

## Does the Recent Earned Wage Access Law Change the Regulatory Environment in Arkansas?

July 2, 2025 | [Clayton C. Swears](#)

The Arkansas legislature recently passed House Bill 1517, which creates an earned wage access law in the state. It will be one of the relatively few such laws in the country. One interesting question is whether the law fundamentally changes anything in Arkansas.

The Arkansas Earned Wage Access Services Act (the "EWA Act") takes effect August 5, 2025. The law sets out various regulatory requirements for service providers offering earned wage access transactions. In return for those compliance obligations, the law offers some intended regulatory relief for such providers, stating that a provider will not be deemed to be engaging in "lending, money transmission, or debt collection" in Arkansas when offering those transactions.

Nationwide, there is great uncertainty regarding how EWA transactions are regulated and it is commendable that the state legislature has taken steps to clarify the approach in Arkansas. However, given the state's unique regulatory environment, the EWA Act may have less impact than it would in other states.

One of the central questions regarding EWA transactions is whether they would be deemed to be loans or extensions of credit. The impact of that designation can be significant. For example, in most states, a person offering loan transactions must be licensed. In some states, those licenses apply broadly to almost any loan. In other states, the licenses apply to a subset of loans, with smaller dollar loans subject to more licenses. As a result, a statutory provision characterizing a transaction as other than a loan can provide significant regulatory relief. Arkansas, however, is the only state in the country that has no licensing requirement for a lender making unsecured loans. As a result, a person offering loans in Arkansas is not subject to licensing, whether the transaction is a loan or a non-loan EWA transaction.

Usury is another important factor impacting EWA transactions. Generally, EWA transactions are structured as no-interest, no-fee transactions, meaning there is no mandatory interest or fees. Rather, the consumer is given the option of paying voluntary tips, fees for expedited processing, or subscription fees. However, even when compensation is structured in that manner, there is still risk those amounts may be considered interest or finance charges. In fact, the prior iteration of the CFPB proposed requiring tips and expedited delivery fees to be disclosed as finance charges under the Truth in Lending Act. Similarly, the New York Attorney General recently sued EWA

providers alleging they violated state usury limits. As a result, statutory safeguards related to EWA compensation can provide important regulatory certainty.

The EWA Act authorizes a provider to seek tips and gratuities, and impose expedited processing fees, subject to certain disclosure and conduct requirements. By authorizing those amounts, and stating that EWA transactions are not loans, it should arguably offer relief from usury concerns. Unfortunately, it is not clear how effective that approach is under Arkansas law. Arkansas has one of the more restrictive usury laws in the country. Under the state's constitution, the maximum rate of interest is 17% per year, without exception (unless the lender is a bank or depository institution). And, of import for the EWA Act, the Arkansas usury rate is not limited to loans. Rather, it applies broadly to "loans or contracts." If an amount is deemed to be interest, it is subject to the usury limit, whether or not the transaction is a loan.

Moreover, even if the legislature had broadly stated that EWA transactions do not involve interest subject to the usury limit, it's not clear that would be sufficient. Because the state's usury limit is set forth in the constitution, the Arkansas Supreme Court has previously struck down legislative efforts to abrogate the limit. Arkansas previously had a Check Cashers Act that allowed check cashers to offer deferred presentment transactions in return for a fee, with the statute characterizing such fees as non-interest. The Supreme Court found that the law was unconstitutional because the fees it authorized violated the state's usury provision. Accordingly, the EWA Act fee provisions may not provide as much certainty as creditors would like.

The EWA Act is not without benefits. It is helpful that EWA transactions are characterized as other than money-transactions or debt collection, as Arkansas has laws governing both those activities. However, given the unique regulatory environment in Arkansas, the EWA Act likely has less impact than it would if passed in another state.

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