

# Earned Wage Access

DFR's Commentary &  
Recommendations for Enhancement

# Overview

- DFR believes that regulation of Earned Wage Access Providers (EWAP) is appropriate
  - Promotes Consumer Protection
  - Levels the Playing Field
  - Fosters Innovation

# RECOMMENDATIONS

- “License” is preferred to “Registration”
- Title 8 Chapter 72 General Provisions
  - Ch. 72 includes key regulatory oversight provisions we feel should apply to EWAP
    - Application Review and Approval Requirements
    - Disclosure and Vetting of Providers
    - Examination, Enforcement, Penalty and Revocation provisions
    - \*Add appropriate license fees

# RECOMMENDATIONS cont.

- DFR is concerned that no-cost options may be illusory and difficult to access negating their utility
- Non-mandatory payments can be substantial, and bill proposes little in terms of limits (\$5 tip or other fee every two weeks on \$100 = 130% APR)
  - Propose reasonable limits on non-mandatory payments including tips/gratuities, subscription/monthly fees, or other similarly structured non-mandatory pmts
  - Limit sizes of EWA and outstanding obligations
- Express Disclaimer requirements
- Consider Private Right of Action

# RECOMMENDATIONS cont.

- Overdraft fees could be an issue if EWAP has right to continually pull from borrower bank acct
- Exempt Banks and Credit Unions from licensure
- Prohibit Collateralization
- Make clear EWA are “debt” for purposes of AG rule CP 104 regarding prohibited debt collection practices
- Prohibit crypto advances
- Prohibit Arbitration and Class Action Waivers

# ADDITIONAL THOUGHTS

- Section 2302 add “obtaining”
- Section 2303, strike (4) & (5): definition addresses attempts to collect money for fraud
- Section 2304 (8): strike “or in accordance with a consumer’s written consent
- Modify Definition of “nonrecourse”
  - should be changed to “payments owed to the provider”
  - Disallow attempts to compel payment by “any” means not “listed”
  - In (B) exclude loss of, or voluntary termination of employment from definition of “fraudulent means”

# ADDITIONAL THOUGHTS cont.

- Strike 2305 (a): VT cannot determine Federal law
- Strike Section 2305(c): prevents licensure for other activities