

HOUSE BILL 246

12, 13

(PRE-FILED)

4r0229

CF 4r0230

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2024

CHAPTER _____

1 AN ACT concerning

2 **Commercial Law – Credit Regulation – Earned Wage Access and Credit**
3 **Modernization**

4 FOR the purpose of subjecting certain earned wage access products to the Maryland
5 Consumer Loan Law and other provisions that regulate entities that provide
6 consumer credit, revolving credit, and closed end credit; restricting the acceptance of
7 tips by certain lenders under certain circumstances; providing for the licensing or
8 registration of certain entities offering earned wage access products with certain
9 exemptions; limiting the costs and fees associated with obtaining an earned wage
10 access product; and generally relating to consumer lending and earned wage access.

11 BY repealing and reenacting, with amendments,
12 Article – Commercial Law
13 Section 12–101, 12–301, 12–901, and 12–1001
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2023 Supplement)

16 BY adding to
17 Article – Commercial Law
18 Section 12–128, 12–318, 12–319, 12–927, and 12–1031; and 12–1501 through
19 12–1506 to be under the new subtitle “Subtitle 15. Earned Wage Access”
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Commercial Law**

4 12–101.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) “Borrower” means a person who borrows money under this subtitle.

7 (c) “Commercial loan” means a loan which is made:

8 (1) Solely to acquire or carry on a business or commercial enterprise; or

9 (2) To any business or commercial organization.

10 (d) “Effective rate of simple interest” means the yield to maturity rate of interest
11 received or to be received by a lender on the face amount of a loan, computed in accordance
12 with § 12–107 of this subtitle.

13 (e) “Interest” means, except as specifically provided in § 12–105 of this subtitle,
14 any compensation directly or indirectly imposed by a lender for the extension of credit for
15 the use or forbearance of money, including any loan fee, origination fee, service and carrying
16 charge, investigator’s fee, time–price differential, **TIP**, and any amount payable as a
17 discount or point or otherwise payable for services.

18 (f) “Lender” means a licensee or a person who makes a loan subject to this
19 subtitle.

20 (g) “Licensee” means a person that is required to be licensed to make loans subject
21 to this subtitle, regardless of whether the person is actually licensed.

22 (h) (1) “Loan” means a loan or an advance of money or credit subject to this
23 subtitle, regardless of whether the loan or advance of money or credit is or purports to be
24 made under this subtitle.

25 (2) “Loan” does not include:

26 (i) A loan or advance of money or credit subject to Subtitle 3 of this
27 title, unless a written election is made under § 12–101.1 of this subtitle;

28 (ii) A plan or loan for which a written election is made under Subtitle
29 3, Subtitle 4, Subtitle 9, or Subtitle 10 of this title; or

30 (iii) An installment sale agreement as defined in § 12–601 of this
31 title.

1 [(h-1)] (I) “Mobile home” has the meaning stated in § 11-501 of the Financial
2 Institutions Article § 11-501 of the Financial Institutions Article.

3 [(i)] (J) “Person” includes an individual, corporation, business trust, statutory
4 trust, estate, trust, partnership, association, two or more persons having a joint or common
5 interest, or any other legal or commercial entity.

6 [(j)] (K) “Point” means a fee, premium, bonus, loan origination fee, service
7 charge, or any other charge equal to 1 percent of the principal amount of a loan which is
8 charged by the lender at or before the time the loan is made as additional compensation for
9 the loan.

10 [(k)] (L) “Simple interest” means interest charged on the principal amount
11 loaned to the borrower.

12 [(l)] (M) “Stated rate of interest” means the annual rate of interest stated in
13 percentage which appears on the face of the bond, draft, mortgage, deed of trust, security
14 agreement, promissory note, or other instrument which evidences the indebtedness.

15 (N) (1) **“TIP” MEANS A VOLUNTARY PAYMENT BY A CONSUMER TO A
16 LENDER OR THIRD PARTY WHO PROVIDES OR ARRANGES A LOAN:**

17 (I) **MADE AT THE TIME OF THE TRANSACTION IN RECOGNITION
18 OF THE LENDER’S OR THIRD PARTY’S PROVISION OR ARRANGEMENT OF THE LOAN;**

19 (II) **MADE AT THE SOLE DISCRETION OF THE CONSUMER; AND**

20 (III) **THAT DOES NOT AFFECT THE WILLINGNESS OF THE LENDER
21 OR THIRD PARTY TO PROVIDE OR ARRANGE THE LOAN OR ANY FUTURE LOAN OR
22 AFFECT THE TERMS OF ANY LOAN.**

