Center for Responsible Lending

EARNED WAGE ADVANCE: THE CONSUMER ADVOCATE PERSPECTIVE

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TWO VERY DIFFERENT TYPES OF EWA

Employer-integrated

- Provider contracts with employer to provide advance on earned wages
  - Employers see this a benefit to attract workers in tight labor market
- May be free to the employee
  - There is often an expedite fee to receive wages instantly
- Repayment through payroll deduction

Direct-to-consumer

- Functionally a payday loan
- Provider makes money through alleged "voluntary" payments like tips
- No employer involvement
  - EWA providers claim to verify that there are wages earned but unpaid
- Repayment through debiting of bank account

EMPLOYER INTEGRATED EWA PROVIDERS

payactiv

Your livelihood, in hand

FlexWage

Your money. Where you need it most.

dailypay.

Employees Stay When They Get Paid Every Day

ONE@WORK

Your pay, your way

DIRECT TO CONSUMER AND OTHER FINTECH CASH ADVANCE PROVIDERS

earnin

MoneyLion

chime

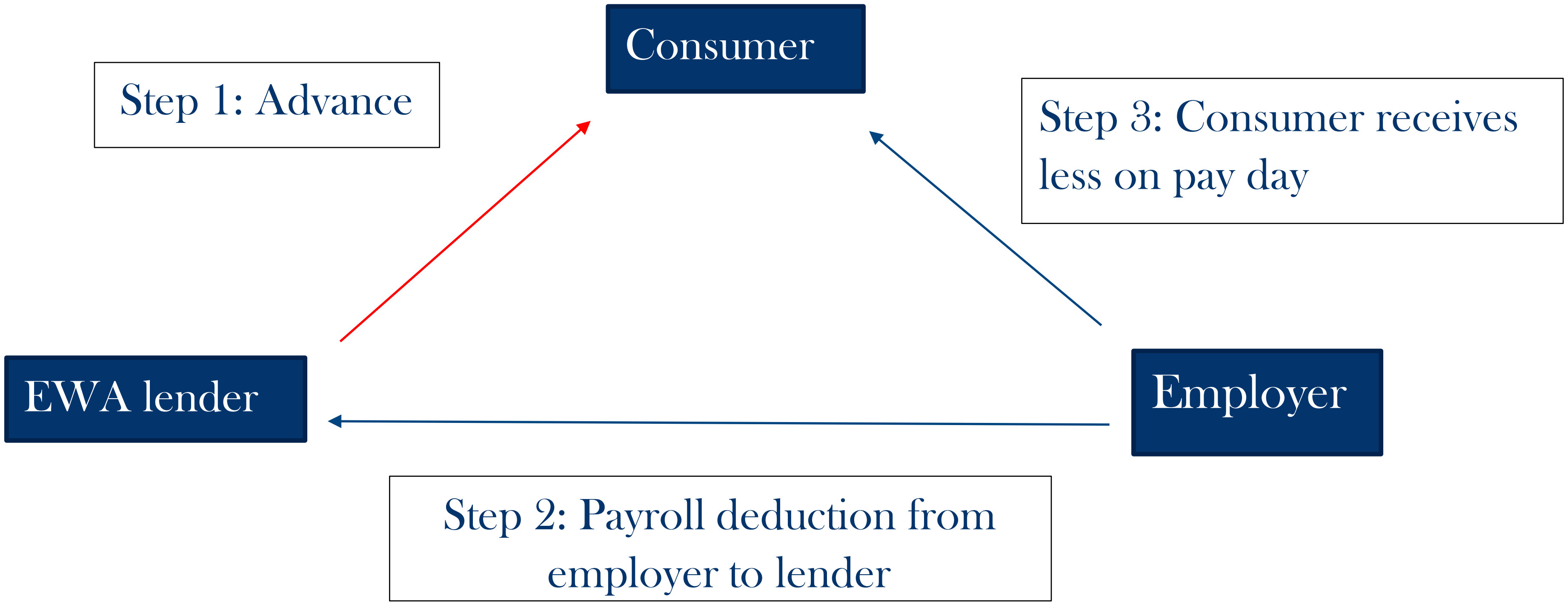
Dave.com

Albert

brigit

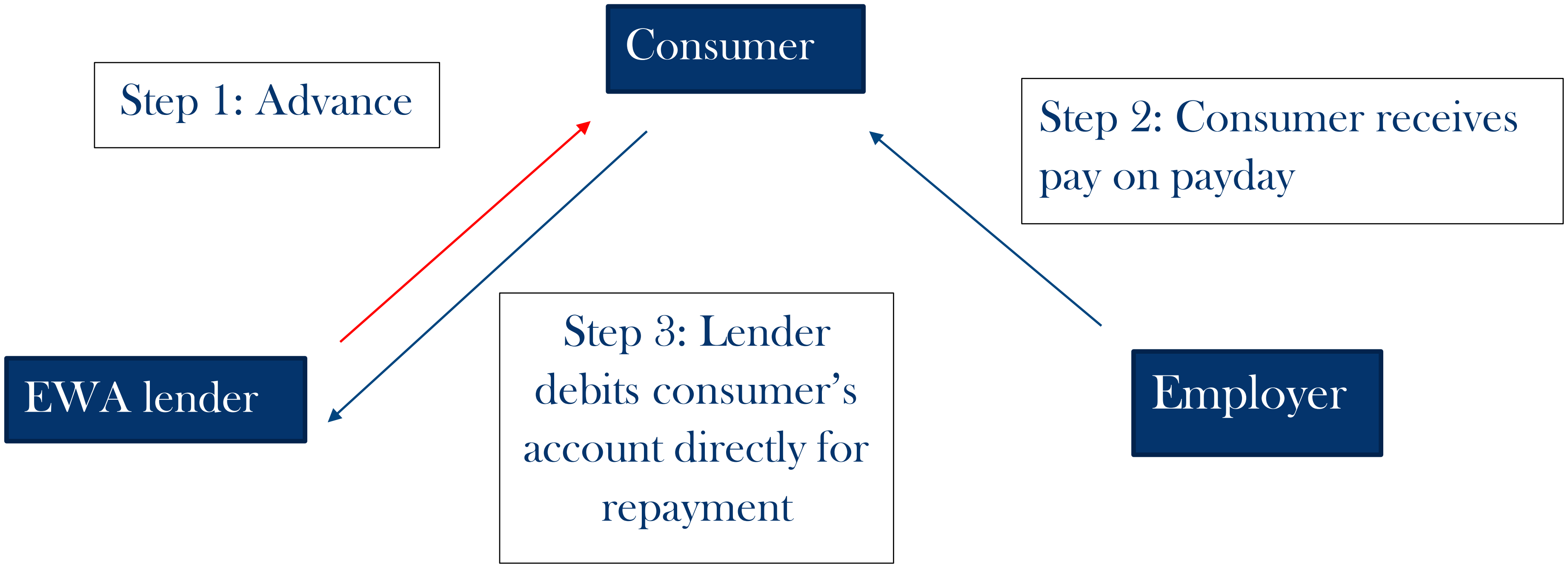
EMPLOYEES GENERALLY DO NOT "ACCESS" ACTUAL EARNED WAGES

Employer integrated model:



EMPLOYEES GENERALLY DO NOT "ACCESS" ACTUAL EARNED WAGES (CONT.)

