Saverlife budgeting app, about 80% of consumers pay the expedite fee. This makes sense – **if the borrower wanted to wait for funds, they wouldn't apply for the loan.**

There is also a huge overdraft fee issue with HB2309. The Saverlife data shows that for borrowers who are prone to overdraft the research points increased overdraft activity after first borrowing an EWA.[2]

While the industry claims that they will pay for overdraft fees caused by their errors, the proposed legislation makes it easy for them to find ways not to pay and there is no enforcement in place to ensure borrowers are reimbursed for overdrafts or that the reimbursements will occur in a timely manner, further exacerbating a difficult financial situation. Countless consumer complaints on the Better Business Bureau website tell the stories of people in financial despair because EarnIn took their money out before payday or took out the wrong amount.[3]

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[1] APR calculation: A $5 fee on a $75 advance repaid in 10 days (typical pay period) equals 6.67% for 10 days, which annualizes to 243% APR. Calculation: ($5/$75) × (365/10) = 2.433 or 243.3%. This methodology is consistent with standard APR calculations used by the California Department of Financial Protection and Innovation in "2021 Earned Wage Access Data Findings," March 2023.

[2] https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-ewa-research-factsheet-aug2023.pdf

[3] https://www.bbb.org/us/ca/mountain-view/profile/financial-services/earnin-1216-642613/complaints

HB2309 is bad news for Arizona. While Earned Wage Advance payday loan products need to be regulated under existing small loan statute, HB2309 does just the opposite by creating exemptions. They are small loans. We should not exempt EWA payday lenders from our laws or allow industry to be the only voices heard in the creation of this regulatory scheme.

Arizona should remember the lessons of the original payday lenders, a hard-fought ballot initiative, and the importance of getting regulation right. Please vote no on HB2309.

Respectfully,

Arizona Center for Economic Progress

Arizona Education Association

ASPTEA

Center for Economic Integrity

Center for Responsible Lending

Communications Workers of America AZ State Council

IBEW 570

LUCHA

Rural Action Arizona

Society of St Vincent de Paul, Tucson Diocesan Council

Teamsters Local 104

Wildfire

William E. Morris Institute for Justice