



ZayZoon US Inc.
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March 5, 2023

Submitted via E-Mail

Senate Finance Committee
11 Bladen St
Annapolis, MD, USA 21401

Re: Senate Bill 998 – An Act Concerning Earned Wage Access Services

To Whom it May Concern:

This letter is submitted to the Senate Finance Committee (the "**Committee**") on behalf of ZayZoon US Inc. ("**ZayZoon**"), in response to Senate Bill 998 ("**SB998**"), which relates to the regulation of earned wage access ("**EWA**") services in Maryland. I would like to thank you all for your work on the regulation of EWA. We believe in the merits of regulation as a path to provide certainty and security for both consumers and industry participants, and appreciate your diligence regarding this important new financial tool for consumers.

We **SUPPORT SB998** as presented because this bill would provide the framework for the responsible provision of EWA services to consumers in Maryland. If passed, this would be the first in the nation legislation of EWA services, and we believe that SB998 represents carefully considered protections for Maryland consumers, while ensuring they continue to have access to this responsible financial tool.

We do recognize that two bills concerning EWA have been presented in Maryland, and that these two bills have taken a fundamentally different approach to regulating EWA. We respectfully encourage this Committee to recognize that only SB998, as drafted, will permit EWA to effectively operate in Maryland. As presented, the other EWA bill will result in EWA providers being forced to significantly reduce their services for workers in Maryland, if not leave the state entirely. This has already happened in Connecticut with their recent legislation, though fortunately it appears that Connecticut legislators are revisiting this position. SB998 is a well thought out approach to ensuring that workers continue to have access to EWA services, while also ensuring that EWA is provided in a responsible manner.

ZayZoon is a financial technology platform that partners with payroll providers and employers to provide consumers with responsible, low-cost financial services, including EWA services, financial literacy tools, and other resources. We primarily work with small to midsize businesses to provide EWA services to their employees, and we provide EWA services to businesses with as few as ten employees. We are a smaller EWA provider than some of the other industry participants that have expressed their support for this bill, but wish to add our support because we believe that SB998 sets forth important consumer protections, and provides important operating certainty for industry participants. We are hopeful that our extensive experience in working with these partners can provide an additional perspective to assist the Committee as it discusses SB998.

ZayZoon would be happy to meet with members of the Committee directly to discuss these important services and our comments on SB998 in more detail.



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EWA is Easy to Understand and Low-Cost

We believe that an analogous financial product is a bank account being accessed through an ATM, where the employee's "account" is comprised of their earned wages that have yet to be paid by the employer, and the EWA service is analogous to an ATM transaction. Customers are able to access cash immediately, for a small flat fee,¹ and the amount of the withdrawal is settled between the bank associated with the ATM and the customer's bank. The service is simple for consumers to understand, low cost, and provides immediate access to cash. Similar to how ATM transactions give consumers access to their bank accounts when a bank teller is not available, EWA services give consumers access their earned wages when their paycheck is not yet available.

Workers using EWA can easily understand the product. For a small, flat fee, they can access their earned wages. A small flat fee, with no additional fees or costs ever charged to the worker, is simple and transparent. It is easy for workers to understand this service, and they understand the costs of using it. Critics of EWA argue that APR is better for workers to understand the costs of EWA, but we respectfully submit that it is disingenuous to suggest that a floating APR that changes dramatically depending on when in a pay period a worker takes a payout is somehow easier for workers to understand than a single, small flat transaction fee.

EWA exists because the paycheck may not be available, but the need is still there. In a survey of why our customers are using our services, 98% of our customers reported that they use EWA to pay for necessities, to avoid high fee alternatives, or for unexpected expenses. EWA is access to liquidity, and that access is a very real, and often very urgent, need for our customers. If EWA is taken away by defining it as a loan, that need will not disappear. Unless legislators and regulators can point to an alternative solution for these immediate cash flow needs, they should not effectively eliminate EWA by making it impossible for EWA providers to earn sufficient revenue to operate. EWA is the alternative solution to make ends meet compared to the other strategies and products that are extremely costly.

The access fee for EWA services is comparable to the average ATM fee, and is functionally the same service. In contrast, the average overdraft fee in 2022 was \$29.80 and the average NSF fee is \$26.58.² According to the Consumer Financial Protection Bureau ("CFPB"), the **daily** limit on these fees varies from bank to bank, but can be as high as \$288 per day.³ For debit card purchases, the median amount triggering an overdraft fee is \$24.⁴ For ZayZoon customers that had previously incurred an overdraft fee or an NSF fee, we have seen a significant drop-off in the amount of overdraft and NSF fees incurred by such customers since they were able to access EWA services. For these customers, the average savings from avoiding overdraft fees per customer was \$10.96/month, and the average savings from avoiding NSF fees per customer was \$32.33/month.⁵

When the consumer costs are compared, we hope it's clear that EWA is a different financial product from, and an extremely desirable alternative to, high-cost products like overdrafts. We urge the Committee to consider EWA services in light of the alternatives available to consumers, which is what Senator Klausmeier has done with SB998.

