

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
Informational Statement
LCB FILE NO. R096-23
(NRS 604D- SB 290- Earned Wage Access)**

The following statement is submitted for adoption of regulations pertaining to Nevada Administrative Code (“NAC”) Chapter 604D, Earned Wage Access.

1. A clear and concise explanation of the need for the adopted regulation.

The regulation is required as a result of the passage of Senate Bill 290 (“S.B. 290”) during the 82nd Session of the Nevada Legislature. S.B. 290 authorizes the Commissioner of the Financial Institutions Division to adopt regulations for the administration and enforcement of earned wage access providers.

This regulation is needed to establish fees related to licensure and regulation, defining certain terms, establish requirements for applicants and licensees, and other matters properly relating thereto.

2. A description of how public comment was solicited, a summary of public response, and explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notice of workshop, small business impact statement, and notice of intent to act upon the regulation were emailed to the Division licensees, Division’s rulemaking contact list, persons who were known to have an interest in the regulation as well as any person who had specifically requested such notice. These documents were also made available on the Financial Institutions Division’s website at <http://fid.nv.gov/> on the Nevada Public Notice website at <https://notice.nv.gov/gov> and on the Nevada Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>; posted at the Division’s principal office in Las Vegas; and provided to the Nevada State Library & Archives.

On August 23, 2023, via email, the Division notified 147 individuals, this included its licensees and persons on the Division’s rulemaking contact list concerning the proposed regulation, provided a copy of the proposed regulation, and solicited written comments concerning whether it would impose a direct and significant economic burden upon a small business that is subject to NRS 604D, or directly restrict the formation operation, or expansion of a small business that is subject to NRS 604D.

In response to the August 23, 2023, solicitation, the Division’s record reflects receipt of fourteen (14) small business impact surveys. Seven (7) with comments, three (3) responded N/A, and four (4) with over 150 employees. Attached summary of comments received from the small business impact survey are attached hereto as “Exhibit A.”

On October 16, 2023, the Division issued and posted a notice of the workshop, and sent via email to 150 individuals, this included its licensees and persons on the rulemaking contact list. The workshop was held on November 3, 2023, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the workshop are attached hereto as “Exhibit B.” The minutes reflect receipt of any verbal and/or written comments.

On December 1, 2023, the Division issued and posted a notice of a second workshop, and sent via email to 151 individuals, this included its licensees and persons on the rulemaking contact list. The workshop was held December 19, 2023, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the second workshop are attached hereto as “Exhibit C”. The minutes reflect receipt of any verbal and/or written comments.

The Legislative Counsel Bureau (LCB) posted its draft of proposed regulation R096-23 on January 24, 2024. On January 29, 2024, the Division issued and posted a notice of intent to act upon regulation based upon LCB draft proposed regulation R096-23, along with a notice of public meeting and solicited further written comments on the proposed regulation. On the same day, the Division sent via email to 197 individuals, this included its licensees and persons on the rulemaking contact list. The adoption hearing was held on March 1, 2024, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the hearing are attached hereto as “Exhibit D”. The minutes reflect receipt of any verbal and/or written comments.

3. The number of persons who:

Attendees that signed in at the November 3, 2023 workshop: 29

Testified at the workshop: 4

Submitted written comments: 3

Attendees that signed in at the December 19, 2023 second workshop: 38

Testified at the hearing: 4

Submitted written comments: 2

Attendees that signed in at the March 1, 2024 adoption hearing: 17

Testified at the hearing: 0

Submitted written comments: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified in #3, above, as provided to the agency.

Attended the November 3, 2023 workshop:

| Name | Company or Organization | Email/Phone # |
|------------------------|--|--|
| Kathryn Gamelin | Branch Messenger, Inc. | kathryn.gamelin@branchapp.com |
| David McGee | Venable LLP | damcgee@venable.com |
| Aaron Marienthal | Payactiv, Inc. | amamienthal@payactiv.com |
| Deepa Chatterjee | Ceridian | deepa.chatterjee@ceridian.com |
| Heather Heebner | Instant Financial USA Inc | heather.heebner@instant.co |
| Fausto Burruel | Arizona Department of Insurance and Financial Institutions | fausto.burruel@difi.az.gov |
| Nicole Miller | Activehours, Inc. d/b/a EarnIn | nicole.miller@earnin.com |
| Garth McAdam | ZayZoon | garth.mcadam@zayzoon.com |
| Hamel Kothari | Brigit | hamel@hellobrigit.com |
| Matt Morris | Holland Hart for Daily Pay | mcmorris@hollandhart.com |
| Elva Castaneda | Kaempfer Crowell | ecastaneda@kcnvaw.com |
| Josh Harkleroad | One Main Financial | joshua.harkleroad@omf.com |
| Beau | | beau.hurtig@ceridian.com |
| Celssie R. Hardy | | crhardy@hollandhart.com |
| DD | | david.durant@earnin.com |
| Fara Remtulla / Brigit | | fremtulla@hellobrigit.com |
| Genevieve Kaplan | | gek@stateside.com |
| HC | | hcole@pathward.com |
| Isberg, Pete | | pete.isberg@adp.com |
| Jason Rahlan | | jason.rahlan@ceridian.com |
| Kevin Lefton | | kevin.lefton@wagestream.com |
| Madeleine Kvalheim | | madeleine.kvalheim@ceridian.com |
| Maxine Labovsky | | maxine.labovsky@omf.com |
| Sam Anastassatos | | sanastassatos@yahoo.com |
| Sheila | | sheila.schaeffer@wagestream.com |
| Stephen Bowe | | sbowe@hellobrigit.com |
| Steve Middlebrook | | steve@middlebrook-llc.com |
| Tom Scanlon | | tom.scanlon@rain.us |
| | | +12024****53 |

