

**Testimony in Support of Maryland HB 246: Earned Wage Access and Credit Modernization**  
**House Economic Matters Committee**  
**By Lauren Saunders, Associate Director, National Consumer Law Center**  
**January 23, 2024**

Chairman Wilson and members of the Committee:

I am Lauren Saunders, Associate Director of the National Consumer Law Center, a national non-profit organization that uses its consumer law expertise to work for economic justice for vulnerable consumers.

I write in support of HB 246, which clarifies that earned wage advances and other fintech cash advances are loans subject to Maryland law and interest rate limits. The bill would prevent new forms of high-cost loans from evading Maryland's strong consumer protection laws and limit high-cost services that result in workers paying to be paid.

**How Earned Wage Advances and Other Fintech Cash Advances Work**

Earned wage advances (EWAs) are advances made ahead of payday, repaid on payday. With employer-based EWAs, a third party typically advances money, based on the amount of wages that have been earned but are not yet due wages, and is repaid through payroll deduction or another method. Employers may cover the costs, but otherwise workers generally pay fees.

Other direct-to-consumer products have no connection to payroll and are repaid by debiting a consumer's bank account. They collect "tips," "donations" or instant access fees.

**The Cost and Impact of Wage Advances: 330% APR Loans and Paying to be Paid**

California studied EWAs and collected [data](#) on nearly 6 million advances, finding:

- The average **APR is over 330%**, for both tip-based and employer-based advances.
- Workers take an **average of 36 loans a year and up to 100**. As with payday loans, using next week's pay to pay this week's expenses leaves a hole in the next paycheck that triggers chronic reborrowing. Fees quickly snowball, and workers end up paying to be paid week after week.
- Companies that **push "tips" collect them 73% of the time**, generating over \$17 million for three companies. California [identified](#) "multiple strategies that lenders use to make tips almost as certain as required fees."
- With the ability to debit payroll or bank accounts, lenders [collect 97% of the time](#). California concluded EWAs are credit as workers agree to repay, and it is immaterial if the loans are "non-recourse" in the sense that lenders don't sue or use debt collectors are immaterial.

HB 246 will protect Maryland workers from these high, snowballing costs, requiring earned wage advances to comply with the same fee and interest rate limits as other cash advances.

## **EWAs and Other Fintech Payday Loans are Loans**

HB 246 is consistent with the historic and modern treatment of wage advances.

Small dollar loan laws across the country arose to address abuses by “salary lenders.” Loan laws in [at least 24 states](#) include in their loan definitions money provided for assignments of unpaid earnings or for wages “earned or to be earned.” EWAs also fit in other states’ loan definitions.

More recently:

- In a [December 2023](#) comment, the Consumer Financial Protection Bureau stated that earned wage advances “**share fundamental similarities with payday lending products,**” and that California’s proposal to treat them as loans is consistent with federal law. The CFPB’s 2020 advisory opinion only applies to completely free advances.
- Connecticut has enacted a law sponsored by its banking regulator to treat earned wage advances as loans
- A similar bill from the Washington State regulator is pending.
- California has proposed to treat EWAs as loans, and “tips” and expedite fees as charges.

HB 246 is important to clarify Maryland’s treatment of wage advances and to prevent evasions of Maryland’s anti-predatory lending laws.

The bill would continue to exempt free employer loans, and to allow third-party EWA services where the employer covers the cost or the service is otherwise 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 must simply comply with the cost limits and other protections that other cash advances follow.

### **Old Wine in New Bottles**

Evasions often take the form of new innovations. The payday loan industry got its start by arguing that it was not making loans, just charging check cashing fees on deferred checks. We must reject similar arguments equating fees for fintech cash advances to ATM fees.

High-cost earned wage advances drain fees from low-wage workers, disproportionately from communities of color, who just end up paying to be paid. The loans should comply with Maryland law.

Thank you for the opportunity to testify. I urge you to support HB 236.