23 (2) **“TIP” INCLUDES ANY PAYMENT MADE BY A CONSUMER
24 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, REGARDLESS OF HOW THE
25 PAYMENT IS CHARACTERIZED, INCLUDING AS PAYMENT FOR EXPEDITED
26 PROCESSING OR DISBURSEMENT OR FOR A MEMBERSHIP, REGISTRATION, OR
27 SUBSCRIPTION FEE OR AS A DONATION OR GRATUITY.**

28 [(m)] (O) “Usury” means the charging of interest by a lender in an amount which
29 is greater than that allowed by this subtitle.

30 [(n)] (P) “Wages” means all remuneration paid to any employee for the
31 employee’s employment, including the cash value of all remuneration paid in any medium
32 other than cash.

1 12-128.

2 (A) A LENDER WHO GIVES CONSUMERS AN OPTION TO PROVIDE THE
3 LENDER A TIP SHALL ~~SET~~:

4 (1) DISCLOSE TO THE CONSUMER TO WHOM THE TIP WILL BE
5 ALLOCATED; AND

6 (2) SET THE DEFAULT TIP AT ZERO.

7 (B) A LENDER MAY NOT DIRECTLY OR INDIRECTLY SUGGEST THAT
8 PROVIDING A TIP WILL INFLUENCE:

9 (1) THE LENDER'S WILLINGNESS TO PROVIDE A LOAN TO A
10 CONSUMER AT ANY TIME; OR

11 (2) THE TERMS OF ANY LOAN OFFERED TO THE CONSUMER BY THAT
12 LENDER.

13 (C) A LENDER WHO RECEIVES A TIP THAT WOULD OTHERWISE CREATE A
14 RATE OF INTEREST ABOVE THAT ALLOWED UNDER THIS SUBTITLE MAY NOT BE
15 FOUND IN VIOLATION OF THIS SUBTITLE IF THE LENDER RETURNS ALL OF THE TIP
16 OR THAT PORTION OF THE TIP NECESSARY TO REDUCE THE RATE OF INTEREST TO
17 AN AMOUNT ALLOWED UNDER THIS SUBTITLE WITHIN 30 CALENDAR DAYS AFTER
18 RECEIVING THE TIP.

19 (D) A LENDER SHALL PROMINENTLY DISCLOSE THAT:

20 (1) PROVIDING A TIP DOES NOT INFLUENCE THE LENDER'S
21 WILLINGNESS TO PROVIDE A LOAN TO THE CONSUMER AT ANY TIME; AND

22 (2) ANY TIP PAID BY THE CONSUMER DOES NOT INURE TO THE DIRECT
23 BENEFIT OF ANY SPECIFIC EMPLOYEE OF THE LENDER OR ANY OTHER INDIVIDUAL.

24 12-301.

25 (a) In this subtitle the following words have the meanings indicated.

26 (b) "Commissioner" means the Commissioner of Financial Regulation.

27 (c) "INTEREST" HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

28 [(c)] (D) "Lender" means a licensee or a person who makes a loan subject to this
29 subtitle.

1 [(d)] (E) “Licensee” means a person who is required to be licensed under Title
2 11, Subtitle 2 of the Financial Institutions Article, the Maryland Consumer Loan Law –
3 Licensing Provisions, regardless of whether the person is actually licensed.

4 [(e)] (F) (1) “Loan” means any loan or advance of money or credit subject to
5 this subtitle, regardless of whether the loan or advance of money or credit is or purports to
6 be made under this subtitle.

7 (2) “Loan” does not include an installment sale agreement as defined in §
8 12–601 § 12–601 of this title.

9 [(f)] (G) “Person” includes an individual, corporation, business trust, statutory
10 trust, estate, trust, partnership, association, two or more persons having a joint or common
11 interest, or any other legal or commercial entity.

12 (H) “TIP” HAS THE MEANING STATED IN § 12–101 OF THIS TITLE.

13 [(g)] (I) “Wages” means all remuneration paid to any employee for the
14 employee’s employment, including the cash value of all remuneration paid in any medium
15 other than cash.

16 **12–318.**

17 (A) A LENDER WHO GIVES CONSUMERS AN OPTION TO PROVIDE THE
18 LENDER A TIP SHALL ~~SET~~:

19 (1) DISCLOSE TO THE CONSUMER TO WHOM THE TIP WILL BE
20 ALLOCATED; AND

21 (2) SET THE DEFAULT TIP AT ZERO.

