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February 3, 2026

To: The Honorable Kriselda Valderrama
Chair, House Economic Matters Committee

From: Leonard J. Howie
Deputy Attorney General, Office of the Attorney General

Re: House Bill 237 – Commercial Law – Earned Wage Access – Revisions (SUPPORT
WITH AMENDMENTS)

The Office of the Attorney General (“OAG”) supports, with amendments, House Bill 237, introduced by the Office of Financial Regulation (“OFR”) within the Maryland Department of Labor. House Bill 237 seeks to address concerns about recent Maryland law regarding earned wage access (“EWA”) that (i) authorized all Maryland lenders to solicit and accept “tips, gratuity and other donations” from consumers, and (ii) exempted EWA lenders from Maryland lending laws prohibiting false advertising and discrimination in lending on the basis of race, color, creed, national origin, sex, sexual orientation, gender identity, disability, marital status, or age.

The Earned Wage Access and Credit Modernization Act (“EWA Act”)(Chapter 847 (2025)), which became effective October 1, 2025 without the Governor’s signature, expressly excepted EWA lenders from a catalogue of legal protections for Maryland consumers absent any stated reason. These exceptions included consumer protections against false advertising and discrimination on the basis of race, gender, and other protected categories. House Bill 237 would reinstate the applicability of the antidiscrimination and false advertising prohibitions in Title 12 of the Commercial Law Article §§12-304, 305, and 316.1 to EWA lenders. This reasonable change is necessary to protect Maryland consumers.

The EWA Act also expressly authorized any lender in Maryland (not just EWA lenders) to solicit and charge a tip to consumers, in addition to other authorized fees and interest, a practice that is unnecessary, manipulative, and unfair. Lenders’ solicitation of tips implies that the funds go to individuals for providing a service or are somehow generous or altruistic. A tip to a lender, however, is just an additional finance charge to a company for profit; it is not a tip for good service

and does not go to individuals providing a service. Moreover, EWA lenders, for example, historically have used predatory tactics such as disabling services if borrowers do not tip, making it hard to avoid tipping in user interfaces, making it unclear whether the tip is optional, and misleadingly claiming or implying that tips or “donations” are used to help other consumers.¹ While the law currently requires a disclosure to consumers that “tips” are voluntary and optional nor do they impact lending determinations, in practice companies “deploy a host of techniques from behavioral economics to pressure users into tipping each time a loan is requested.”²

Some EWA providers have submitted that the solicitation of tips is protected commercial speech under the First Amendment. However, like numerous other Maryland laws that govern the kinds of charges lenders can charge consumers, a law addressing the charge and collection of tips addresses commercial conduct, and not speech, and thus does not implicate the First Amendment at all.³ Regardless, the Constitution gives great leeway to the regulation of commercial speech that is or can be misleading. Maryland and the Federal government have frequently regulated what lenders can say to consumer borrowers, and how lenders’ charges can be characterized, because the transactions are highly susceptible to confusion. Lenders have historically and regularly tried to mischaracterize their fees and charges as something other than finance charges to mislead consumers about the true cost of lending, and to try and avoid usury caps. As discussed, characterizing a finance charge as a tip has the potential to mislead, and in fact does mislead, consumers.

In addition to the two fixes discussed above, the OAG further urges that the Maryland General Assembly adopt amendments to House Bill 237 that would provide added consumer protections in EWA lending. The EWA Act legalized otherwise usurious payday lending in Maryland for the first time, overriding and reversing hundreds of years of Maryland law and court decisions banning the practice. As written, the EWA Act opens the door for unscrupulous EWA lenders to financially exploit their predominantly low wage consumers through predatory lending practices, with few consumer protections. While the EWA Act would benefit from a series of amendments, including those set forth in the proposed amendments accompanying the testimony on House Bill 237 from the Center for Responsible Lending (“CRL”), the OAG here will focus on the following simple and common-sense amendments to House Bill 237 that would help curtail potential predatory EWA lending practices.

