



**Statement for the Record from the
Financial Technology Association**

**Before the
Maryland House Economic Matters Committee
January 23, 2024**

Chair Wilson, Vice Chair Crosby, and Members of the Committee, thank you for the opportunity to submit written testimony on HB 246 and 254.

FTA is a non-profit trade association representing leading digitally-native financial services companies, including earned wage access providers and consumer and commercial lenders. Our members support policy efforts that prioritize regulatory frameworks that spur innovation while safeguarding consumers. We appreciate the opportunity to testify today as the bills being considered could impact our members and have unintended consequences for Maryland residents.

First, HB 246 could curtail access to Earned Wage Access (EWA) products. Today, EWA products help tens of thousands of Marylanders – and millions of consumers nationwide – better manage cash flows between pay cycles while avoiding traditional high-cost and predatory alternatives. A survey of nearly 5,000 national EWA customers found that ninety-three percent (93%) had a greater sense of financial control after using EWA, and ninety-one percent (91%) understand how the service works.¹

Furthermore, EWA, unlike credit products, is nonrecourse and there are no late fees, no interest rates, no evaluation of creditworthiness, and no impact on a consumer's credit score. While FTA EWA members are supportive of regulation, it's important that any regulatory framework reflect these consumer-centric elements.

When a new, innovative product is working well for consumers—and not subject to widespread complaints—we believe it is important for policymakers to take a calibrated approach to regulation. Because EWA products are not credit, we believe a purpose-built regulatory framework is more beneficial to—and protective of—consumers than force-fitting EWA products into legacy legal frameworks.

Therefore, we support the creation of an EWA registration and disclosure framework that prevents mandatory fees and collections proceedings. This approach would mitigate any perceived consumer risks, while not prematurely imposing ill-fitting requirements on an area of financial services innovation that is

¹ FTI Consulting, Re: Direct to Consumer Earned Wage Access User Survey Key Findings (July 7, 2021), available at <https://www.earnin.com/assets/pdf/FTI-Earned-wage-access-memo.pdf>.

benefiting consumers. To that end, numerous industry participants have come together to endorse such a framework as it has significant consumer protections and is intended to ensure that these products remain consumer-friendly, consumer-protective, non-abusive, and non-predatory. This framework has already been successfully adopted in Nevada and Missouri.² We would be happy to work with you on collectively moving a similar framework forward.

In addition, we have concerns about elements of HB 254 that would significantly impact bank-fintech partnerships. The bill contains provisions that will treat the non-bank in a bank partnership as the lender for state law purposes if it has the predominant economic interest in an underlying loan. If passed as drafted, this bill will upend fundamental and critical banking practices and restrict access to credit for low to moderate income consumers as well as underserved small businesses.³ As described in further detail by a recent Federal Reserve study, “these [bank-fintech] partnerships could help to move us toward a more inclusive financial system.”⁴

With the above potential consumer impacts in mind, we would be happy to work with the Committee to find a path forward that addresses Member concerns while retaining access to covered financial products and services. We appreciate the opportunity to provide our views on these important bills and look forward to working with you.

² Missouri Senate Bill 103 (2023), available at https://senate.mo.gov/23info/BTS_Web/Bill.aspx?SessionType=R&BillID=44662, and Nevada Senate Bill 290 (2023), available at <https://www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/10146/Overview>.

³ It is necessary to the functioning of bank lending and credit origination that banks have the ability to subsequently sell or transfer loans in order to generate the capacity for further lending; the predominant economic interest test will force banks to retain loans, thereby increasing risk exposure and reducing their capacity to extend further credit. Furthermore, if non-bank purchasers of loans cannot enforce those loans on the same terms as the originating bank, the secondary market demand for such loans will decrease or disappear, and banks will no longer originate them. See Honigsberg C., Jackson R. J., and Squire R. (November 2017). *How Does Legal Enforceability Affect Consumer Lending? Evidence from a Natural Experiment*, University of Chicago Journal of Law and Economics, vol. 60 no. 4; available at <https://www.journals.uchicago.edu/doi/abs/10.1086/695808>

⁴ Chernoff, A. and Jagtiani, J. (2023), *The Role of Bank-Fintech Partnerships in Creating a More Inclusive Banking System*, available at <https://www.philadelphiafed.org/-/media/frbp/assets/working-papers/2023/wp23-21.pdf>. See also Ellichehausen, G. and Simona, H. M. (2023), *FinTech and Banks: Strategic Partnerships That Circumvent State Usury Laws*, Finance and Economics Discussion Series 2023-056, Federal Reserve Board, Washington, D.C. ISSN 1936-2854 (Print) ISSN 2767-3898 (Online), available at <https://www.federalreserve.gov/econres/feds/files/2023056pap.pdf>, which shows that state-chartered banks that can effectively export their home state interest rates expand access to responsible credit products for near-prime and low-prime consumers.