

January 23, 2024

House Economic Matters Committee

Chair: Delegate Wilson
House Bill 246 – Earned Wage Access and Credit Modernization

Re: Letter of Support

As Maryland’s Consumer Financial Protection Agency, the Office of Financial Regulation (OFR) requests a favorable report on HB246 which confirms consumer protections for Marylanders.

Employers have long offered their employees, mostly low-wage and hourly workers, the opportunity to access some of their accrued wages before the end of their payroll cycle. Recently, this service has become known as “earned wage access.” Originally, employers offered wage access directly, but, starting in the 1990s, payroll services and other third parties that contracted with employers developed products that could offer employees advance wage access on behalf of the employer.

These types of services have been growing in popularity because they allow consumers faster access to their earned, but not yet paid, wages. However, these products, particularly when offered by third-party providers unaffiliated with the employer, often come with fees or other costs. For example, the company providing these advances may charge a flat fee or even request a “tip” to provide the loan. Other companies advance funds using a debit card and charge transaction fees to access the wage advance.

These costs can be difficult for the consumer to understand and avoid, particularly since there is no disclosure of the rate of interest being charged. Statistically, consumers using these products seek advances of \$100 or less. And while these products are marketed as affordable, costing only a few dollars over a two-week period, the fees can carry an annual percentage rate (APR) of between 100% and 400%, far above the maximum interest rate of 33% APR permitted under Maryland loan law.

Today’s marketplace offers earned wage access products under a variety of business models. They can provide a tangible benefit to workers, particularly if it allows them to draw a portion of their earned wages when they need them at a low or no cost. However, depending upon how the product is structured, consumers face risks of paying high costs to participate in the program or drawing too much of their pay triggering a repayment obligation. Like all consumer lending services, these products require careful regulation.

In the last two years, some states have introduced legislation to address earned wage access products through either licensure or registration of providers, or through the establishment of product requirements and consumer protections. There is no direct federal law on the topic, though the products

are likely covered by federal regulation Z, which covers consumer loan disclosures, as well as the Truth in Lending Act.

The Consumer Financial Protection Bureau (CFPB) [recently affirmed](#) treating these products as loans and stated “these products share fundamental similarities with payday lending products.”

The OFR licenses and regulates consumer lenders in Maryland. This proposed legislation codifies principles that the OFR determines currently already apply to earned wage access products. The legislation provides that any earned wage access products that charge a fee are subject to Maryland’s Consumer Loan Law.

This bill explicitly treats certain earned wage access products as loans, and the amendment bans the solicitation of so-called “tips” related to providing advanced wage access and credit. Further, the bill confirms that any fees such as subscription fees or expedited processing fees must be included in the calculation of interest. It also provides for the licensure of entities offering earned wage access products with fees. Additionally, it provides exemptions from licensure for employers and employer-connected entities who provide earned wage access at no cost to employees. All these provisions are similar to those applied to other types of consumer lenders and consumer loan programs.

With that, we urge a favorable Committee Report.