

# Payday Loan Apps: States Should Regulate as Credit, Protect Consumers

## Background

Payday loan apps issue small, short-term loans that are typically repaid on the consumer's next payday either directly from a bank account or as a payroll deduction.<sup>1</sup> Lenders market these loans as a means for workers to make ends meet between paychecks. In reality, workers who are already living paycheck-to-paycheck may find themselves pulled into a cycle of reborrowing that depletes their net earnings and further erodes their financial stability.

States should regulate these loans as credit and require compliance with consumer protections that prevent the predatory cycle of reborrowing commonly associated with storefront payday loans.

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## What is an Payday Loan App?

This is a form of high-cost credit that people borrow using smartphone apps. Companies issue these loans either to workers through their employer's payroll or direct to consumers. Lenders that contract with employers receive payroll data to verify that an employee has worked a requisite amount to borrow a loan ahead of payday. The lender then funds the transaction, often charging the employee a fee. On payday, the lender is repaid by a deduction from the employee's paycheck. Research from the federal Consumer Financial Protection Bureau (CFPB) estimates that employers subsidize less than 5% of fees. Other payday loan apps – not contracting with employers – market and extend credit directly to consumers and collect repayment by debiting their bank accounts, often on payday.

Policymakers should not allow lenders to evade state consumer protections through packaging and marketing that change nothing of substance. If these lenders are given a carveout from state laws, storefront payday lenders—even in states whose usury limits currently keep them out—will likely try to operate within those carveouts.

## Like Storefront Payday Loans: High APRs, Repeat Usage, and Overdrafts

Many app-based loans carry interest rates as high as storefront payday loans: data from California's financial regulator on several leading apps show an average APR over 300%.

These loans have high levels of repeat use. This mimics the long-term debt trap that has proven so harmful for storefront payday borrowers.

- California regulator [report](#): average **36 advances per year**.
- Government Accountability Office (GAO) [report](#): one company reports **26 to 33 advances** per year.

New [research](#) from CRL based on bank transaction data found similar high costs and usage patterns. It also found that users saw more overdrafts after their initial loan use and the heaviest app users saw the biggest increase in overdraft fees. [CFPB research](#) has shown that storefront payday loans also increase the incidence of overdraft.

<sup>1</sup> These products are sometimes called Earned Wage Advance, Early Wage Access, or EWA but few merit this name. This brief calls them payday loan apps given essential characteristics shared with payday loans obtained from physical storefronts.

## Consumer Harms Associated with Payday Loan Apps

Payday loan apps are concerning because of the costs they impose on consumers. In many cases, these lenders advertise their products as “free” but require a fee to receive a loan instantly and may solicit another fee, masquerading as a “tip,” from the borrower as part of the transaction. Most consumers pay an instant transfer fee when required for instant access. The CFPB found that over 96% of total fees paid by consumers using employer-integrated payday loan apps were expedite fees. Also, so-called “tips” can be very high relative to the amount of the loan. A representative from the company EarnIn has stated that tips make up some 40% of EarnIn’s revenue, and that their business model would have to change significantly if the practice were regulated. The representative also testified that EarnIn suggests a default tip of up to \$11 on \$100 advanced, a shockingly high cost for such a short-term loan, which can be as short as just a few days. This is evidence that the business model depends on loans for which the true cost is often going to be higher than advertised or disclosed, with an APR that would exceed usury caps in many states.

Moreover, these fees, including “tips,” can quickly add up for consumers, given the extremely high average usage numbers. This is concerning because when one loan is taken out to cover the gap left by repayment of a prior loan, consumers are essentially getting the benefit of only the initial loan but continuing to pay for each subsequent one. This is how storefront payday loans work, with a very short-term benefit drawing borrowers into a costly, long-term trap.

Direct-to-consumer payday loan apps can also trigger overdraft fees when the borrower lacks sufficient funds for repayment, a common condition for millions of families living paycheck-to-paycheck. [Litigation](#) against EarnIn (resulting in a \$3 million settlement) described how when a borrower took out multiple EarnIn loans within the same pay period, the repayment attempt for each individual loan triggered an overdraft fee. The borrower was charged four \$29 fees within three days, totaling \$116, all directly triggered by EarnIn’s collection attempts. Moreover, [CRL research](#) has shown that, contrary to industry arguments that app-based loans help users avoid overdrafts, overdrafts of consumers’ checking accounts actually increased significantly after the consumer started using an app-based loans.



### App User Demographics

People who borrow from payday loan apps are typically hourly, relatively low-wage workers. A GAO study found that the vast majority of users report making less than \$50,000 a year. One company reported that 78% of its users made under \$25,000 per year.

Latino adults and younger workers are more likely to use these apps than the population as a whole, according to an American Banker [survey](#).

### Federal Policy Recommendations

- **The CFPB should finalize its [Proposed Interpretive Rule](#)**, which makes clear that paycheck advances are credit, and “tips” and expedite fees consumers pay are finance charges under the Truth in Lending Act (TILA).
- **In addition, the CFPB should continue monitoring this market for evasions** to ensure compliance with the law and to identify, prevent, and correct unfair and deceptive practices. As CRL suggested in its joint [comment](#) on the Interpretive Rule, the CFPB should consider further rulemaking and enforcement to address business models designed to evade regulation under TILA.

### State Policy Recommendations

- Any app-based loan or advance on an employee’s paycheck is a form of credit and should be regulated as such to protect consumers from high-cost credit in violation of state interest rate caps. Consistent with the determination of the CFPB, states should affirm that all monies paid as part of an app-based loan or cash advance transaction, including instant access fees and “tips,” are finance charges and cannot be used to evade regulation as credit.

*For more detailed guidance, see the principles in the Joint CRL-National Consumer Law Center [State Recommendations for Earned Wage Advances and Other Fintech Cash Advances](#).*