Attended the December 19, 2023 workshop:

| Name | Company or Organization | Email/Phone # |
|------------------------------|--|--|
| Kristin Stanley | Troutman Pepper | kristin.stanley@troutman.com |
| Kathryn Gamelin | Branch Messenger, Inc. | kathryn.gamelin@branchapp.com |
| Mark Fiorentino | Earnin | fishnthestates@gmail.com |
| Kevin Lefton | Wagestream | kevin.lefton@wagestream.com |
| Chad Jimenez | Ballard Spahr LLP | jimenezc@ballardspahr.com |
| Clark Warthen | DailyPay, Inc. | clark.warthen@dailypay.com |
| David McGee | Venable LLP | dmcgee@venable.com |
| Brian | IPA | btate@ipa.org |
| Gardner Bell | Immediate | gardner@joinimmediate.com |
| Tara Decker | QRails, Inc. | tdecker@qrails.com |
| Mark Lewko | Cleo AI | mlewko@gmail.com |
| Garth McAdam | ZayZoon | garth.mcadam@zayzoon.com |
| Fausto Burruel | Arizona Department of Insurance and Financial Institutions | fausto.burruel@difi.az.gov |
| Sabrina Sehner | Belz & Case Guardian | ss@belzcase.com |
| Matt Morris | Holland Hart for DailyPay | mcmorris@hollandhart.com |
| Aaron | | amarienthal@payactiv.com |
| Alexander Callen | | acallen@goodwinlaw.com |
| Alice Jacobsohn | | ajacobsohn@payroll.org |
| Areli Alarcon | | areli@carraranv.com |
| Carlin McCrory | | carlin.mccrory@troutman.com |
| Celssie R. Hardy | | crhardy@hollandhart.com |
| Donna Laffey | | donna@ferrariereeder.com |
| Frank Dombroski | | frankd@flexwage.com |
| Genevieve Kaplan | | gek@stateside.com |
| Heather Heebner | | heather.heebner@instant.co |
| Keith Barnett | | keith.barnett@troutman.com |
| Kelly Guzzardo | | kelly.guzzardo@cloudpay.net |
| Kim | | kim.ngiangia@earnin.com |
| Mark Fiorentino | | mfiorentino@kcnflaw.com |
| Mark Lewko | | mark.l@meetcleo.com |
| Melody | | mmakhfi@rippling.com |
| Molly Jones she/her Payactiv | | mjones@payactiv.com |
| Nick Vander Poel | | nick@flynnjudiciga.com |
| Sheila Schaeffer | | sheila.schaeffer@wagestream.com |
| Stephen Bowe | | sbowe@hellobright.com |
| Steve Middlebrook | | steve@middlebrook-llc.com |
| | | + 12027****55 |
| | | + 15187****57 |

Attended the March 1, 2024 hearing:

| Name | Company or Organization | Email/Phone # |
|------------------|----------------------------------|--|
| Laura Osorio | Climb Credit | laura.osorio@climbcredit.com |
| Kathryn Gamelin | Branch Messenger, Inc. | kathryn.gamelin@branchapp.com |
| Tara Decker | QRails, Inc. | tdecker@rails.com |
| Nicole Miller | Activehours, Inc. d/b/a EarnIn | nicole.miller@earnin.com |
| Jessica Lam | Payactiv, Inc. | jjlam@payactiv.com |
| Nick Vander Poel | Flynn Giudici Government Affairs | Nick@flynnjudiciga.com |
| Areli Alarcon | | areli@carraranv.com |
| Carl | | cmorris@flexwage.com |
| Garth | | garth.mcadam@zayzoon.com |
| Genevieve Kaplan | | gek@stateside.com |
| Heather H | | heather.heebner@instant.co |
| Kathryn Gamelin | | kathryn.gamelin@branchapp.com |
| Nicole | | compliance@dontbebroke.com |
| Sheila Schaeffer | | sheila.schaeffer@wagestream.com |
| Yvonne | | yvonne.chao@earnin.com |
| aaron marienthal | | amamienthal@payactiv.com |
| christina | | chartwick@tsys.com |

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public (see item 2 above). A summary of responses can be found in the minutes to the workshops and the hearing (Exhibits B, C and D) and small business impact statement (Exhibit A). Copies of these materials can be obtained by contacting Mary Young, Financial Institutions Division at fidmaster@fid.state.nv.us or mmyoung@fid.state.nv.us or 702-486-4120 or by visiting the Division website: www.fid.nv.gov

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The initial agency draft regulation, after considering comments from the small business impact survey, was submitted to LCB on October 16, 2023 (see “Exhibit E”). LCB completed its review and provided its draft regulation dated January 24, 2024.

At the conclusion of the noticed public hearing on March 1, 2024, the permanent regulation was adopted in the form proposed and reflected in the LCB Draft of Proposed Regulation R096-23 dated January 24, 2024.

7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects.

Adverse effects. The industry's biggest concern with the proposed regulation was the language reserving the Commissioner's right to approve advertising, since unethical, false or misleading advertisement is prohibited. The industry stated this may negatively impact business operations. The Division amended this language to clarify the Commissioner may require approval of an advertisement if violations pertaining to licensee's advertising practices are discovered during an examination or investigation.

There was one comment regarding the fees the Division will charge. The fee maximum was set by S.B.290 and align with other license types of the Division.

The other comments were more directed towards S.B.290 and not the proposed regulations.

