

**HOUSE OF REPRESENTATIVES  
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Pensions, Investments & Financial Services  
For HB 3827

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Hearing Date: April 12, 2023 8:00 AM

Elizabeth Colvin

RAISE Texas

Austin, TX

My name is Elizabeth Colvin and I am the Executive Director of RAISE Texas, a statewide coalition of diverse organizations and community leaders united around the common goal of helping Texans save, build assets, and break down barriers that keep Texans from getting ahead. I am submitting comments in OPPOSITION to HB 3827.

HB 3827 creates a new loophole for payday lending in Texas without any rate caps, fee caps, or consumer protections. Earned wage access is not a new loan product. For decades, many employers have offered their employees wage advances at no charge as a service to help their employees. With the development of online technology and apps, online versions of this earned wage access loan product began to emerge from tech companies like Earnin, Payactiv, MoneyLion, Dave, and Brigit.

When these products are offered directly through the employer and with no fees, they are continuing the long-standing tradition of employers helping their employees. However, the online versions of earned wage access loans created by tech companies include expedite or rush fees, transaction fees, membership fees, and “tips,” all of which require a closer look and more thoughtful regulation, which HB 3827 fails to provide.

Given the tremendous economic burden that uncapped payday lending places on Texas families, as well as the nonprofits, churches, and faith communities that are called to help families trapped in the cycle of debt created by payday loans, HB 3827 will only increase that economic burden.

Texans do not need earned wage access or other small dollar loans made without rate caps, fee caps or consumer protections. Numerous banks, credit unions and community-based organizations across the state are able to offer small dollar loans with an APR that does not exceed 36% that are accessible to Texans with lower credit scores or no credit history. We encourage you to look at the extensive list of small dollar loan products available in Texas that exist with reasonable regulations and consumer protections: [https://raisetexas.org/resources/Texans\\_deserve\\_loans\\_without\\_abusive\\_terms.pdf](https://raisetexas.org/resources/Texans_deserve_loans_without_abusive_terms.pdf)

Please do not exempt earned wage access loans from usury laws and create a lending loophole with no fee caps and no consumer protections. We urge you to oppose HB 3827.

Joe Sanchez, Associate State Director

AARP

San Antonio, TX

### AARP Testimony in Opposition to HB 3827, Earned Wage Advances

Good morning, Chair Capriglione, members of the Committee. I am Joe Sanchez, representing AARP and its 2.3 million members in Texas. I am submitting written testimony in opposition to HB 3827 as substituted. HB 3827 as substituted exempts Earned Wage Access from Texas usury laws and money transmitter regulations (Title 4 and Chapter 151 of the Texas Finance Code).

AARP opposes HB 3827 as it authorizes a new form of fintech payday loan with no meaningful consumer protections, exempt even from the permissive laws that govern payday loans. These high-cost, balloon-payment loans put people in a debt trap and make it harder to save and manage finances.

Texas already struggle with payday loans, which put people in a cycle of debt with chronic reborrowing and mounting costs. Earned wage advances and other fintech payday loan apps trigger a similar, and even longer, cycle of reborrowing. This type of lending creates a debt trap rather than helping people manage their finances and save for the future.

The legislation includes no fee caps and permits multiple fee charges, such as membership and expedite fees, even associated with the purported “no fee” option. AARP Texas is concerned that HB 3827 includes no limitations on the number of times the EWA product can be used per pay period or per year and enables invasive data collection with no protection from the sale of data by third parties associated with the EWA provider

Earned wage access advances are aimed at low-wage workers in industries like fast food, nursing homes, home care and retail. These workers tend to be disproportionately people of color, and many are age 50+. Earned wage advances may also encourage the low pay in these industries by allowing employers to offer the ability to spend a future paycheck rather than a living wage.

Earned wage access advances are products that make it easy to spend next week’s paycheck for this week’s expense and create a cycle where people are constantly behind and have difficulty saving. Employers instead should be encouraging savings programs. When credit is needed, affordable small dollar loans repaid in installments over several months are a better product than balloon-payment loans that just fill the gap from the previous loan.

Texas should not create another high-cost, balloon-payment lending product that has no significant guardrails. HB 3827 imposes no cost limits at all, not even the fee limits that apply to payday loans. It permits providers to disguise fees as purportedly voluntary “tips,” but allows providers to insert default tip amounts and use manipulations to push those tips. It does not limit repeat use. And it does not prohibit repeat debiting of bank accounts that triggers overdraft and NSF fees. Companies boast that they don’t sue consumers to collect, but with payroll deduction and bank account debiting, they don’t need to. For these reasons we oppose HB 3827

Tracey Whitley

Self

Austin, TX

I am a consumer protection attorney. This bill must be stopped. It provides no consumer protection for glaring opportunities for multiple overdraft charges, data privacy concerns and possible fraudulent charges.

Stephanie O'Banion, President/CEO

United Way of Central Texas

Temple, TX

My name is Stephanie O'Banion and I am the President/CEO of the United Way of Central Texas located in Temple, Texas. I am submitting comments in OPPOSITION of HB 3827

HB 3827 establishes a licensing scheme for earned wage access providers. The broad definitions in the bill coupled with the lack of any rate caps, fee caps, or consumer protections tied to common problems with these products would have the effect of creating a new uncapped payday lending loophole in Texas.

HB 3827 includes no consumer protections to address these problems. The bill:

- Exempts EWAs from Texas usury laws and money transmitter regulations (Title 4 and Chapter 151 of the Texas Finance Code).
- Includes no fee caps.
- Permits multiple fee charges, such as membership fees and expedite fees, even associated with the purported "no fee" option.
- Includes no limitations on the number of times the product can be used per pay period or per year; and
- Enables invasive data collection with no protection from the sale of data by third parties associated with the EWA provider.

We are not asking to prohibit these products, but rather for a more thoughtful look at appropriate regulation. Appropriate regulations could include:

- Regulating these products under Ch. 342 of the Texas Finance Code.
- Limiting any membership or other associated fees to a reasonable amount, such as \$5 per month.
- Limiting the number of times these products, across all platforms, can be used in one-year period; and
- If tipping is allowed, requiring that the default tip amount be \$0, instead of the current standard where it defaults to a much higher amount, with no indication that it can be moved to \$0.

Conclusion:

As it stands, HB 3827 would open a new uncapped lending loophole. We already understand the harmful impacts of such a policy. It suggests the famous proverb: "Fool me once, shame on you. Fool me twice, shame on me." Texas cannot make the same mistake twice by allowing a new loophole for products that look exactly like a payday loan, which are exempt from usury laws, with no fee caps and no meaningful consumer protections.

Sam Listi, City Manager

City of Belton, Texas

Belton, TX

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