22 (B) A LENDER MAY NOT DIRECTLY OR INDIRECTLY SUGGEST THAT
23 PROVIDING A TIP WILL INFLUENCE:

24 (1) THE LENDER’S WILLINGNESS TO PROVIDE A LOAN TO A
25 CONSUMER AT ANY TIME; OR

26 (2) THE TERMS OF ANY LOAN OFFERED TO THE CONSUMER BY THAT
27 LENDER.

28 (C) A LENDER WHO RECEIVES A TIP THAT WOULD OTHERWISE CREATE A
29 RATE OF INTEREST ABOVE THAT ALLOWED UNDER THIS SUBTITLE MAY NOT BE
30 FOUND IN VIOLATION OF THIS SUBTITLE IF THE LENDER RETURNS ALL OF THE TIP
31 OR THAT PORTION OF THE TIP NECESSARY TO REDUCE THE RATE OF INTEREST TO

1 AN AMOUNT ALLOWED UNDER THIS SUBTITLE WITHIN 30 CALENDAR DAYS AFTER
2 RECEIVING THE TIP.

3 (D) A LENDER SHALL PROMINENTLY DISCLOSE THAT:

4 (1) PROVIDING A TIP DOES NOT INFLUENCE THE LENDER'S
5 WILLINGNESS TO PROVIDE A LOAN TO THE CONSUMER AT ANY TIME; AND

6 (2) ANY TIP PAID BY THE CONSUMER DOES NOT INURE TO THE DIRECT
7 BENEFIT OF ANY SPECIFIC EMPLOYEE OF THE LENDER OR ANY OTHER INDIVIDUAL.

8 12-319.

9 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A LOAN SHALL BE
10 SUBJECT TO THIS SUBTITLE, WHETHER OR NOT ELECTED, IF THE LOAN IS
11 DIRECT-TO-CONSUMER EARNED WAGE ACCESS UNDER SUBTITLE 15 OF THIS TITLE.

12 12-901.

13 (a) In this subtitle the following words have the meanings indicated.

14 (b) "Borrower" means a corporation, partnership, association, government or
15 governmental subdivision or agency, trust, individual, or other entity receiving a loan or
16 other extension of credit under this subtitle.

17 (c) "Commercial loan" and "extension of credit for a commercial purpose" mean
18 an extension of credit made:

19 (1) Solely to acquire an interest in or to carry on a business or commercial
20 enterprise; or

21 (2) To any business or commercial organization.

22 (d) "Consumer borrower" means an individual receiving a loan or other extension
23 of credit under this subtitle for personal, household, or family purposes or an individual
24 receiving a commercial loan or other extension of credit for any commercial purpose not in
25 excess of \$75,000, secured by residential real property.

26 (e) "Credit device" means any card, plate, check, draft, identification code, or
27 other means of identification contemplated by the agreement governing the plan.

28 (f) (1) "Credit grantor" means any individual, corporation, business trust,
29 statutory trust, estate, trust, partnership, association, two or more persons having a joint
30 or common interest, or any other legal or commercial entity making a loan or other
31 extension of credit under this subtitle which is incorporated, chartered, or licensed
32 pursuant to State or federal law, the lending operations of which are subject to supervision,

1 examination, and regulation by a State or federal agency or which is licensed under Title
2 12, Subtitle 4 of the Financial Institutions Article or is a retailer.

3 (2) "Credit grantor" includes:

4 (i) Any bank, trust company, depository institution, or savings bank
5 having a branch in this State;

6 (ii) Any subsidiary of a bank holding company, as defined in the
7 federal Bank Holding Company Act of 1956, as amended, which is domiciled, doing
8 business, and offering a revolving credit plan involving the issuance of credit devices in this
9 State; and

10 (iii) Any person who acquires or obtains the assignment of a revolving
11 credit plan made under this subtitle.

12 (G) "INTEREST" HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

13 [(g)] (H) (1) "Loan" means a cash advance to be paid to or for the account of
14 the borrower.

15 (2) "Loan" includes an advance made in accordance with the terms of a
16 shared appreciation agreement.

17 [(h)] (I) "Mobile home" has the meaning stated in § 11-501 of the Financial
18 Institutions Article § 11-501 of the Financial Institutions Article.