Direct to consumer model:



UNDERSTANDING "NON-RECOURSE"

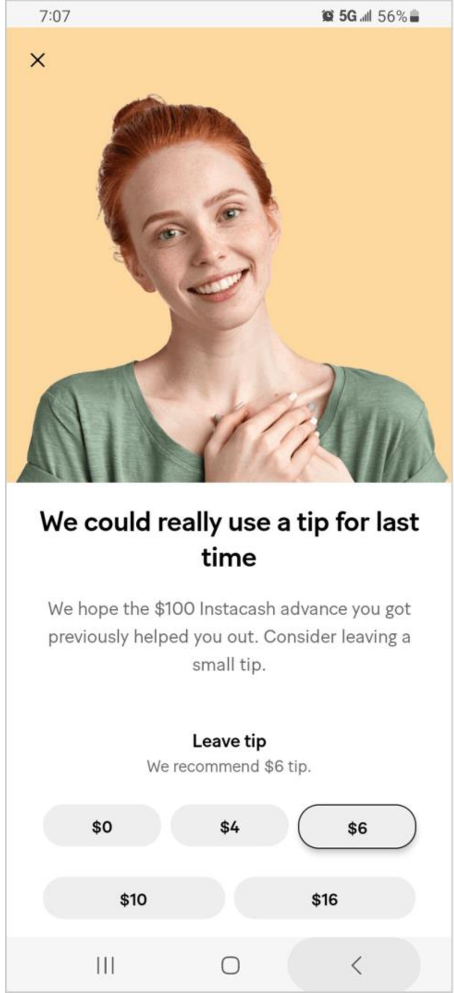
Industry frequently describes loans as "non-recourse," but that term is limited

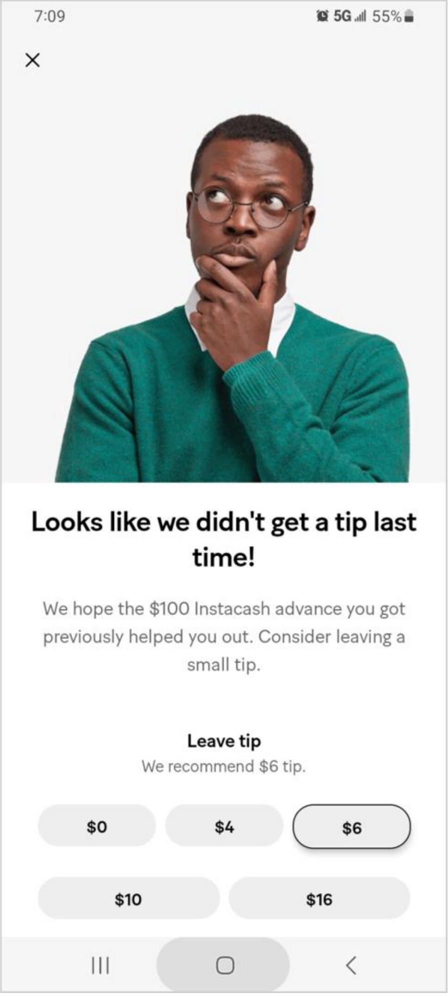
- Providers' debt collection strategies do not include suing a user for an unpaid debt or selling the unpaid debt to a debt collector
- EWA providers do not use these strategies because they do not fit with their business model

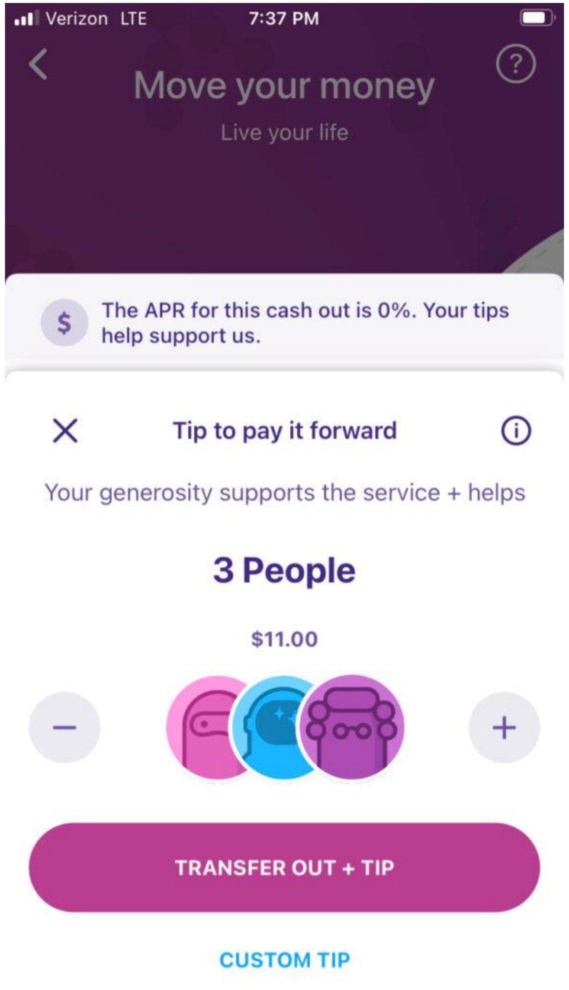
Providers use other ways to collect on their loans, including a payroll deduction (in the case of employer-integrated lenders) or a bank account debit (in the case of direct-to-consumer lenders)

