

Testimony of Paul Sonn

National Employment Law Project

In Support of HB 246: Earned Wage Advances and Credit Modernization

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Economic Matters Committee

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Chairman Wilson and members of the Committee, the National Employment Law Project (NELP) is delighted to submit this written testimony in support of HB 246. By clarifying that earned wage advances and other fintech cash advances (EWA's) are loans subject to Maryland's laws regulating loans and interest rates, this legislation will provide crucial protection for Maryland workers and prevent vendors and employers offering new forms of high-cost loans from evading the state's strong and longstanding consumer protection laws. Without these vital clarifying protections, too many lenders and employers will take advantage of underpaid workers by charging them exorbitant fees and rates of interest, worsening their and their families' hardship and in some cases driving their pay so low as to violate Maryland's wage and hour laws.

About NELP. NELP is a nonprofit research, policy, and capacity building organization that for more than 50 years has sought to strengthen protections and build power for workers in the U.S., including workers who are unemployed. For decades, NELP has researched and advocated for policies that create good jobs, expand access to work, and strengthen protections and support for underpaid and jobless workers both in the workplace and when they are displaced from work. Our primary goals are to build worker power, dismantle structural racism, and ensure economic security for all.

EWA's. EWA's are advances on workers' paychecks that are made ahead of payday, and then repaid on payday. With employer-based EWAs, a third party lender typically advances money based on the amount of earned but not yet due wages, which is repaid through payroll deductions or other methods. Workers pay fees for the service, unless their employer covers the cost.

Similar direct-to-consumer products with no connection to payroll are repaid by debiting bank accounts. In such cases, lenders often profit by collecting "tips" and instant access fees. Other types of cash advances also collect "tips," "donations," or instant access fees but do not claim to be paying wages.

The Risks Posed by Unregulated EWA's. EWA's and other fintech payday loans are deeply harmful to workers and their families. Key points based on experiences in other states include:

- EWA's charge **abusively high fees**, sometimes as high as 330%, through a combination of high interest rates and "tips," driving underpaid workers' earnings even lower.
- In fact, EWA's, like other high employer-linked fees, **can drive workers' effective earnings down below the level of the Maryland minimum wage**, causing extreme hardship and violating the state's wage and hour laws.
- Unsurprisingly, like pay day loans, workers who are forced to avail themselves of EWA's typically **use them repeatedly throughout the year** – since once they start pre-spending their paychecks, they fall into a vicious circle of needing to do so many pay periods.

The Need for HB 246. HB 246 will protect Maryland workers from these high, snowballing costs and would require EWA's to comply with the same fee and interest rate limits as other cash advances. It would continue to exempt free employer loans, and would also allow employers like Walmart to cover the costs of third-party advances so that they are free to workers. But the bill would make clear that any advance that comes with a cost is a loan that must comply with Maryland's interest rate limits. Third-party lenders that charge fees for wage advances would need to comply with the same cost limits and other protections that other cash advances follow.

While employers and vendors should be encouraged to innovate, new products and practices that seek to profit by evading crucial consumer and worker protections hurt all of us. Maryland should reject efforts by fintech to side-step these basic standards by moving swiftly to pass HB 236. Thank you for the opportunity to share our views on this important topic.