Beneficial effects. The industry is in favor of earned wage access regulation, that it will help consumers evaluate earned wage access providers and the cost of competing earned wage advance products. It will allow employers to see what earned wage access providers are licensed and hopes that more employers will adopt an earned wage access program. The proposed regulations will provide regulatory clarity and certainty for their businesses to continue to grow and operate in the state of Nevada.

(b) Both immediate and long-term effects.

The industry is in favor of earned wage access regulation, that it will help consumers evaluate earned wage access providers and the cost of competing earned wage advance products. It will allow employers to see what earned wage access providers are licensed and hopes that more employers will adopt an earned wage access program. The proposed regulations will provide regulatory clarity and certainty for their businesses to continue to grow and operate in the state of Nevada.

The Division has determined that the proposed regulation does not have an adverse economic impact on small business.

8. **The estimated cost to the agency for the enforcement of the adopted regulation.**

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

9. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

To the best of the Division's knowledge, the adopted regulation does not duplicate any existing federal, state, or local standards regulating the same activity.

10. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

To the best of the Division's knowledge, the adopted regulation does not include provisions which are known to be more stringent than a federal regulation which regulates the same activity.

11. If the regulation provides a new fee or increase an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation provides new fees established by the passage of the legislation and the amount the Division expects to collect based on the number of companies expected to be licensed, which is approximately 25 entities.

The 1st Year → \$50,000 (Based on the application fee of \$1,000 and initial licensing fee of \$1,000 for 25 entities).

The 2nd Year → \$81,250 (Based on yearly renewal fee of \$1,000 and hourly examination Fee of \$75 with the average examination projected to take approximately 30 hours to complete). It is also expected that the following yearly examinations will not take 30 hours to complete thus lowering this cost in future years.

In addition, there is an annual Certified Public Account (CPA) assessment that will never exceed \$300.00. This assessment covers the expense to employ the CPA and no more than the projected expenses are assessed to the licensees. The total projected CPA expense is divided among all licensees the Division regulates, not just this industry, keeping the total assessment per licensee minimal.

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

(Note: all figures provided above are best estimates and/or approximations based on information currently available)

Enclosed:

Exhibit A – Small Business Impact Statement

Exhibit B – Minutes of November 3, 2023 Workshop on R096-23

Exhibit C - Minutes of December 19, 2023 Second Workshop on R096-23

Exhibit D – Minutes of March 1, 2024, Adoption Hearing on R096-23

Exhibit E – Initial Draft of Proposed Regulation Submitted to LCB on October 16, 2023

“EXHIBIT A”

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY
THE FINANCIAL INSTITUTIONS DIVISION (Division)
TO SENATE BILL (SB) 290
EARNED WAGE ACCESS
September 12, 2023**

1. Small Business Impact Statement pursuant to NRS 233B.0609:

(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(I) Solicitation of affected small businesses.

The Division sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to those engaged in or who desire to engage in the business of extending credit to ensure that there is established in this state an adequate, efficient and competitive service available to the general public.

The Division composed the solicitation list from current licensees under Nevada Revised Statutes Chapter 675 and known interested parties. In turn, the Division solicited comments on the proposed regulations for Senate Bill 290 (S.B.290) from the above lists by emailing a notice and questionnaire. Additionally, a copy of the full text of the proposed regulations was emailed and posted to the Division’s website. The solicited comments were used to formulate this Small Business Impact Statement.

(II) Summary of responses.

See attached spreadsheet.

(III) Obtain a copy of the summary.

This Small Business Impact Statement was posted on the NFID website on October 16, 2023, along with a Notice of Workshop for November 3, 2023. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner
Financial Institutions Division
3300 W. Sahara Avenue, Suite 250
Las Vegas, NV 89102
Email: FIDMaster@fid.state.nv.us
Telephone: (702) 486-4120
Website: <http://fid.nv.gov>**

(b) The manner in which the analysis was conducted.

Pursuant to NRS 233B.0608(1), the Division made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business. For this effort, the Division sent a copy of the draft regulations and a Small Business Impact Questionnaire to all known interested parties for review and invited written comment regarding the impact to the entities, NFID took all comments submitted into consideration.

Following review and analysis of the authorizing statutory language S.B.290 and written comment from the industry, the Division has determined that the proposed regulation is unlikely to impose a direct and significant economic burden upon a small business; result in any direct or indirect adverse effects on small business; or directly restrict the formation, operation, or expansion of a small business. Majority of the comments received were directed towards S.B.290 and not the proposed regulation.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:

(1) Both Adverse and Beneficial effects:

(I) ADVERSE EFFECTS:

The industry's biggest concern with the proposed regulation was the language reserving the Commissioner's right to approve advertising, since unethical, false or misleading advertisement is prohibited. The industry stated this may negatively impact business operations. The Division amended this language to clarify the Commissioner may require approval of advertisement if violations pertaining to licensee's advertising practices are discovered during an examination or investigation.

There was one comment regarding the fees the Division will charge. The fee maximum was set by S.B.290 and align with other license types of the Division.

The other comments were more directed towards S.B.290 and not the proposed regulations.

(II) BENEFICIAL EFFECTS:

The industry is in favor of earned wage access regulation, that it will help consumers evaluate earned wage access providers and the cost of competing earned wage advance products. It will allow employers to see what earned wage access providers are licensed and hopes that more employers will adopt an earned wage access program. The proposed regulations will provide regulatory clarity and certainty for their businesses to continue to grow and operate in the state of Nevada.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

The industry's biggest concern with the proposed regulation was the language reserving the Commissioner's right to approve advertising, since unethical, false or misleading advertisement is prohibited. The industry stated this may negatively impact business operations. The Division amended this language to clarify the Commissioner may require approval of advertisement if violations pertaining to licensee's advertising practices are discovered during an examination or investigation.