19 [(i)] (J) "Nonconsumer borrower" means any borrower other than a consumer
20 borrower.

21 [(j)] (K) (1) "Outstanding unpaid indebtedness" means on any day the total
22 amount of purchases and loans charged to the borrower's account under the plan which is
23 outstanding and unpaid at the end of the day, after adding the aggregate amount of any
24 new purchases and loans charged to the account that day and deducting the aggregate
25 amount of any payments and credits applied to the account that day.

26 (2) If the agreement governing the plan permits, "outstanding unpaid
27 indebtedness" may include the amount of any interest, finance charges, and additional
28 charges, including late or delinquency charges, that have accrued in the account and are
29 unpaid at the end of the day.

30 [(k)] (L) "Purchase" means an extension of credit for a purchase of real or
31 personal, tangible or intangible property, or an extension of credit for services, licenses,
32 taxes, official fees, fines, private or governmental obligations, or any other thing of value,
33 including a charitable contribution.

1 **[(l)] (M)** “Residential real property” means owner–occupied real property having
2 a dwelling on it designated principally as a residence with accommodations for not more
3 than four families.

4 **[(m)] (N)** “Revolving credit plan” or “plan” means a plan that contemplates the
5 extension of credit under an account governed by an agreement between a credit grantor
6 and a borrower under which:

7 (1) The credit grantor permits the borrower and, if the agreement
8 governing the plan permits, persons acting on behalf of or with authorization from the
9 borrower to make purchases or obtain loans from time to time;

10 (2) The amounts of purchases and loans are charged to the borrower’s
11 account;

12 (3) The borrower is required to pay the credit grantor the amounts of all
13 purchases and loans charged to the borrower’s account under the plan but has the privilege
14 of paying amounts due from time to time as agreed; and

15 (4) Interest or finance charges may be charged and collected by the credit
16 grantor from time to time on the amounts due under the plan.

17 **[(n)] (O)** “Shared appreciation agreement” has the meaning stated in § 11–501
18 of the Financial Institutions Article § 11–501 of the Financial Institutions Article.

19 **(P) “TIP” HAS THE MEANING STATED IN § 12–101 OF THIS TITLE.**

20 **12–927.**

21 **(A) A LENDER WHO GIVES CONSUMERS AN OPTION TO PROVIDE THE**
22 **LENDER A TIP SHALL ~~SET~~:**

23 **(1) DISCLOSE TO THE CONSUMER TO WHOM THE TIP WILL BE**
24 **ALLOCATED; AND**

25 **(2) SET THE DEFAULT TIP AT ZERO.**

26 **(B) A LENDER MAY NOT SUGGEST THAT PROVIDING A TIP WILL INFLUENCE:**

27 **(1) THE LENDER’S WILLINGNESS TO PROVIDE A LOAN TO A**
28 **CONSUMER AT ANY TIME; OR**

29 **(2) THE TERMS OF ANY EARNED WAGE ACCESS OFFERED TO THE**
30 **CONSUMER BY THAT LENDER.**

1 **(C) A LENDER WHO RECEIVES A TIP THAT WOULD OTHERWISE CREATE A**
2 **RATE OF INTEREST ABOVE THAT ALLOWED UNDER THIS SUBTITLE MAY NOT BE**
3 **FOUND IN VIOLATION OF THIS SUBTITLE IF THE LENDER RETURNS ALL OF THE TIP**
4 **OR THAT PORTION OF THE TIP NECESSARY TO REDUCE THE RATE OF INTEREST TO**
5 **AN AMOUNT ALLOWED UNDER THIS SUBTITLE WITHIN 30 CALENDAR DAYS AFTER**
6 **RECEIVING THE TIP.**

7 **(D) A LENDER SHALL PROMINENTLY DISCLOSE THAT:**

8 **(1) PROVIDING A TIP DOES NOT INFLUENCE THE LENDER'S**
9 **WILLINGNESS TO PROVIDE A LOAN TO THE CONSUMER AT ANY TIME; AND**

10 **(2) ANY TIP PAID BY THE CONSUMER DOES NOT INURE TO THE DIRECT**
11 **BENEFIT OF ANY SPECIFIC EMPLOYEE OF THE LENDER OR ANY OTHER INDIVIDUAL.**

12 12-1001.

13 (a) In this subtitle the following words have the meanings indicated.

14 (b) (1) "Balloon payment" means any scheduled payment on an installment
15 loan that is more than 2 times the average of all other payments scheduled to repay the
16 installment loan.

