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**SB 998 Commercial Law – Earned Wage Access Services
UNFAVORABLE
Senate Finance Committee
March 6, 2024**

Good afternoon, Chair Beidle, and members of the Senate Finance Committee. I am Tammy Bresnahan, Senior Director of Advocacy for AARP Maryland. AARP Maryland advocates for well over two million Marylanders age 50 and over. AARP is the largest nonprofit, nonpartisan organization. Key priorities of our organization include helping all Marylanders achieve financial and health security. AARP MD does not support SB 998.

Employers have a role to play in helping workers manage their finances, and cash management tools can help older workers juggle expenses. At the same time, high-cost loans and products that drain fees from slim budgets and lead workers to pay to be paid worsen the financial health of older workers. We do not support SB 998 because it erodes Maryland's strong consumer protection laws and interest rate limits by earned wage access (EWA) and other fintech payday loan companies, that claim, their product is not a loan. In addition, SB 998 places no limits on fees or tips on EWA companies and would remove protections from existing consumer protection laws. This leaves the users of EWA products—low-wage workers, who are predominantly people of color—vulnerable to a cycle of ongoing fees to access their wages.

Background

EWA enable consumers to obtain an advance of wages that they have earned prior to their scheduled pay date. Employer-based EWAs are offered by third parties that have access to the employer's time and attendance system. Other direct-to-consumer advances have no connection to the employer but claim to pay wages and collect instant access fees along with purportedly voluntary tips or donations. In both circumstances, the amount the consumer is offered is limited to the amount they have earned, or estimated to have earned, but is not yet been paid.

Employers offering EWA may cover the full costs themselves, may contract with an EWA provider or payroll provider that offers the advances for free to the worker, or may allow the provider to charge fees to the worker. In any of these models, the third party typically advances the funds to the worker and then is repaid the amount the consumer receives and any associated fees or costs from the consumer's next paycheck, either through payroll deduction, split direct deposit, or another manner. When offered through direct-to-consumer apps unconnected to the employer, the consumer is typically required to provide the third party with a copy of a previous pay stub and their bank account information. The consumer repays the advance by allowing the lender to make a direct debit of the advance along with fees, tips or donations from the consumer's bank account at the time of their next paycheck.

[California data](#) collected on nearly 6 million transactions reveal an average annual percentage rate (APR) over 330% for both tip-based and fee-based products, and a cycle of chronic reborrowing with an average of 36 advances a year and up to 100. California's regulator also observed multiple strategies that lenders use to make tips almost as certain as required fees" and that, while providers technically limit their recourse if they cannot collect, as a practical matter they are repaid 97% of the time.

AARP has a long history against payday lending loans, and EWA that collect fees or tips are remarkably similar. The Consumer Financial Protection Bureau recently observed that "these products share fundamental similarities with payday lending products." You know that there are more older people in the labor market than ever before living paycheck to paycheck. If they fall short before payday, they should not be subject to high fees and a cycle of "paying to be paid" for borrowing against their wages.

AARP Policy and Suggestions for States

Alternative financial services such as payday loans and their variant called "earned wage advances/access" are provided outside the traditional banking system. Providers of these products are disproportionately located in workplaces with a sizable proportion of Black and Hispanic/Latino residents, and they disproportionately strip wealth from these communities. They are also a major source of transactional and credit services for consumers with low and moderate incomes and people with heavy debt burdens or less favorable credit histories. Like traditional payday loans, EWA offer advances of pay before it is due. These products impose fees, interest, or other costs on workers, including tips. This leads to payment of effective interest rates like payday loans. Products may also contribute to chronic financial instability if borrowers become too reliant on them to meet expenses.

As such, these EWA products and other fintech payday loans should be regulated as loans subject to state and federal law. Maryland has strong consumer protection laws that limit interest rates and prevent predatory payday lending, and new fintech providers of payday advances should be required to abide by the same cost limits and licensing requirements as other lenders.

AARP believes that regulators should eliminate unfair, deceptive, or abusive practices in the alternative financial services industry. Prior to extending a loan, lenders should be required to evaluate whether an applicant can be expected to be able to repay the loan without reborrowing or refinancing, and while covering expected essential expenses.

States' ability to cap interest rates and enforce interest rate caps on new forms of loans should be upheld. We believe programs that offer EWA should be regulated as loans subject to Maryland's loan laws. Employers can continue to offer access to early pay for free as a benefit, but third parties that charge fees or tips should not get a special exemption to charge more than other lenders for payday advances.

For these reasons we ask for an unfavorable report on SB 998. If you have questions or comments, please contact me at tbresnahan@aapr.org or by calling 410-302-8451.