There was one comment regarding the fees the Division will charge. The fee maximum was set by S.B.290 and align with other license types of the Division.

The other comments were more directed towards S.B.290 and not the proposed regulations.

(II) INDIRECT EFFECTS:

The industry believes the regulations will provide a benefit to their current and prospective employer partners in Nevada, as they will be able to readily determine which earned wage access providers are licensed. As a result, more employers are likely to adopt an earned wage access program, and the compliance process of onboarding a provider will go more quickly. Taken together, this will have an indirect, beneficial effect on business growth in Nevada.

(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The Division sent out 147 small business questionnaires to all known interested parties. It received a total of fourteen (14) responses to the solicitation. Seven (7) small businesses provided comment, three (3) responded with N/A or no impact, and four (4) responded with no comment because they were over the small business threshold of 150 employees. The Division has considered and analyzed all submitted comments and addressed those comments in the attached summary of response spreadsheet. The majority of the comments were more directed towards S.B. 290 and not the proposed regulation, the Division cannot change current law but has drafted the proposed regulation to mitigate concerns from the industry and provide clarification.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

(f) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect, and the manner in which the money will be used.

The 1st Year → \$50,000 (Based on the application fee of \$1,000 and initial licensing fee of \$1,000 for 25 entities).

The 2nd Year → \$81,250 (Based on yearly renewal fee of \$1,000 and hourly examination Fee of \$75 with the average examination projected to take approximately 30 hours to complete). It is also expected that the following yearly examinations will not take 30 hours to complete thus lowering this cost in future years.

In addition, there is an annual Certified Public Account (CPA) assessment that will never exceed \$300.00. This assessment covers the expenses to employ the CPA and no more than the projected expenses are assessed to the licensees. The total projected CPA expense is divided among all licensees the Division regulates, not just this industry, keeping the total assessment per licensee at a minimal.

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

To the Division's knowledge, the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity.

(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.

This is a result of the passage of new legislation, S.B. 290. The Division can only lessen the impact on small business by proposing regulation that provides clarification to the industry. The regulation itself does not impose an economy burden to small business.

To the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this Small Business Impact Statement was prepared properly and accurate.

Sandy O'Laughlin
Commissioner

Financial Institutions Division
 State of Nevada, Department of Business and Industry

| <u>SB290- Earned Wage Access- Direct or Indirect Impact Item from Small Businesses</u> | <u>Number/ and %</u> | <u>Direct or Indirect</u> | <u>Adverse or Beneficial</u> | <u>NFID Answer/Mitigation</u> |
|---|----------------------|---------------------------|------------------------------|---|
| Section 10.2, if exercised, may negatively impact business operations. No state authority should have unfettered authority over speech. This "right" is presumptively unconstitutional. | 4 (57.1%) | Direct | Adverse | The intent of this proposed section is to give the Division the discretion to request advertising for approval if and when an issue may be present. The Division does not intend to request advertising for approval in every situation. The Division has amended this section, for clarification that the Division may request advertising to be approved if a violation is discovered during an examination or investigation. |
| Section 29 (2)b, 5(a)(b), disclosures will allow consumers to know true cost of the wage advance and enable consumers to effectively compare providers and make an informed decision concerning the wage advance. | 1 (14.3%) | Direct | Beneficial | No response is required since this comment does not have an adverse impact on small business and the sections mentioned are from the Bill 290 and not the proposed regulation. |
| Would like the Division to amend the regulations to make explicit that earned wage advance providers who provide technology and other services to assist banks need only comply with the provisions of the proposed regulation that regulates to the earned wage advance providers servicing and collection activities. | 2 (28.6%) | Indirect | Adverse | SB290 does not exempt these types of entities, therefore, the Division cannot draft regulations to exempt these entities. A person who believes they are exempt may request a licensure determination from the Division. |
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|--|--------------|----------|------------|---|
| Welcomes earned wage access regulation. Will help consumers evaluate earned wage access providers and the cost of competing earned wage advance products. | 1 (14.3%) | Indirect | Beneficial | No response is required since this comment does not have an adverse impact on small business. |
| | | | | |
| The specific vetting requirements in the statute and proposed regulation are unclear. | 3 (42.9%) | Direct | Adverse | SB290 is clear on what individuals need to be vetted and what is required to vet these individuals. SB290, section 13.2 states "each owner, officer, director and responsible person of the applicant, each person in control of the applicant and any other person the Commissioner may require..." The Division cannot change the language in SB290. |
| | | | | |
| SB290 allows for unaudited financial statements to be submitted until audited financials are available. Under section 8 of the current draft regulations, licensees audited financials are required to be submitted each year by April 15th, or by June 30th if unavailable by April 15th. | 1 (14.3%) | Direct | Adverse | The Division needs to establish a due date for when audited financial statements will be submitted. If left without a due date, the licensee could go years until audited financials are available. As stated in the regulation. the Division will grant an extension for good cause, for a reasonable amount of time. SB290 does not allow for the waiver of audited financial statements. |
| | | | | |
| The reporting requirements are not bound to activities in the state of Nevada. Do not see why licensees should report on the number and fees paid by users each year but should report on tips for all time periods and locations. Burdensome for small businesses that are subject to similar requirements in sister states if the data elements to be reported materially differ across jurisdictions. | 1 (14.3%) | Direct | Adverse | Since the licensee is licensed by Nevada to offer earned wage access to Nevada consumers, the Division is only concerned with the data for Nevadans. Its anticipated that this data will be useful for the Division as well as for the report that is due to the Legislative Counsel Bureau on December 31, 2025. |