17 (2) "Balloon payment" does not include a down payment.

18 (c) "Borrower" means a corporation, partnership, association, government, or
19 governmental subdivision or agency, trust, individual, or other entity receiving a loan or
20 other extension of credit under this subtitle.

21 (d) "Closed end credit" means the extension of credit by a credit grantor to a
22 borrower under an arrangement or agreement which is not a revolving credit plan as
23 defined in Subtitle 9 of this title.

24 (e) "Commercial loan" and "extension of credit for a commercial purpose" mean
25 an extension of credit made:

26 (1) Solely to acquire an interest in or to carry on a business or commercial
27 enterprise; or

28 (2) To any business or commercial organization.

29 (f) "Consumer borrower" means an individual receiving a loan or other extension
30 of credit under this subtitle for personal, household, or family purposes or an individual
31 receiving a commercial loan or other extension of credit for any commercial purpose not in
32 excess of \$75,000, secured by residential real property.

1 (g) (1) “Credit grantor” means any individual, corporation, business trust,
2 statutory trust, estate, trust, partnership, association, two or more persons having a joint
3 or common interest, or any other legal or commercial entity making a loan or other
4 extension of credit under this subtitle which is incorporated, chartered, or licensed
5 pursuant to State or federal law, the lending operations of which are subject to supervision,
6 examination, and regulation by a State or federal agency or which is licensed under Title
7 12, Subtitle 4 of the Financial Institutions Article or is a retailer.

8 (2) “Credit grantor” includes:

9 (i) Any bank, trust company, depository institution, or savings bank
10 having a branch in this State;

11 (ii) A person not required to be licensed under this subtitle, who is
12 exempt from the licensing provisions of Title 11, Subtitle 5 of the Financial Institutions
13 Article, who makes a loan or extension of credit under this subtitle secured by a secondary
14 mortgage on residential real property; and

15 (iii) Any person who acquires or obtains the assignment of an
16 agreement for an extension of credit made under this subtitle.

17 (h) “Debt cancellation agreement” means an agreement between a credit grantor
18 and a borrower which provides for cancellation of the remaining loan balance in the event
19 of theft or total destruction of the collateral for the loan minus the proceeds of any insurance
20 maintained on the collateral for the loan or, if the borrower does not have insurance, the
21 actual cash value of the collateral at the time of loss, determined as provided in the
22 agreement.

23 (i) “Installment loan” means a loan repayable in scheduled periodic payments of
24 principal and interest.

25 **(J) “INTEREST” HAS THE MEANING STATED IN § 12–101 OF THIS TITLE.**

26 **[(j)] (K)** (1) “Loan” means any single extension of closed end credit, whether
27 repayable in installments, on demand, or otherwise and whether extended in one or more
28 advances.

29 (2) “Loan” includes an advance made in accordance with the terms of a
30 shared appreciation agreement.

31 **[(k)] (L)** “Mechanical repair contract” has the meaning stated in Title 15,
32 Subtitle 3 of the Transportation Article.

33 **[(l)] (M)** “Mobile home” has the meaning stated in § 11–501 of the Financial
34 Institutions Article § 11–501 of the Financial Institutions Article.

1 [(m)] (N) “Remaining loan balance”, when used in reference to a debt cancellation
2 agreement, does not include:

3 (1) Any delinquent or deferred payments;

4 (2) Past due charges;

5 (3) Late payment charges;

6 (4) Unearned interest;

7 (5) Unearned rental payments;

8 (6) The portion of any financed taxes or charges, including charges for
9 credit life insurance, credit health insurance, credit involuntary unemployment benefit
10 insurance, and mechanical repair contracts, actually refunded to the borrower or credited
11 as a reduction to the loan balance; or

12 (7) By agreement of the parties, the amount of any primary insurance
13 deductible.

14 [(n)] (O) “Residential real property” means owner-occupied real property having
15 a dwelling on it designated principally as a residence with accommodations for not more
16 than four families.

17 [(o)] (P) “Shared appreciation agreement” has the meaning stated in § 11-501
18 of the Financial Institutions Article § 11-501 of the Financial Institutions Article.

19 (Q) “TIP” HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

20 **12-1031.**

21 (A) A LENDER WHO GIVES CONSUMERS AN OPTION TO PROVIDE THE
22 LENDER A TIP SHALL ~~SET~~:

23 (1) DISCLOSE TO THE CONSUMER TO WHOM THE TIP WILL BE
24 ALLOCATED; AND

25 (2) SET THE DEFAULT TIP AT ZERO.

