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HB 246: Commercial Law – Credit Regulation – Earned Wage Access and Credit Modernization

Hearing before the Senate Finance Committee, March 26, 2024

Position: FAVORABLE WITH AMENDMENTS

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. **The PJC respectfully requests a favorable with amendments report on HB246.**

HB246 appropriately treats earned wage access (EWA) products—which are loans in every meaningful sense—as the loans they are.

- Maryland law is clear that a loan is an advance of credit. EWAs are funded by banks, not through the employer or employee's actual paycheck. These products are loans and should be regulated as loans.
- HB246 appropriately treats EWA products as the loans they are.

The notion of “tips” for EWA products is inherently confusing and threatens to enrich lenders at the expense of working people living paycheck to paycheck; HB246 takes some appropriate action to limit possible abuses of a “tip” option.

- Low-wage workers—who are disproportionately Black and Brown—use EWA products when they have urgent expenses that cannot wait for their payday. These workers do not have money to spare.
- The idea of soliciting “tips” for loans is confusing and misleading. Workers who see a “tip” option are unlikely to believe that the tip is in fact voluntary and will not affect the speed or quality of the loan.
- Maryland law is clear that small dollar loans have limits on how much customers can be charged. This is to protect customers from high-cost products like payday loans which trap them in a cycle of borrowing.
- HB246 appropriately ensures that the default “tip” amount for EWA products is set to \$0 and that the product will disclose who the tip is going to.

HB246 also makes other meaningful improvements.

- The bill sets a fee cap of \$3.50 per transaction to protect consumers.
- The bill also requires an annual report to the Office of Financial Regulation.

The PJC supports HB245 with certain amendments to further its goals.

- We suggest a cap on monthly fees. As written, the bill caps fees at \$3.50 per transaction but has no cap on the monthly cost and no limit on the number of transactions. Lenders have offered models where the consumer is allowed to take an advance of only one day's wages, requiring a new fee every day—a model that is especially common in “gig work” industries. A person who worked five days a week for four weeks could spend \$70 in fees. A monthly fee cap would help.

- We also suggest language be added to protect workers from receiving less than the minimum wage. The lowest-paid workers cannot afford to have fees deducted from their wages, and employers should not be allowed to contract with companies that result in people being paid less than minimum wage.
- We also suggest that language be added to limit special treatment to employer-integrated models and not to direct-to-consumer loans, especially models that debit bank accounts.

For the foregoing reasons, the PJC respectfully urges a **FAVORABLE WITH AMENDMENTS** report on HB246. Should you have any questions, please contact David Rodwin at rodwind@publicjustice.org or 410-625-9409 ext. 249.