MARYLAND DEPARTMENT OF LABOR

LEGISLATIVE OFFICE
45 Calvert Street
Annapolis, Maryland 21401

MARYLAND DEPARTMENT OF LABOR TESTIMONY ON HOUSE BILL 1294

TO:	Economic Matters Committee
FROM:	Tony Salazar, Commissioner Financial Regulation
DATE:	03/04/2025
BILL:	House Bill 1294

MDL POSITION: INFORMATIONAL

BACKGROUND

The Maryland Department of Labor (MD Labor) and its Office of Financial Regulation (OFR) are responsible for providing consumer financial protections, licensing consumer lenders, and enforcing state laws regarding pay and wages. Earned Wage Access (EWA) products are being used with increasing frequency by hundreds of thousands of workers across Maryland. The Department believes it is critical that any financial products allowed in the State, including earned EWA products, maintain the protective consumer framework established by Maryland law.

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 high fees and other hidden 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. 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.

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MARKET INQUIRY FINDINGS

OFR conducted a Market Inquiry on EWA products on July 22, 2024. **A data sheet with the results of OFR's Market Study in 2024 is below.** The Market Inquiry found that typical EWA users in Maryland are individuals earning between $25,000 and $50,000 annually, aged 25 to 33, and with a high school education. Many of these users have additional debt and turn to EWA products for immediate needs, especially groceries. The most common advance amount ranges between $25 and $100, and there is prevalent use of multiple EWA products in a single month. Most providers now offer employer-integrated solutions, with a growing trend toward the use of bank partnerships and requirements for direct deposits to branded accounts. Additionally, branded debit and credit cards are provided by EWA companies. Expedite fees vary widely, and while users often pay tips and fees if asked as part of the cash advance application process, the data provided shows that **these fees do not significantly contribute to company revenues.** Instead, interchange fees represent a major source of revenue.

The Market Inquiry data showed that Black and Hispanic communities use EWA services at higher rates, with transaction volume correlating to the percentage of minority populations in a given area. Additionally, consumers in zip codes with greater financial constraints and higher rent burdens tend to rely more on EWA products. Maps provided at the bottom of this document show the concentration of users in these areas. Separately, the data also indicated individuals with lower financial literacy are more likely to rely on these products, and that defaults are disproportionately higher for individuals over age sixty-five. Workers in zip codes having fewer people with a bachelor's degree are more likely to use EWA services.

REPEAT TRANSACTIONS

The data in the Market Inquiry showed that there are significant consumer impacts associated with EWA products. **Most users across all companies have 51 or more repeat transactions.** High repeat usage rates suggest users' financial dependency. Additionally, consumers have faced negative experiences such as declined transactions, unpaid advances, and salary reconciliations. Importantly, nearly **2,700 complaints** were raised by Maryland residents over a five-year span, underscoring the need for comprehensive legislative action to regulate EWA products.

The proposed tiered rate cap may present challenges for borrowers. An EWA lender could insist the borrower take two loans for $50 at a total fee of $10 rather than a $100

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loan at a fee of $7.50 to increase their profits. Fees or tips associated with these advances should not be viewed as one-time charges, but must be viewed cumulatively.

TIPPING

OFR currently has the authority and substantial justification to regulate tipping as an illegal practice. Under FI § 2-113.1, the Commissioner may define specific acts or practices that are "anticompetitive, unfair, deceptive, abusive, or injurious to the public interest." The practice of tipping during a loan transaction flunks all of these prongs. OFR has already enforced the tipping practice against companies which created peer-to-peer lending platforms that solicited illegal tips. As part of the Department of Labor, OFR knows that the concept of tipping an EWA provider is a legal misnomer that benefits lending companies, not individual workers who deliver a service.

From the Market Inquiry, we know that only 2 of the 17 respondents we surveyed ask consumers for tips. Those that do receive disproportionate revenue from consumers. The company that gained the most revenue from tipping received approximately $3.5 million in 2024 from Marylanders just in tips. This is a striking display of an anticompetitive practice, especially compared to what the majority of other EWA providers receive from tips (zero). The Department does not support passing a law that favors one business model over another, especially when the majority of product providers in Maryland have shown they can operate without relying on tips.

EWA ACROSS THE COUNTRY

SB 1252, which has passed the legislature and is awaiting signature by the Governor in Virginia, would subject financial technology companies that work with banks and other financial institutions to the Commonwealth's 12% usury law. A258, in New York, would subject the fees charged by EWA providers in the State to a limit to be set by the State's Department of Financial Services instead of the general usury cap.

Additionally, twelve states require payday lenders, including EWA providers, to use a software to confirm how many outstanding loans a borrower has across multiple lenders. This requirement prevents borrowers from taking out too many loans with different companies and overly burdening their next paycheck.