¹ The average out-of-network ATM fee is \$4.66. See <https://www.bankrate.com/banking/checking/checking-account-survey/>

² <https://www.bankrate.com/banking/checking/checking-account-survey/> [emphasis added]

³ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-chart_2022-02.pdf

⁴ https://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf p.5

⁵ These numbers are based on surveyed ZayZoon customer data from customers, where such customers had incurred at least one overdraft or NSF fee, as applicable.

It is also worth noting that Federal representatives from both sides of the aisle have indicated support for EWA services. Sherrod Brown, the Chairman of the Senate Banking Committee, has stated that "employer-integrated earned wage advances with strong consumer protections can, in fact, help workers cover unexpected expenses or emergencies." Then-Ranking Member Pat Toomey described EWA as, "an appealing alternative to payday loans ... EWA can help consumers to meet such [unexpected] expenses and others." While Maryland is a nationally recognized leader in its approach to payday lending, Maryland workers do still face high-cost overdrafts.

Access to liquidity is important because consumers face an array of fees that are the direct result of a cash shortfall. EWA services solve this issue by unlocking an employee's access to their earned wages, thereby eliminating the financial strain, emotional stress and associated fees traditionally associated with predatory lending services or overdraft fees. We encourage the Committee to view EWA services as a low-cost access to liquidity, as has been accomplished in SB998.

EWA Benefits Small to Midsize Businesses As Well

ZayZoon offers employer-integrated EWA services, and we are proud that we primarily offer our services to the workers employed by small to midsize businesses ("SMBs"). These businesses face enormous challenges in finding and retaining talented workers, and being able to provide EWA services to their employees helps them to compete for talent against large corporations like Walmart. Walmart is able to provide similar services in house, and we are proud that we are able to give these SMBs the ability to offer the same employee benefit. Our employer partners have 29% less turnover, and receive up to twice the number of job applicants for open positions.

Critics of EWA will often point to these benefits to the employer as justification for the claim that EWA should be provided at no cost to the customer. It is true that businesses do benefit from offering EWA, but EWA benefits the workers as well. Access to EWA results in an average of 8 hours less absenteeism per month. That is clearly beneficial for our small business partners, but also means more money in workers' pockets.

We do have employer partners that are able to fund EWA advances for their employees, but this is not common. Mandating that businesses pay the costs/fees for providing EWA is, unfortunately, tantamount to removing EWA services for many workers. Businesses, especially smaller businesses, face similar financial difficulties to lower income consumers. They very often have cash flow issues, and effectively operate "paycheck to paycheck" in the same way that many employees traditionally do. JPMorgan Chase Institute research shows that **50 percent of small businesses are operating with fewer than 15 cash buffer days**,⁶ and this concern is especially prevalent in Black and Hispanic communities. "In all majority Black or Hispanic communities, most small businesses had fewer than 14 cash buffer days."⁷

Given these widespread cash flow issues, employers are often unable to fund these EWA disbursements. By mandating that EWA be provided solely on a fee-free basis to the consumer will simply mean that these businesses will no longer be able to enable the services for their employees. SB998 requires EWA providers to offer at least one reasonable option to obtain an EWA payout at no cost, which we respectfully believe is the right approach. This permits EWA providers to operate, while also ensuring

⁶ <https://www.jpmorganchase.com/institute/research/small-business/place-matters-small-business-financial-health-in-urban-communities>

⁷ *Ibid.*



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that workers can use the service at no cost, depending on how each worker chooses to receive a payout.

Conclusion

EWA is an emerging financial tool that offers employees greater control over their finances. ZayZoon supports responsible EWA regulation, and ZayZoon is in full support of the regulation of EWA, provided it is done in a carefully considered manner. For these reasons, we **SUPPORT SB998** as presented.

ZayZoon appreciates the opportunity to submit these comments to the Committee on SB998. Thank you for taking the time to consider our comments. If you have any questions about any of the comments contained in this letter, please do not hesitate to contact me at garth.mcadam@zayzoon.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. McAdam", is written over a light blue horizontal line.

Garth McAdam
General Counsel, ZayZoon