26 (B) A LENDER MAY NOT SUGGEST THAT PROVIDING A TIP WILL INFLUENCE:

27 (1) THE LENDER’S WILLINGNESS TO PROVIDE A LOAN TO A
28 CONSUMER AT ANY TIME; OR

1 **(2) THE TERMS OF ANY LOAN OFFERED TO THE CONSUMER BY THAT**
2 **LENDER.**

3 **(C) A LENDER WHO RECEIVES A TIP THAT WOULD OTHERWISE CREATE A**
4 **RATE OF INTEREST ABOVE THAT ALLOWED UNDER THIS SUBTITLE MAY NOT BE**
5 **FOUND IN VIOLATION OF THIS SUBTITLE IF THE LENDER RETURNS ALL OF THE TIP**
6 **OR THAT PORTION OF THE TIP NECESSARY TO REDUCE THE RATE OF INTEREST TO**
7 **AN AMOUNT ALLOWED UNDER THIS SUBTITLE WITHIN 30 CALENDAR DAYS AFTER**
8 **RECEIVING THE TIP.**

9 **(D) A LENDER SHALL PROMINENTLY DISCLOSE THAT:**

10 **(1) PROVIDING A TIP DOES NOT INFLUENCE THE LENDER'S**
11 **WILLINGNESS TO PROVIDE A LOAN TO THE CONSUMER AT ANY TIME; AND**

12 **(2) ANY TIP PAID BY THE CONSUMER DOES NOT INURE TO THE DIRECT**
13 **BENEFIT OF ANY SPECIFIC EMPLOYEE OF THE LENDER OR ANY OTHER INDIVIDUAL.**

14 **SUBTITLE 15. EARNED WAGE ACCESS.**

15 **12-1501.**

16 **(A) IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS**
17 **INDICATED.**

18 **(B) "CONSUMER REPORTING AGENCY" HAS THE MEANING STATED IN §**
19 **14-1201 OF THIS ARTICLE.**

20 **(C) "DIRECT-TO-CONSUMER EARNED WAGE ACCESS" MEANS EARNED**
21 **WAGE ACCESS:**

22 **(1) (I) PROVIDED TO A CONSUMER BY A THIRD PARTY WHO DOES**
23 **NOT HAVE A RELATIONSHIP WITH THE CONSUMER'S EMPLOYER; AND**

24 **(II) THAT IS BASED ON EMPLOYMENT, INCOME, OR**
25 **ATTENDANCE DATA OBTAINED DIRECTLY FROM THE CONSUMER; OR**

26 **(2) (I) PROVIDED TO A CONSUMER DIRECTLY BY A PERSON WITH**
27 **WHOM THE EMPLOYER HAS CONTRACTED TO PROVIDE EARNED WAGE ACCESS; AND**

28 **(II) WHERE THE ~~PROVIDER RECEIVES INTEREST PAID BY THE~~**
29 **~~CONSUMER~~ CONSUMER DOES NOT PAY THE PROVIDER INTEREST.**

1 (D) "EARNED WAGE" MEANS SALARY, WAGES, COMPENSATION, OR OTHER
2 INCOME EARNED:

3 (1) ON AN HOURLY, PROJECT-BASED, PIECEWORK, OR OTHER BASIS;
4 OR

5 (2) THROUGH SERVICES RENDERED AS AN INDEPENDENT
6 CONTRACTOR.

7 (E) "EARNED WAGE ACCESS" MEANS AN ADVANCE OF EARNED WAGE THAT:

8 (1) A CONSUMER OR EMPLOYER REPRESENTS HAS BEEN EARNED OR
9 ACCRUED TO THE BENEFIT OF THE CONSUMER IN EXCHANGE FOR THE CONSUMER'S
10 PROVISION OF SERVICES TO THE EMPLOYER, OR ON THE EMPLOYER'S BEHALF; AND

11 (2) HAS NOT BEEN PAID TO THE CONSUMER BY THE EMPLOYER AT
12 THE TIME THE EARNED WAGE ACCESS IS DELIVERED TO THE CONSUMER.

