



November 22, 2024

National Council of Insurance Legislators  
616 5th Avenue, Suite 106  
Belmar, New Jersey 07719

**FTA Input on NCOIL EWA Model Act Draft Policies**

Vice President Hunter, Chairwoman Felzkowski, and Members of the Committee, the Financial Technology Association<sup>1</sup> welcomes the opportunity to provide feedback on the October 23 earned wage access model act draft distributed by the National Council of Insurance Legislators (NCOIL). We applaud NCOIL on its robust consultative process over the last year, resulting in the current draft, and appreciate the Council’s continued engagement with the private sector as it considers a model EWA law.

There are many items in the draft EWA model law that we believe will be beneficial to consumers and providers, including: (i) the creation of a state licensing mechanism for EWA providers; (ii) codification of EWA’s consumer-protective elements including at least one no-cost option, no credit checks or credit reporting, and the inability to take legal action to collect payments except when fraud has occurred; and (iii) inclusion of robust and appropriate disclosures.

While in many places this draft bill strikes the right balance of regulating EWA products for their unique attributes and protecting consumers; there are a few remaining items in the bill that we would oppose if they were included in a state bill draft.

First, it includes language discussing the provision of “the full potential cost of the transaction...expressed as an annual percentage rate.” (*See* Section 8(b)(9)). While we believe that consumers should be empowered to understand all key terms and aspects of an EWA product, including any attending fees, the provision of an annual percentage rate (APR) is confusing to customers given the short-term duration of the product, and the fact that no interest is charged. Also, credit products that provide a similar short term liquidity function in the marketplace, loans and credit cards, do not include optional fees in their APR calculations. This provision would make EWA products report a different metric, further confusing customers. Ultimately, the total cost in dollars is a clearer and more appropriate disclosure to provide. This approach, used for ATM fees or prepaid cards, is also consistent with the non-credit nature of the product, including that

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<sup>1</sup> FTA is a trade association representing industry leaders shaping the future of finance. We champion the power of technology-centered financial services and advocate for the modernization of financial regulation to support inclusion and responsible innovation, including in the context of EWA products that are helping thousands of consumers avoid traditional high-cost and predatory alternatives while awaiting a paycheck.



consumers have no legal obligation to repay an advance, interest is not charged, credit report information is not used and consumers can cancel at any time.

Finally, given the various modalities under which an EWA product is issued - through an employer or directly to the consumer - we believe it is important to ensure that providers do have the ability to avail themselves of all lawful remedies should fraud or other illegal activity occur, which the draft model law could further emphasize. Fraudsters should not be able to take advantage of an otherwise non-recourse product to rip off providers and force honest customers to cover the costs of their illegal activities.

Again, we appreciate NCOIL's thoughtful and deliberative process in drafting this model EWA legislation. We would welcome the opportunity to partner with you as you consider our concerns and determine a path forward that is both product enabling and consumer protective.

Sincerely

Penny Lee  
President and Chief Executive Officer  
Financial Technology Association