- Direct-to-consumer lenders can re-present transactions if users have insufficient funds for repayment, triggering overdraft fees
- Users can revoke repayment obligation but not through the app and cannot use the service again once they've done so

TECHNIQUES TO SOLICIT TIPS







RECENT DATA ABOUT EWA PRODUCTS

Data about the industry and how it operates has started to emerge from a March 2023 GAO report and California DFPI Rulemaking/Data Report

Takeaways

Consumer base is relatively low-income, disproportionately persons of color

Customers use these products frequently – **on average 36 times per year**

Amounts advanced are relatively low ($40-$100)

Costs are in line with payday loans

- **DFPI found that APRs averaged ~330-340% for both tip-based and non-tip providers**

For tip-based companies, most users tip

Nearly all users pay extra if required to access money instantly

Advances are recouped about 97% of the time

EWA SHOULD BE REGULATED AS CREDIT

In sum, earned wage advances are simply an agreement to receive money now and pay it back in the future, usually with additional cost paid to the lender

In any other context, we'd call that credit

Financial "innovation" cannot solve the structural issue of people not earning enough to get by

FEDERAL LANDSCAPE

In November 2020 guidance, federal CFPB exempted a narrow class of EWA loans from the Truth in Lending Act

The guidance applies only to products integrated into employer timekeeping system; and

Most importantly, employee "**makes no payment, voluntary or otherwise, to access advances, and the provider does not solicit or accept tips or any other payments from the employee.**"

Industry has misused this guidance, wrongly arguing that it exempts EWA more generally from TILA

CFPB has said that further guidance is forthcoming, either later this year or in 2024

STATES WITH EWA BILLS DURING 2023 SESSION

STATE	BILL NO.	NOTES
Georgia	SB 254	
Kansas	HB 2105	
Missouri	SB 103	
Mississippi	HB 1123	
Mississippi	SB 2648	Senate Companion to HB 1123
North Carolina	SB 442	Bill addresses only employer-integrated EWA
Nevada	SB 290	
New York	S916	
New York	A5053	Bill that exempts EWA from state credit laws but has some regulations around tipping; does not appear to be industry run
South Carolina	SB 700	
Texas	HB 3827	
Virginia	HB 1921	
Virginia	SB 1217	Senate Companion to HB 1921
Vermont	HB 87	