First, House Bill 237 should require EWA lenders to monitor and prevent the practice commonly known as “stacking.” Stacking is when consumers borrow from multiple EWA lenders against the same earned but unpaid wages.⁴ Stacking puts Maryland consumers at a high risk of borrowing more than they earn, and of incurring multiple fees and charges from multiple lenders,

¹ See *Initial Statement of Reasons for the Proposed Adoption of Regulations*, STATE OF CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION, at pgs. 61-62, available at <https://dfpi.ca.gov/wp-content/uploads/sites/337/2023/03/PRO-01-21-ISOR.pdf>.

² *Paying to be Paid: Consumer Protections Needed for Earned Wage Advances and Other Fintech Cash Advances*, CENTER FOR RESPONSIBLE LENDING (October 2025), at pg. 5-6 <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-ewa-brief-payingpaid-oct2024.pdf>

³ See *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n of N.Y.*, 447 U.S. 557 (1980); see also *Expressions Hair Design v. Schneiderman*, 581 U.S. 37, 47 (2017).

⁴ CENTER FOR RESPONSIBLE LENDING, *supra* note 2.

which can eat up a huge amount of a consumer's paycheck. Research has shown that the trend of stacking increases the longer a consumer uses EWA products,⁵ that EWA loans themselves cause cycles of debt for consumers, and that stacking exacerbates those debt cycles. The OAG thus suggests that House Bill 237 be amended to include language requiring EWA providers to implement measures to prevent stacking. Such an amendment could largely track Connecticut's statute which prohibits EWA stacking.

Second, House Bill 237 should subject EWA lenders to a monthly cap per each consumer of amounts collected from all sources to curb predatory practices.⁶ The main borrowers of EWA loans are often Marylanders with limited means, many of whom are caught in ruinous cycles of debt. They take out EWA loans because they are frantic for money just a few days before their paycheck hits. In contrast, for lenders the EWA loans are very low risk, very low cost, and very profitable. Despite this, under Maryland law EWA lenders trying to maximize charges to consumers could intentionally set low transaction limits, forcing borrowers to take multiple loans and, as result, incur multiple fees over the course of a pay period. Moreover, EWA lenders, in addition to fees, can charge unlimited subscription fees for consumer access to lending products. Transaction fees and subscription charges can easily result in costs equivalent to loans with annual percentage rates of 300-400%, or more.⁷ Other than deliberately deciding to allow predatory lenders to take extreme advantage of low-income Marylanders to maximize profits, there is no good reason to allow such predatory pricing. A monthly fee cap in conjunction with the transaction fee cap would help borrowers avoid debt cycles while permitting companies to collect reasonable yet still substantial fees.⁸

As Governor Moore aptly noted in his no veto letter dated May 20, 2025, the EWA Act "will need continued work to ensure that this access to capital is maintained while ensuring that predatory practices are unable to take root." It is especially important to strengthen consumer protections in EWA lending and other proposed legislation in Maryland given the Trump Administration's ongoing evisceration of federal consumer financial protections and the Consumer Financial Protection Bureau. Accordingly, for the reasons set forth, the Office of the Attorney General requests that the Economics Matters Committee give House Bill 237 a favorable report with the amendments discussed.

cc. Members, House Economic Matters Committee

⁵ *Escalating Debt: The Real Impact of Payday Loan Apps Sold as Earned Wage Advances (EWA)*, CENTER FOR RESPONSIBLE LENDING (October 2025), at pg. 5-6 <https://www.responsiblelending.org/research-publication/escalating-debt-real-impact-payday-loan-apps-sold-earned-wage-advances-ewa> (Upward trend of stacking over the course of time: 16% of users stacked lenders in their first month of use, 38% by month 4, and 42% by 12 months of use).

⁶ CRL has proposed a \$10 fee cap.

⁷ Notably, CRL also proposes the following two amendments that would directly help consumers: (i) stricter limitations on charges per transaction costs; and (ii) making it easier for consumer to access EWA lenders free option. Both of these amendments would help reign in the costs of EWA loans.

⁸ Connecticut has adopted a monthly fee cap. See Connecticut Public Act No. 25-155.