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CONCLUSION

OFR has found a high rate of repeat EWA users and evidence that **many companies earned more from interchange fees than from the fees and tips they received from users**. Setting high fee caps and allowing for the solicitation of tips would negatively impact the repeat employee borrowers, and would not result in material revenue increases for the vast majority of EWA providers operating in Maryland.

Given these products similarities to payday lending, the Department believes that EWA can and should be regulated within the existing structure of the consumer loan law. Working within the existing loan law would ensure that the robust consumer protections currently enjoyed by Maryland consumers are maintained and that we are not creating a one-off framework for new products every time one enters the state. The results of the market inquiry affirm that these products can and are operating within Maryland's existing regulatory framework for other similar loans to serve the needs of some Maryland workers.

The Department appreciates the work that has gone into the development of this bill and appreciates the committee's consideration in ensuring the passage of the most effective version of this legislation.

For questions, please contact Caroline Bauk at Caroline.Bauk@maryland.gov.

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Market Inquiry Data on Earned Wage Access (EWA) Products

Impact on Low-Income and Minority Workers

- EWA usage is highest among those earning **$25,000 - $50,000** annually.
- Black and Hispanic communities show disproportionately high usage rates.
- Workers in zip codes with higher financial constraints and rent burdens are more reliant on EWA services.

High Cost of EWA Products to Workers

- The average transaction value is **$108.18**, with an average APR of **66.28%**.
- At least 3 providers have APR equivalents exceeding **100%**, with one company charging an APR of **227.17%**.
- Fees range from **$1.99 to $5.00** per transaction.
- **50%** of users pay expedited fees, totaling approximately **$3.8 million** in Maryland.
- Despite claims that EWA is an alternative to payday loans, the data suggests EWA products carry high APR and similar repeat-use cycles.

Repeat Use and Cycles of Reliance

- From January 1, 2019, to September 26, 2024, there were 11,141,090 EWA transactions in Maryland totaling $108,082,684, with 345,437 unique customers.
- Most users have **51 or more** repeat transactions, with cash-out amounts exceeding **$500** per transaction.
- **23%** use the service at least once every two weeks, suggesting habitual use.

Negative Impacts

- **9,820** transactions failed or were declined due to a lack of funds.
- Debt collection and disputes over payment terms are top consumer complaints.
- EWA defaults are disproportionately higher in older age groups (**65+**) and by lower income groups (**<$50,000**).

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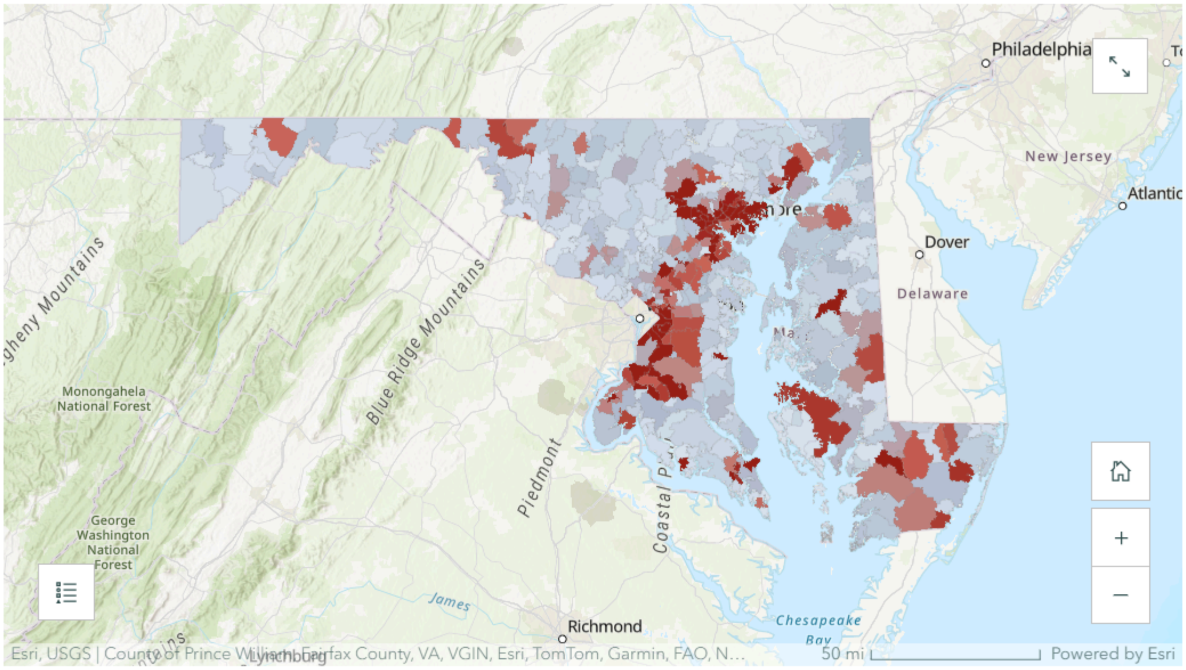

EWA Transactions_2024 Transactions Rate Per 1,000 Pop