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|--|----------------------|---------------|----------------|--|
| <p>For a start-up company that has just begun raising capital, the fees and costs outlined in the proposed rules, Draft Proposed Regulation Sec. 5-7, 12(b), would impose a significant burden on fledgling companies like it, as many rely initially on self-funding. In order to attract investment and raise capital, such companies often need to first pilot their programs on a limited basis to serve as “proof of concept” for investors and allow the company to hone their products to better serve consumers prior to a full-scale launch. Under the proposed rules, there are no accommodations to provide relief to start-up companies. We urge NFID to consider including a waiver of some or all application and licensing-related fees based on company size and/or number of customers. For example, NFID could waive fees for companies with less than 10 employees who have less than 500 Nevada customers.</p> | <p>1 (14.3%)</p> | <p>Direct</p> | <p>Adverse</p> | <p>The fees are in align with other license types of the Division and the maximum was set by SB290. The start-up cost for the initial application and licensing is \$2,000. \$1,000 annually after that for renewing the license. The examination hours will be based on the sampling size and other factors, such as if a licensee is in compliance with the provisions of SB290 and regulation. More violations, more time spent on an examination. The CPA fee is annually and no more than \$300.00. The travel expenses for an examiner to travel to an out-of-state location will occur if the licensee requests the Division to go onsite or if the licensee is operating at an unsatisfactory level.</p> |
|--|----------------------|---------------|----------------|--|

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|---|----------------------|-----------------|----------------|--|
| <p>The lack specificity in defining what an EWA provider is opens the door for payday lenders and other predatory lenders to now license themselves as EWA providers. The lack of fee caps, no clear definition of how the earned wage is determined and the ability to debit a consumer’s bank account creates a platform for companies to avoid usuary or other limitations present in other licensing requirements. For small companies focused on an employer-based solution, consistent with the CFPB Advisory Opinion requirements the message will be drowned out in the marketing hype of larger players entering the marketplace to the detriment of the Nevada consumers.</p> | <p>1 (14.3%)</p> | <p>Indirect</p> | <p>Adverse</p> | <p>SB290 defined an earned wage access provider and did not allow for caps. The Division cannot change the language in SB290 or write regulations that do not support SB290.</p> |
|---|----------------------|-----------------|----------------|--|

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|--|----------------------|---------------|-------------------|--|
| <p>The proposed regulations will provide regulatory clarity and certainty for our businesses to continue to grow and operate in the state of Nevada.</p> | <p>1 (14.3%)</p> | <p>Direct</p> | <p>Beneficial</p> | <p>No response is required since this comment does not have an adverse impact on small business.</p> |
|--|----------------------|---------------|-------------------|--|

| | | | | |
|---|----------------------|-----------------|-------------------|--|
| <p>The proposed regulations will provide a benefit to our current and prospective employer partners in Nevada, as they will be able to readily determine which EWA providers are licensed. As a result, more employers are likely to adopt an EWA program, and the compliance process of onboarding an EWA provider will go more quickly. Taken together, this will have an indirect, beneficial effect on business growth in Nevada.</p> | <p>1 (14.3%)</p> | <p>Indirect</p> | <p>Beneficial</p> | <p>No response is required since this comment does not have an adverse impact on small business.</p> |
|---|----------------------|-----------------|-------------------|--|

SBI Response Summary:

Total Known Interested Parties Solicited: 147

Total Responded with Comments: 7

Total Responded with N/A: 3

Total Responded with over 150 Employees (outside the small business threshold): 4

Total Comments Impacting the SBI % (Total Known Interested Parties Solicited - N/A - over 150 Employees=): 140

% Responded/Total Solicited (14/147): 9.52%

% Responded with Comments/Total Comments Impacting SBI(7/140): 5.00%

"EXHIBIT B"

STATE OF NEVADA



JOE LOMBARDO
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

DR. KRISTOPHER SANCHEZ
Director

FINANCIAL INSTITUTIONS DIVISION

SANDY O'LAUGHLIN
Commissioner

**Minutes of Workshop to Solicit Comments on
Proposed Regulations S.B.290- Earned Wage Access**

Date: Friday, November 3, 2023

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The workshop to consider S.B.290 was called to order Friday, November 3rd at 10:03 a.m. The purpose of the workshop was to receive input with respect to the proposed regulations pertaining to Senate Bill 290, as described by the Notice of Workshop dated and posted on October 16, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

A summary of each section of the proposed regulations was read during the workshop.

Regulation Comments per Section:

Sections 3 and 4.

One (1) written comment received prior to the workshop regarding section 3:

- The comment was to request the Division to remove “verified live data” from the definition of indirectly. The Division agrees to remove the term “live” but intends to keep “verified data” in the definition of indirectly.

There was one (1) verbal comment received on section 3.

- Matt Morris, Holland and Hart on behalf of DailyPay. The proposed revision to remove “live” from the definition will be helpful. It will provide a little more clarity and consistency.

Sections 5 through 8.

Written comment received prior to the workshop regarding section 8:

- Comment for section 8 subsection 1(c) proposed new language. To add “where the provider is seeking repayment of outstanding proceeds.” The Division is in agreement to add the additional language for this section to read “where the provider is seeking repayment of outstanding proceeds, the total number of users who have outstanding proceeds at the time of reporting, and the value of outstanding proceeds.”
- Comment for section 8.2, regarding the audited financials. The commenter would like the Division to remove “no later than June 30” and add “submit within 180 days following the end of a reporting licensee’s fiscal year”. The Division does not think a change is necessary since the regulation already provides for a licensee to request an extension for good cause.

There were no verbal comments received on sections 5 through 8.

Sections 9 through 12.

