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# A BILL FOR AN ACT

RELATING TO EARNED WAGE ACCESS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that across the country,  
2 people are struggling with a combination of low-wages and  
3 increases in the cost of living. Hawaii continually tops the  
4 charts as the state with the highest cost of living, and  
5 according to 2022 research, more than sixty per cent of Hawaii  
6 residents currently live paycheck to paycheck. The department  
7 of business, economic development, and tourism reported that  
8 forty-five per cent of four-person families in the State have  
9 average household incomes below the level of self-sufficiency,  
10 according to their income standards for 2022, more than a ten  
11 per cent increase from 2020.

12           The legislature further finds that Hawaii residents  
13 struggle to save a portion of their paycheck due to high cost  
14 living and often resort to meeting their needs by using credit,  
15 pay day loans, or other forms of short lending. These  
16 practices, while necessary for the hard-working families and  
17 individuals who choose to use them, can become vulnerable to



1 debt cycles, being driven to pay for expenses with future  
2 earnings.

3 The legislature also finds that as employers attempt to  
4 help employees meet their needs, solutions such as the new  
5 emerging technology of earned wage access have begun to gain  
6 popularity among large swaths of employers, and the employees  
7 who use the services.

8 Accordingly, the purpose of this Act is to help design a  
9 system of prudent and safe lending practices among employers,  
10 employees, and the third-party services that facilitate earned  
11 wage access programs.

12 SECTION 2. Section 478-1, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 1. By adding a new definition to be appropriately inserted  
15 and to read:

16 "Debt" includes any amount that a consumer agrees to  
17 repay, without regard to the means of collection, whether the  
18 lender has legal recourse against the borrower in the event of  
19 non-repayment, and whether the transaction carries required  
20 charges or payments."



1           2. By amending the definition of "annual percentage rate"  
2 to read:

3           "Annual percentage rate" [~~shall have the meaning given the~~  
4 ~~term in the Truth in Lending Act.~~] shall be calculated according  
5 to the provisions of the Truth in Lending Act. For the purpose  
6 of calculating the annual percentage rate, each of the following  
7 shall be deemed to be a finance charge:

8           (1) All charges identified as finance charges under the  
9 Truth in Lending Act;

10          (2) Any amount offered or agreed to by a borrower in  
11 furtherance of obtaining credit or as compensation for  
12 the use of money; and

13          (3) Any fee, voluntary or otherwise, charged, agreed to or  
14 paid by a borrower in connection or concurrent with an  
15 extension of credit."

16          3. By amending the definition of "credit" to read:

17          "Credit" means the right to defer payment of debt or to  
18 incur debt and defer its payment. "Credit" includes any sale,  
19 assignment, order, or agreement for the payment of unpaid wages,  
20 salary, commissions, compensation, or other income, including a  
21 tax refund or other expected source of funds, or any portion or



1 amount thereof, whether earned, to be earned, or contingent upon  
2 future earnings, that is made in consideration for goods or  
3 services, or the payment of funds to or for the account of the  
4 person earning or receiving, or potentially earning or  
5 receiving, the wages, salary, commissions, compensation, or  
6 other income."

7 4. By repealing the definition of "finance charge".

8 [~~"Finance charge" has the same meaning given such term by~~  
9 ~~the Truth in Lending Act."~~]

10 SECTION 3. Section 478-4, Hawaii Revised Statutes, is  
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) It shall in no case be deemed unlawful, with respect  
13 to any consumer credit transaction (except a credit card  
14 agreement) and any home business loan to stipulate by written  
15 contract, for any annual percentage rate of simple interest not  
16 exceeding one per cent per month or twelve per cent a year or,  
17 in the event the creditor is a financial institution regulated  
18 under chapter 412 (other than a trust company or a credit  
19 union), for any rate of simple interest not exceeding two per  
20 cent per month or twenty-four per cent a year.



1 (b) As an alternative to the rate of interest specified in  
2 subsection (a), it shall be lawful with respect to any consumer  
3 credit transaction (except a credit card agreement) and any home  
4 business loan to stipulate by written contract for the payment  
5 and receipt of a finance charge in any form or forms at an  
6 annual percentage rate not to exceed twelve per cent, or twenty-  
7 four per cent in the event the creditor is a financial  
8 institution regulated under chapter 412 (other than a trust  
9 company or a credit union), together in either case with any  
10 other charges that are excluded or excludable from the  
11 determination of finance charge under the Truth in Lending  
12 Act[7]; provided that all charges of the types listed in the  
13 definition of "annual percentage rate" in this chapter shall be  
14 included in the annual percentage rate calculation for purposes  
15 of this subsection. The rates in this subsection shall be  
16 available as alternative permissible rates for any of the credit  
17 transactions referred to, whether in fact or in law the Truth in  
18 Lending Act applies to the transaction, notwithstanding the  
19 advance, fixed, or variable manner in which interest or finance  
20 charge may be computed under the contract, and whether the  
21 contract uses the terms interest, annual percentage rate,



1 finance charge, or any combination of such terms. For rate  
2 computation purposes, with respect to any contract to which this  
3 subsection may apply, the creditor conclusively shall be  
4 presumed to have given all disclosures in the manner, form, and  
5 at the time contemplated by the Truth in Lending Act, including  
6 those necessary to exclude any charges from the finance charge."

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



# S.B. NO. 2664

**Report Title:**

Earned Wage Access; Interest and Usury Law; Employer; Employee Definition; Truth in Lending Act; Annual Percentage Rate; Credit; Debt; Finance Charge

**Description:**

Amends the law governing interest and usury by defining "debt" to include any amount that a consumer agrees to pay under certain conditions; requiring "annual percentage rates" to be calculated pursuant to the Truth in Lending Act and requiring certain charges, amounts, and fees to be deemed as "finance charges" in its calculation; clarifying the types of expected sources of funds to be included in the term "credit"; and repealing the stand-alone definition of "finance charge".

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