13 (F) "EMPLOYER-INTEGRATED EARNED WAGE ACCESS" MEANS EARNED
14 WAGE ACCESS:

15 (1) THAT IS PROVIDED TO THE CONSUMER DIRECTLY BY A PERSON
16 THE EMPLOYER HAS CONTRACTED TO PROVIDE THE SERVICE;

17 (2) THAT IS DETERMINED BASED ON EMPLOYMENT, INCOME, OR
18 ATTENDANCE DATA OBTAINED DIRECTLY OR INDIRECTLY FROM THE CONSUMER'S
19 EMPLOYER, INCLUDING A PAYROLL SERVICE PROVIDER; AND

20 (3) WHERE THE CONSUMER DOES NOT PAY THE PROVIDER INTEREST.

21 (G) "INTEREST" HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

22 (H) (1) "LOAN" HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

23 (2) "LOAN" INCLUDES DIRECT-TO-CONSUMER EARNED WAGE
24 ACCESS.

25 (I) "NMLS" HAS THE MEANING STATED IN § 1-101 OF THE FINANCIAL
26 INSTITUTIONS ARTICLE.

27 (J) "PAYROLL PERIOD" MEANS A PERIOD OF TIME DURING WHICH A
28 CONSUMER EARNS WAGES THAT AN EMPLOYER OWES TO THE EMPLOYEE AT THE END
29 OF THE PERIOD.

1 (K) "PROVIDER" MEANS A PERSON WHO PROVIDES TO CONSUMERS EITHER
2 EMPLOYER-INTEGRATED EARNED WAGE ACCESS OR DIRECT-TO-CONSUMER
3 EARNED WAGE ACCESS.

4 (L) "SUBSCRIPTION FEE" MEANS A FEE CHARGED BY A PROVIDER ON A
5 RECURRING BASIS FOR EARNED WAGE ACCESS SERVICES WHETHER OR NOT A
6 CONSUMER REQUESTS EARNED WAGE ACCESS FOR A PARTICULAR PAYROLL PERIOD.

7 (M) "TIP" HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

8 (N) "WAGES" HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

9 12-1502.

10 (A) ~~(1)~~ A PERSON MAY NOT ENGAGE IN THE BUSINESS OF PROVIDING
11 DIRECT-TO-CONSUMER EARNED WAGE ACCESS UNLESS THE PERSON IS LICENSED
12 UNDER OR IS EXEMPT FROM THE LICENSING REQUIREMENTS OF TITLE 11,
13 SUBTITLE 2 OF THE FINANCIAL INSTITUTIONS ARTICLE.

14 ~~(2)~~ (B) FAILURE TO OBTAIN A CONSUMER LOAN LICENSE IS A
15 VIOLATION OF SUBTITLE 3 OF THIS TITLE.

16 ~~(B) A PROVIDER OF DIRECT TO CONSUMER EARNED WAGE ACCESS MAY
17 NOT CHARGE INTEREST, INCLUDING ANY FEES, SUBSCRIPTION FEES, OR TIPS, IN
18 EXCESS OF THE AMOUNTS ALLOWED UNDER § 12-306 OF THIS TITLE.~~

19 12-1503.

20 (A) A PERSON ENGAGING IN THE BUSINESS OF PROVIDING
21 EMPLOYER-INTEGRATED EARNED WAGE ACCESS DOES NOT NEED TO BE LICENSED.

22 (B) A PERSON ENGAGING IN THE BUSINESS OF PROVIDING
23 EMPLOYER-INTEGRATED EARNED WAGE ACCESS SHALL:

24 (1) REGISTER WITH THE OFFICE OF FINANCIAL REGULATION
25 THROUGH NMLS; AND

26 (2) PROVIDE THE FOLLOWING:

27 (I) THE APPLICANT'S NAME AND ANY TRADE NAMES THE
28 APPLICANT WISHES TO OPERATE UNDER IN THE STATE;

29 (II) THE ADDRESS OF THE PRINCIPAL EXECUTIVE OFFICE;

1 (III) A LIST OF ANY BRANCH OFFICES THE APPLICANT WILL USE
2 IN PROVIDING EARNED WAGE ACCESS SERVICES; AND

3 (IV) ANY OTHER INFORMATION THE COMMISSIONER REQUESTS.

4 (C) REGISTRATION FEES FOR EMPLOYER-INTEGRATED EARNED WAGE
5 ACCESS PROVIDERS, WHICH MAY INCLUDE FEES FOR THE USE OF THE NMLS, AND
6 RENEWAL FEES SHALL BE PAID DIRECTLY BY THE EMPLOYER-INTEGRATED EARNED
7 WAGE ACCESS PROVIDERS.