There were two (2) written comments received prior to the workshop regarding section 10.2.

- Regarding unethical advertising. The commenter requested the Division to replace the language “all licensees” with “that licensee” so its specific to the one licensee in violation of this section. That was the intent of the Division, and we agree to make that change.
- The second commenter also requested the change above, and also requested to add “or any electronic or print format distributed in the users’ workplace.” The Division will consider adding this language.

There was also one written comment on section 11.1.

- The comment requested the Division to remove the term “issued” and replace with the term “required” The Division does not think a change is necessary.

There was one (1) written comment received prior to the workshop and the same commenter gave verbal comment during the workshop on section 10.6.3:

- Beau Hurtig, Ceridian. He wanted to make sure we received his written comment regarding the definition of payroll provider.

Mary Young, FID. Yes, we did receive your comment. We were going to cover your comment later since it was more directed at the Senate Bill and not the regulation.

Beau Hurtig, Ceridian. The comment was in respect to the Bill but was hoping to get an exemption that we believe exists in the bill, written into the regulation. There are already two exemptions in the section.

Mary Young, FID. We cannot change the language in the Senate Bill and cannot write language that may contradict the Bill language. We recommend all payroll providers request a license determination to see if they need a license under this Senate bill or NRS 671 as a money transmitter for their specific business model. Your business model covered wallet programs, which usually fall under NRS 671. But it is recommended to request a licensure determination.

Beau Hurtig, Ceridian. He sees there is an exemption under the bill generally, that their business model could be given an exemption from the law. Wanted clarification of the Senate bill in the regulation, wanted to have the exemption language in the Senate bill to be in the regulation.

Mary Young, FID. We should talk offline because the business model doesn’t appear to meet that exemption.

Beau Hurtig, Ceridian. He will seek clarification.

Sections 13 through 16.

There was one (1) written comment received prior to the workshop regarding section 16.

- The commenter requesting to add language “or other person that may be subject to any requirement...” to allow the Division the right to request documentation from any person, not just applicants and licensees. The Division does not think this is necessary since it has the authority to request from any person in section 17 and section 18 of Senate Bill 290.

Comments received during discussion of section 15.

- Nicole Miller, Activehours, Inc. dba: Earnin. Section 15 requires a user signature on the agreement. They operate an app and don't get a signature. They would accept by clicking to accept the services or to give a tip.

Mary Young, FID. Do you get some form of electronic signature or acknowledgment from the users?

Nicole Miller, Activehours, Inc. dba: Earnin. Yes, the user clicks the box to agree to services.

Mary Young, FID. Can you send us an example of what a user sees. We may consider the language in this section. This industry is new to the Division, we appreciate any clarification. Is there anyone in the room or anyone on the call that would like to comment on this?

- Matt Morris, Holland and Hart on behalf of DailyPay. Generally, he is trying to keep track of the comments that he didn't submit, it's hard to know what the regulations will look like with the changes. Would like a way to comment on the comments and changes.

Mary Young, FID. If there are a lot of material changes, we will hold a second workshop. LCB has to approve the language before the adoption hearing. During the adoption hearing you can always make comment, and we can make changes then, but we don't prefer to during the adoption hearing. But there is a mechanism to provide additional comments. Everyone will see the public comment. If you want any more information on the comments I mentioned, you can email us fidmaster. We are open to answer any questions.

Louis Csoka, Senior Deputy Attorney General. Did you have any comments on the electronic signature issue?

Matt Morris, Holland and Hart on behalf of DailyPay. Without seeing the comment that they are submitting, it's hard to say.

Sandy O'Laughlin, FID Commissioner. Is there an initial sign-up to use the service?

Matt Morris, Holland and Hart on behalf of DailyPay. Typically, there is. What came up during the session is there are a lot of different business models across the industry but generally, yes.

Mary Young, FID. If anyone would like to us any samples of user agreement, that would be welcomed.

- Garth McAdam, ZayZoom. They do not accept tips but very similar for them as Nicole pointed out. Not a signature but an express agreement.

Agenda Item 4. Public Comments:

There were no comments during this general public comment period.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Senate Bill 290 was closed and adjourned on November 3, 2023, at 10:24 a.m.

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](#)



Nevada Department of Business of Industry
Financial Institutions Division
Attn: Commissioner Sandy O’Laughlin
3300 W. Sahara Avenue, Ste. 250
Las Vegas, Nevada 89102

Submitted Electronically to fidmaster@fid.state.nv.us

RE: Daily Pay, Inc.’s Stakeholder Comments In Response to Proposed Regulation LCB File No. R096-23I (Earned Wage Access, SB 290 (Nev. 2023))

October 27, 2023

Commissioner O’Laughlin:

Thank you for the opportunity to submit the following stakeholder comments on behalf of Daily Pay, Inc. (“Daily Pay”) responding to the Financial Institution Division’s (“FID’s”) Proposed Regulation R096-23I, implementing SB 290 (Nev. 2023) relating to earned wage access services. Daily Pay respectfully submits the following comments for FID’s consideration, pursuant to NRS 233B.0603, and NRS 233B.061, *et seq.*, which provide that interested persons must be afforded the opportunity to submit data, views, arguments, and comments on proposed agency regulations.

Having participated extensively in the development and advancement of SB 290 throughout the 2023 Nevada Legislative Session, Daily Pay appreciates the opportunity to provide the following comments and suggestions in response to FID’s draft regulation. As a key stakeholder in the State of Nevada’s efforts to implement SB 290 and create a regulatory framework for earned wage access service providers, Daily Pay looks forward to continued collaboration and to supporting a regulatory structure in Nevada that balances the needs to promote industry growth and innovation while protecting Nevada’s consumers from predatory, unethical, and harmful business practices.

