STATE OF MAINE
DEPARTMENT OF PROFESSIONAL &
FINANCIAL REGULATION BUREAU OF CONSUMER
CREDIT PROTECTION

Janet T. Mills
Governor

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Superintendent

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Testimony of Linda Conti
Superintendent
Bureau of Consumer Credit Protection
Department of Professional and Financial Regulations
In Opposition to LD 1915

"An Act to Regulate Earned Wage Access Services Providers"

Before the Committee on Health Coverage, Insurance and Financial Services

Tuesday, May 20, 2025

Senator Bailey, Representative Mathieson and Members of the Committee on Health Coverage, Insurance and Financial Services, I am Linda Conti and I serve as the Superintendent of the Bureau of Consumer Credit Protection (BCCP).

Under current law, the Bureau takes the position that most earned wage access transactions are in effect small dollar loans subject to Maine's interest rate cap. There are different business models that businesses use to make these transactions. Some are not as bad as others.

You will hear this practice described as an "employee benefit" and this bill described as "regulation." Neither is true. The practice is currently an illegal payday loan in Maine. The bill would allow these providers to charge fees and tips (finance charges) to consumers, which if disclosed as an APR would be illegal. They are asking that in exchange for not calling these loans and for not applying state rate caps, that they be allowed to charge whatever they want. While the bill purports to limit the fee, it does not limit the "voluntary" tip that no one has to pay, but most people do pay. Voluntariness is

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a ruse. It is a well-known sales ploy, called reciprocity, "you pay me a tip, I owe you good service".

It is also falsely claimed that this is simply a service that allows consumers to get their earned pay before payday. However, the money advanced is not from the employer. Investors front the money for the advance, which is paid for by the consumer's fee, just like a loan.

Some large employers, for example Walmart, administer this type of program in-house and do not charge a fee. These programs do not fall under the definition of a loan, because there is no finance charge. These programs are lawful now and can accurately be called an employee benefit.

Other types of earned wage access programs involve the employer contracting with a third party to administer the program for a fee. Under this model, the employee pays the fee, and the earned wage access provider is given access to a significant amount of consumer PII. While these employer integrated programs are not exactly employer provided benefits, they might be acceptable if there is a low monthly fee cap. A low transaction fee is not sufficient to protect consumers.

A third type of earned wage access model has no employer involvement. These are exactly like payday loans and should not be legalized. Without the employer involvement, low wage earners can take out more than one of these loans from different companies, a practice called "stacking". Stacking can lead to a debt trap. Finally, this model uses tipping. While L.D 1915 purports to put a limit on fees, it allows unlimited tips. An effective restraint would need to either ban tipping altogether or require that the tip be included in the low monthly fee cap. A reasonable total monthly cap would be $3 to $5.

I respectfully request that you vote ought not to pass on L.D. 1915. Thank you for your time and I would be happy to answer any questions now or at the work session.