

SB 1273 Opening the Door to Payday Lenders

SB1273 would exempt costly fintech cash advances from Arizona’s lending laws.

The bill declares that so-called “earned wage access products” are not loans and that the myriad fees and “tips” people pay are not interest, exempting them from Arizona’s interest rate limits. The bill’s meaningless protections merely codify current business models.

This legislation would effectively reauthorize payday lending in Arizona, overturning the will of Arizona voters, who overwhelming rejected payday lending in 2008.

That’s because any lender claiming to advance money based on earned wages could set up shop, declare themselves *not* a lender, and charge borrowers whatever fees they like.

Broad exemption from Arizona law. The bill exempts two categories of cash advances that are made by third parties ahead of payday and repaid on payday:

- Employer-integrated advances of pay not yet due, with amounts based on accrued wages, repaid on payday through payroll deduction or another method from the employer. Employees typically pay fees and instant access fees, though some employers offer wage advances for free.
- Cash advances offered directly to consumers through mobile apps, repaid through a bank account debit, if the advance is based on “earned but unpaid income” based on the consumer’s “representations” and the lender’s “reasonable determination.” Consumers are pushed to pay “tips” and instant access fees. **If this bill passes, payday lenders could reinvent themselves as “earned wage access.”**

No cost limits. The bill provides that these advances are not loans, and none of the fees or “tips” are interest or finance charges, exempting them from Arizona’s consumer protection laws. The bill **provides no limit on what companies can charge**. Data collected by California show that the average annual percentage rate for both types of advances **is over 330% APR**.

Dangerous bank account debiting. This places **no limit on the number of times** a lender can attempt to debit a bank account, which can trigger **overdraft, non-sufficient funds and other fees**. The bill requires only limited reimbursement for some fees if the debit differed from what was disclosed, but reimbursement promises have proven difficult to enforce, and do not cover late fees on other bills when the debit causes an overdraft. Excessive overdraft fees can lead to the closure of a borrowers’ bank account, and make it difficult to open another.

Meaningless protections. The bill’s purported protections are window dressing for a bill primarily aimed at exempting loans from rate caps. Providers cannot sue to collect unpaid advances or use credit scores, but they do not need to because **their access to payroll deduction or bank accounts enables them to collect 97% of the time**. Disclosures about “tips” do not stop 330% APR rates or the “multiple strategies” that California found “make tips almost as certain as required fees.”

Oppose SB 1273. Arizona Doesn’t Need 330% Worker Payday Loans