To that end, Daily Pay respectfully submits the following comments and suggestions in response to proposed Regulation R096-23I for FID’s consideration.

Daily Pay’s Comments to Proposed Sec. 8.1(c) – Annual Reporting Requirements

FID’s proposed regulation, at Section 8.1(c), would require a licensee’s annual report, submitted pursuant to SB 290, Sec. 28, to include “[t]he total number of users who have outstanding proceeds at the time of reporting, and the value of outstanding proceeds.”

Daily Pay respectfully submits that it is unclear why such information would be included in a licensee’s annual report. SB 290, Sec. 28(1) requires the annual report to be submitted on or before April 15th of each calendar year, which in many instances could fall in the middle of a pay cycle for many users. Amounts that may have been transferred to a user prior to the user’s pay day could constitute “outstanding proceeds at the time of reporting,” *i.e.*, proceeds remitted to a user by a provider that have not yet been repaid to the provider. Including such information in an annual report may provide an inaccurate or incomplete picture to regulators.

To clarify the scope and intent of this requirement, and to ensure the annual report under SB 290, Sec. 28 provides a clear and accurate picture to Nevada regulators, Daily Pay respectfully suggests the following revision to the Proposed Sec. 8.1(c):

(c) Where the provider is seeking repayment of outstanding proceeds, [t]he total number of users who have outstanding proceeds at the time of reporting, and the value of outstanding proceeds.

Daily Pay's Comments to Proposed Sec. 8(2) – Submission of Audited Financial Statements

The proposed regulation, at Section 8.2, provides that ***“If audited financial statements are not available before April 15, and unaudited financial statements are submitted on or before April 15, the audited financial statements shall be submitted to the Division when available to the licensee but no later than June 30, unless an extension is requested by the licensee and the Commissioner extends for good cause.”***

Existing Nevada statute acknowledges that regulated entities may have fiscal years that are different from the State's fiscal year, and that regulated entities' reporting requirements may need to align with such fiscal periods. (*See, e.g.*, NRS 666.095(1)-(2), requiring a bank holding company's annual registration reports to be submitted to the Commissioner based on the end of its fiscal year). Daily Pay recommends revising the proposed regulation to provide that the due date for audited financial statements, if not submitted on or before April 15th, should be submitted within 180 days following the end of a reporting licensee's fiscal year. This will ensure that auditors have sufficient time to complete an audit of a licensee's financial statements, such that the licensee can timely include such statements in its report to FID.

Alternatively, the regulation should expressly provide that an extension in the reporting timeframe for audited financial statements will be granted to provide a licensee sufficient time to obtain audited financial statements, given the licensee's fiscal year end schedule.

Daily Pay's Comments to Proposed Sec. 3 – Verified Live Data

The proposed regulation, at Section 3, provides that ***“For the purpose of Section 9.1, “indirectly” means verified live data of the user's employment, income, or attendance obtained from an integrated system which is not directly obtained from an employer's system, and is not employment, income, or attendance data obtained directly from the user.”***

Daily Pay submits that the “verified live” concept represents an additional and more stringent verification standard that is not contemplated in SB 290. The term “verified live” is undefined, and the language seems to impose a higher standard for data obtained “indirectly” from an integrated system. If the data is obtained from an employer-integrated system, the data should be sufficient as such to ensure that wages provided to a user have actually been earned.

SB 290, Sec. 9.1, expressly provides for this framework by defining “employer-integrated earned wage access services” as the “delivery to a user of access to earned but unpaid income determined based on employment, income or attendance data ***obtained directly or indirectly*** from an employer[...].” By introducing the “verified live” concept for data obtained “indirectly” from an

employer-integrated system, the proposed regulation appears to be revising the language of SB 290 to create a new distinction, which creates unnecessary confusion for licensees.

Daily Pay respectfully suggests **omitting** the term “verified live” from proposed Section 3.1

Daily Pay’s Comments to Proposed Sec. 10(2) – Unethical Advertising

The proposed regulation, at Section 10(2), provides that “*No unethical, false, or misleading advertising by licensees will be permitted. If violations pertaining to a licensee’s advertising practices are discovered during an examination or investigation of a licensee, ~~and~~ the Commissioner ~~reserves the right to~~ may require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio, television, or the internet.*”

Daily Pay respectfully submits that the proposed language should be clarified to ensure that regulators can effectively protect consumers against unethical, false, or misleading advertising, while balancing the rights of licensees and industry participants to engage in constitutionally protected commercial speech. *See generally, North Nevada Co. v. Menicucci*, 96 Nev. 533, 536, 611 P.2d 1068, 1070 (1980) (to be constitutionally acceptable, a regulation authorizing officials to license activity that is presumptively protected by the First Amendment “must establish precise, narrowly-drawn standards to guide the officials” in their regulatory oversight).

The proposed language, as drafted, is not clear as to what constitutes “unethical advertising” and would appear to allow regulators to review and approve all advertising material, for “all licensees,” whether it is “unethical” or not, and regardless of whether the licensee engaged in violations of advertising rules. Daily Pay submits that the regulation should be revised to provide more narrowly and precisely that the Commissioner has the authority to pre-approve advertising for a specific licensee, where violations pertaining to that particular licensee’s advertising practices are discovered.

The following revision would comport with Nevada law espousing “precise, narrowly-drawn standards” to guide regulation of advertising presumably protected under the First Amendment:

No unethical, false, or misleading advertising by licensees will be permitted. If violations pertaining to a licensee’s advertising practices are discovered during an examination or investigation of a licensee, ~~and~~ the Commissioner ~~reserves the right to~~ may require that licensee ~~all licensees~~ to submit proposed advertising for approval before its dissemination through the press, by radio, television, or the internet.