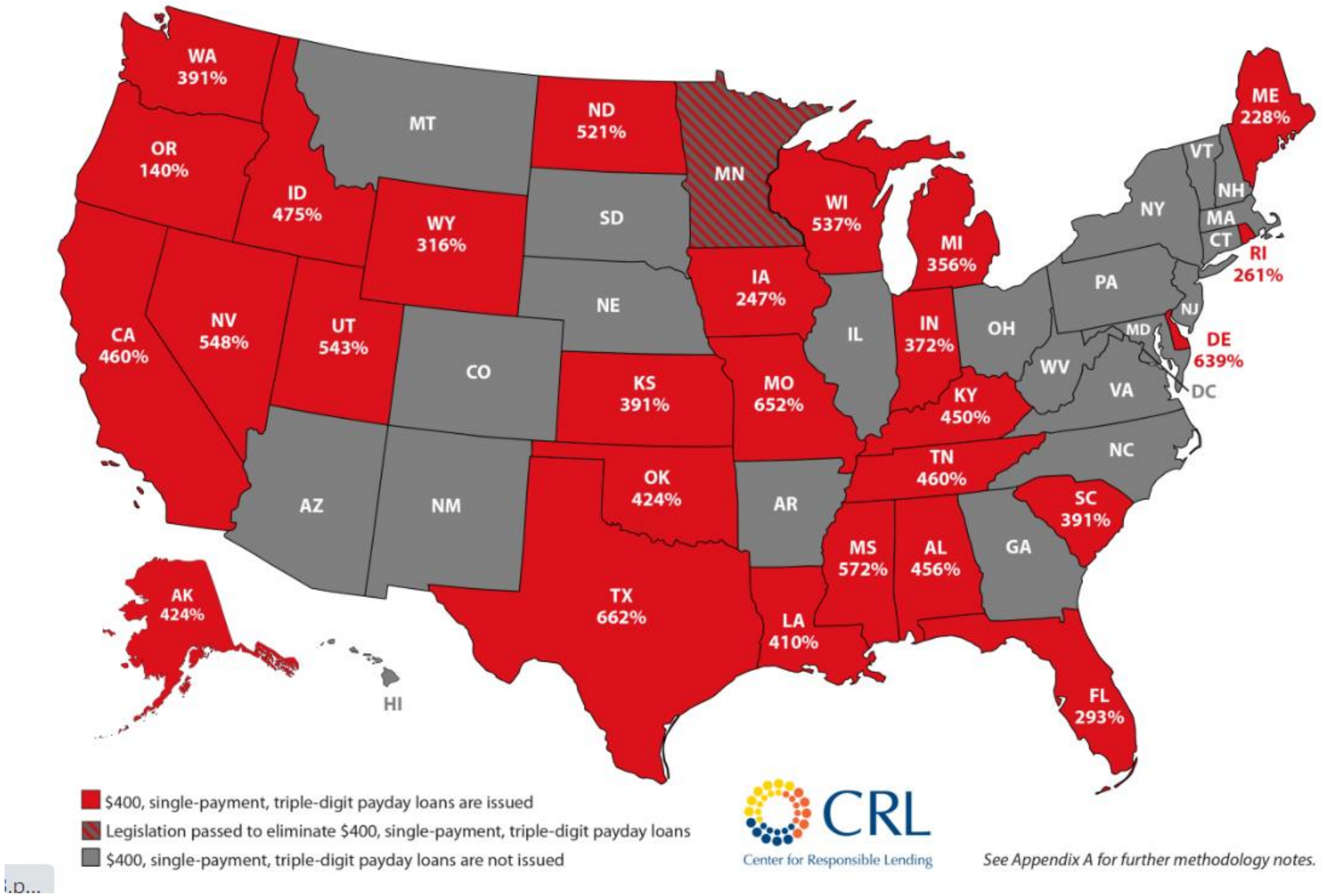
Bills in green were passed and signed into law.

Those in yellow will carry over until the 2024 term.

Those in gray are dead.

A WORD ABOUT MISSOURI AND NEVADA . . .

Nevada and Missouri have **lax payday lending laws**, even among states that permit payday lending, and they host some of the highest-cost payday loans in the country.



JOINT CRL – NCLC GUIDANCE ON STATE EWA REGULATION

The best policy approach is to **enforce existing credit laws** and, if necessary, clarify that they **cover earned wage advances and other fintech cash advance loans**.

For any rules specific to earned wage and other cash advances, **the regime should be part of the credit code and the following are bare minimum, essential protections**:

- Employer-integrated only
- Strict cost cap of a few dollars per month or a couple dollars per pay period
- Cover all costs, including "tips" in cost cap
- Default tip must be set to $0
- Repayment only through an employer, not borrower bank account
- Require licensure and data reporting to regulators
- No late fees or debt collection

https://bit.ly/EWAoct23

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