8 ~~(D) A PROVIDER OF EMPLOYER-INTEGRATED EARNED WAGE ACCESS MAY
9 NOT RECEIVE INTEREST FROM THE CONSUMER.~~

10 ~~(E)~~ A PROVIDER OF EMPLOYER-INTEGRATED EARNED WAGE ACCESS MAY
11 NOT COMPEL OR ATTEMPT TO COMPEL PAYMENT BY A CONSUMER OF ANY
12 PROCEEDS, FEES, OR TIPS THROUGH ANY OF THE FOLLOWING MEANS:

13 (1) A CIVIL ACTION AGAINST THE CONSUMER IN ANY COURT OF
14 COMPETENT JURISDICTION;

15 (2) THE USE OF A THIRD PARTY TO PURSUE COLLECTION FROM THE
16 CONSUMER ON THE PROVIDER'S BEHALF; OR

17 (3) THE SALE OR ASSIGNMENT OF OUTSTANDING AMOUNTS TO A
18 THIRD-PARTY COLLECTOR OR DEBT BUYER FOR COLLECTION FROM THE
19 CONSUMER.

20 ~~(F)~~ (E) A PROVIDER OF EMPLOYER-INTEGRATED EARNED WAGE ACCESS
21 MAY HAVE RECOURSE TO OFFSET PREVIOUSLY PROVIDED EARNED WAGE ACCESS BY
22 OFFSETTING THE WAGES OF A CONSUMER EMPLOYED BY THE CONTRACTING
23 EMPLOYER.

24 12-1504.

25 (A) A PROVIDER OF EARNED WAGE ACCESS MAY NOT:

26 (1) SHARE WITH AN EMPLOYER ANY FEES, TIPS, OR OTHER CHARGES
27 RECEIVED FROM A CONSUMER FOR EARNED WAGE ACCESS;

28 (2) CONDITION A CONSUMER'S ABILITY TO OBTAIN EARNED WAGE
29 ACCESS ON THE CONSUMER'S ABILITY OR WILLINGNESS TO PAY THE PROVIDER A
30 TIP;

31 (3) CHARGE A CONSUMER A:

1 **(I) A RECURRING FEE, INCLUDING A SUBSCRIPTION FEE; OR**

2 **(II) A LATE FEE, INTEREST, OR OTHER PENALTY FOR FAILURE**
3 **TO PAY ANY PROCEEDS, FEES, OR TIPS; ~~OR~~**

4 **(4) REPORT ANY INFORMATION ABOUT A CONSUMER'S FAILURE TO**
5 **PAY ANY PROCEEDS, FEES, OR TIPS TO ANY CONSUMER REPORTING AGENCY;**

6 **(5) OBTAIN A CONSUMER'S CREDIT REPORT AS A METHOD OF**
7 **QUALIFYING THE CONSUMER FOR EARNED WAGE ACCESS; OR**

8 **(6) RECEIVE INTEREST FROM A CONSUMER.**

9 **(B) A PROVIDER OF EARNED WAGE ACCESS WHO GIVES CONSUMERS AN**
10 **OPTION TO PROVIDE A TIP SHALL:**

11 **(1) DISCLOSE TO THE CONSUMER TO WHOM THE TIP WILL BE**
12 **ALLOCATED; AND**

13 **(2) SET THE DEFAULT TIP AT ZERO.**

14 **(C) A PROVIDER OF EARNED WAGE ACCESS MAY CHARGE A FEE NOT**
15 **EXCEEDING \$3.50 FOR EACH TRANSACTION IN WHICH A CONSUMER RECEIVES**
16 **EARNED WAGE ACCESS.**

17 **12-1505.**

18 **ON OR BEFORE JULY 1 EACH YEAR, BEGINNING IN 2025, A PROVIDER OF**
19 **EARNED WAGE ACCESS SHALL SUBMIT A REPORT TO THE OFFICE OF FINANCIAL**
20 **REGULATION THAT INCLUDES ANY INFORMATION CONSIDERED NECESSARY BY THE**
21 **COMMISSIONER, AS PRESCRIBED BY REGULATION, TO ASSESS THE SIZE AND STATUS**
22 **OF EARNED WAGE ACCESS MARKET IN THE STATE.**

23 **12-1506.**

24 **THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS**
25 **SUBTITLE.**

26 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
27 **October 1, 2024.**