



Testimony to the House Economic Matters Committee
HB1294 Commercial Law - Credit Regulation - Earned Wage Access and Credit Modernization
Position: Unfavorable

January 28, 2025

The Honorable CT Wilson, Chair
House Economic Matters Committee
Room 231, House Office Building
Annapolis, Maryland 21401
cc: Members, House Economic Matters

Honorable Chair Wilson and members of the committee:

I am a Maryland resident and the Associate Director of the National Consumer Law Center (NCLC). NCLC submits this testimony in strong opposition to HB 1294. Founded in 1969, NCLC uses the tools of advocacy, education, and litigation to fight for economic justice for low-income and other vulnerable people abused, deceived, discriminated against, or left behind in our economy.

We appreciate the fact that HB 1294 recognizes that fintech payday loans purportedly based on “earned wages” are loans, and that the bill – at least nominally – subjects the loans to Maryland’s lending laws. However, we must oppose the bill because it effectively exempts fintech payday loans from Maryland’s strong interest rate limits that prevent predatory lending, and substitutes permission to charge high fees and disguised interest on balloon-payment loans that put people debt trap and make liquidity problems worse, not better. **The bill would allow lenders to collect up to \$100 or more a month in fees and costs, 12 months a year, on debt trap payday loans with annual percentage rates (APRs) in the range of 300% or higher.**

The bill has several serious problems. It:

- Authorizes interest disguised as expedite fees of \$5.00 to \$7.50 even though the cost of sending money instantly is only a few pennies.
- Places no cap whatsoever on subscription or membership fees.
- Imposes no limits on the number of loans per week, per month or per year.
- Imposes no overall fee cap on the amount a consumer could pay in a month or year.

- Does not stop manipulations that lenders are already using to increase fees, such as artificially limiting loan size so consumers must take out multiple loans with multiple fees to get the loan they want.
- Authorizes interest disguised as “tips” and “donations,” implying but not expressly stating that those tips and donations are subject to Maryland’s interest rate limits, giving lenders wiggle room to argue that those costs are not capped at all. It is not clear if this is intentional. We urge the bill’s sponsors to clarify whether tips and donations are or are not considered interest limited by Commercial Code § 12-306, which limits loans up to \$500 to 33% annual interest.
- Purports to adopt safeguards to make tips and donations voluntary, but fails to stop the myriad of dark patterns that lenders have used to coerce people into paying those costs, including:
 - Wasting the time and patience of borrowers by making them navigate through extra screens if they want a loan without a tip;
 - Design tricks and fine print that make it easy to accidentally proceed with a loan with a high tip;
 - Playing on the fear of access being cut off or limited, or loan limits not being raised, by subjecting people to multiple messages before they take out loans about the importance of tipping or their failure to tip the last time;
 - Actual repercussions for not tipping enough, such as cutting off alerts or access to services other than the loan itself;
 - Psychological manipulation and guilt through repeat messages about the importance of supporting the company and the community and relying on our understanding that tips are generally expected;
 - Misleading claims about charitable contributions;
 - Proclaiming “No interest” or “0% APR” on loans that have interest and have high APRs.

Overall, this bill will allow loans *with no limit whatsoever on the total cost or multiplying fees*. The \$7.50 fee limit alone can be 274% APR for a \$100 10-day loan and 684% APR for a \$40 one, and there is no limit on tips, donations or subscription fees. Lenders could force borrowers to pay multiple fees by artificially limiting loan size – as some already do – requiring borrowers to take out five \$100 loans to get \$500.

The California Department of Financial Innovation [found](#) that the average tip amount on income-based advances was \$4.09 and that workers take out an average of 9 loans a quarter (36 a year). With \$7.50 expedite fees added in, under HB 1294 that would translate into \$417.24 in fees and tips from the average EWA borrower per year, **or over two-thirds of a week's wages for someone making minimum wage in Maryland**. Even worse, a consumer who took out five \$100 loans to get \$500, paying a \$7.50 expedite fee and a \$4 tip on each \$100, and borrowed that \$500 twice a month, would pay a **total monthly cost of \$115**.

Even traditional payday lenders could exploit the bill's broad scope. To be a direct to consumer provider, a lender simply has to be licensed, base the loan on income data from the consumer, and limit their charges to expedite fees, tips, donations, membership fees or subscription fees. Any payday lender that adjusts their model to these very loose requirements would be free to offer triple-digit APR loans in Maryland. In exchange, the so-called protections offered in the bill are meaningless and merely codify existing business models:

- Providers would have to offer a no-cost option, but they do so today, and those options are slow (delaying the advance) or inconvenient (not into the consumer's own bank account) and are hardly used by consumers. The nature of small dollar loans is based on urgency. That's why the vast majority of consumers pay for expedited funds.
- Declaring that tips are voluntary does not stop their high cost, the use of dark patterns and psychological tricks to push people into tipping or making it hard to undo a tip, or every possible repercussion of not tipping enough. Setting the default tip to zero does not overcome the pressure to tip.
- The requirement that the lender repay overdraft and nonsufficient funds fees within 5 business days is insufficient as pledges to repay those fees do not work today as people cannot get through to customer service or are often rebuffed when they do.
- The prohibition of credit reporting is meaningless, as payday lenders do not use or report to traditional credit bureaus today.
- The "non-recourse" ban on using debt collectors, lawsuits or debt buyers does not help as lenders have recourse to the paycheck or bank account, collect 97% to 99% of the time

Debt trap loans of 300% APR or higher are not the kind of loans Marylanders deserve. Maryland should be proud of having some of the strongest anti-predatory lending laws in the country and a record of standing up for evasions of those laws. I strongly urge you to oppose HB 1294.

Thank you.

A handwritten signature in black ink, appearing to read 'Lauren Saunders', with a long horizontal flourish extending to the right.

Lauren Saunders
Associate Director
National Consumer Law Center