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SB 998: Commercial Law – Earned Wage Access Services

Hearing before the Senate Finance Committee, March 6, 2024

Position: UNFAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. **The PJC respectfully opposes SB 998 because it (1) creates a registration system for Earned Wage Access (EWA) lenders that does not acknowledge that their paid products are loans and (2) allows EWA lenders to charge unlimited amounts of fees and to solicit and receive "tips."**

SB 998 does not acknowledge that these EWA products—which are loans in every meaningful sense—are loans and does not regulate them as loans.

- SB 998 authorizes direct-to-consumer loans by lenders with no relationship to the borrower's employer. These loans are due in their entirety on the borrower's payday.
- Maryland law is clear that a loan is an advance of credit. EWAs are funded by banks, not through the employer or employee's actual paycheck.
- These products are loans, plain and simple. They should be regulated as loans.

SB 998's authorization of "tips" will confuse and mislead consumers, enriching lenders at the expense of working people who by definition are living paycheck to paycheck.

- Low-wage workers—who are disproportionately Black and Brown—use EWA products when they have urgent expenses that cannot wait for their payday. These workers do not have money to spare.
- The very idea of soliciting "tips" for loans is confusing and misleading. Workers who see a "tip" option are unlikely to believe that the tip is in fact voluntary and will not affect the speed or quality of the loan.
- The fees and tips associated with EWA services are not regulated within SB 998. Maryland law is clear that small dollar loans have limits on how much customers can be charged. This is to protect customers from high-cost products like payday loans which trap them in a cycle of borrowing.
- There is also pending guidance expected to come in 2024 from the federal Consumer Financial Protection Bureau, which has announced "plans to issue further guidance to provide greater clarity concerning the application of federal law to income-based advance products."¹

For the foregoing reasons, the PJC **OPPOSES SB 998** and respectfully urges an **UNFAVORABLE** report. Should you have any questions, please contact David Rodwin at rodwind@publicjustice.org or 410-625-9409 ext. 249.

¹ <https://www.consumerfinance.gov/about-us/blog/state-regulatory-developments-on-income-based-advances/>