Daily Pay’s Comments to Proposed Sec. 11(1) – Local Government Licensing & Permits

FID’s proposed regulation, at Section 11(1), should be clarified to provide that a licensee is required to obtain a license or permit from a local governmental entity only if the local governmental entity requires such a license or permit. This language aligns with existing regulatory language, for example, under NAC 675.120(1), requiring licenses to possess any “required” licenses, certificates, or permits issued by a local governmental entity.

Daily Pay suggests the following revision:

Sec. 11. A person shall not engage in the business of providing earned wage access services in this State unless:

1. The person holds a license required by Senate Bill 290, and any license or permit ~~issued~~ required by a local governmental entity;

Once again, Daily Pay appreciates FID's consideration of these comments and suggestions and appreciates the opportunity to work with FID and co-stakeholders to establish an effective regulatory structure for earned wage access service providers in the State of Nevada.

Please direct any comments or questions regarding Daily Pay's submitted comments to the undersigned.

Sincerely,



Ed Garcia, Esq.
egarcia@edgarcialaw.com



Matt Morris, Esq.
mcmorris@hollandhart.com

Counsel for Daily Pay, Inc.



Rain Technologies Inc.
209 10th Ave S Ste 160
Nashville, TN 37203-0702

Rain.us

Via Electronic Mail to FIDmaster@fid.state.nv.us

October 27, 2023

Mary Young
Deputy Commissioner
Financial Institutions Division
3300 W. Sahara Ave., Suite 250
Las Vegas, NV 89102

RE: Comments on Revised Regulations to Implement Senate Bill No. 290 (2023)

Deputy Commissioner Young:

On behalf of Rain Technologies Inc., I appreciate that the Nevada Financial Institutions Division has reached out to Rain regarding the agency's proposed regulations for Senate Bill 290 (SB290) regulating the provision of earned wage access services.

By letter dated September 1, 2023, Rain provided its comments on the NFID's initial proposal for regulations. Rain recommends that the NFID accept this comment letter in the spirit of supplementing, not replacing, the recommendations that Rain offered in its September 1 letter. For the sake of efficiency in the NFID's rulemaking process, this comment letter focuses on key points raised in the agency's revised proposal, contained in its notice dated October 16, 2023.

As discussed below, with respect to the October 16 proposal, Rain urges the NFID to adopt in its final regulations these measures:

1. Clarify the scope of the restrictions on advertising, in Section 10 of the NFID's regulations; and
2. Preserve the NFID's authority to demand information to investigate any "person" that may be a *provider*, pursuant to Section 16 of the NFID's regulations.

If you have any questions regarding Rain's recommendations for the NFID's final rule, please reach out to me.

Sincerely,

Tom Scanlon
THOMAS E. SCANLON
General Counsel & Chief Compliance Officer



Rain Technologies Inc.
209 10th Ave S Ste 160
Nashville, TN 37203-0702

Rain.us

COMMENTS ON PROPOSAL BY NEVADA FINANCIAL INSTITUTIONS DIVISION FOR REGULATIONS IMPLEMENTING SB 290

1. In Section 10, Clarify the Scope of the Restrictions on Advertising

Section 10 is designed to sanction acts involving fraudulent or misleading advertising by reserving the NFID's authority to "require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio, television, or the internet."

As stated in the September 1 comment letter, Rain does not dispute the Commissioner's authority to examine a licensee's advertising, including by imposing a prior-approval requirement. Moreover, Rain believes that the purpose of Section 10 should be to enable the Commissioner to thwart unethical or misleading advertising conducted by a particular "provider" or "licensee."

A licensee that promotes its EWA services in ways that historically do *not* involve false or misleading marketing activities should not be subject to the stifling effects of compliance with a prior-approval order imposed by the NFID when developing proposals for new or different forms of advertising. Under the October 16 proposal, the NFID would, appropriately, place the predicate condition for imposing a prior-approval order on the agency's finding of "violations" that are uncovered during its examination of a licensee's advertising practices. However, once the NFID finds that the specific licensee has committed violations, the regulations would allow the agency to fashion a prior-approval order that would apply to "*all* licensees" (emphasis added). Rain believes that compliance with the requirements of submitting proposed advertising to the NFID for its approval before dissemination should apply only to the licensee that had been found committing the violations.

Accordingly, Rain recommends that the NFID modify subsection (2) of Section 10 as follows:

2. No unethical, false, or misleading advertising by licensees *or providers* will be permitted. If violations pertaining to a licensee's advertising practices are discovered during an examination or investigation of a licensee, the Commissioner may require ~~all licensees~~ *that licensee* to submit *its* proposed advertising for approval before its dissemination through the press, by radio, television, or the internet, *or any electronic or print format distributed in the users' workplace.*



Rain Technologies Inc.
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Nashville, TN 37203-0702

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2. In Section 16, Clarify that the NFID Has Authority to Demand Information to Investigate Any Person That May Be Acting as a Provider

Section 16, as drafted in the October 16 proposal, is designed to state (in the regulations) the NFID's authority to obtain "any information or documentation" that the agency needs to examine or to investigate "an applicant or licensee." However, the specific language that the NFID has proposed could be interpreted as constraining the scope of the agency's authority to investigate a person that could be acting as a "provider" or holding itself out as a provider, and thus potentially operating in violation of Nevada law. Rain believes that the NFID's regulations should avoid the risk that a person that is violating one or more requirements of SB290 (or other applicable Nevada law) could escape an investigation by the NFID because the NFID's own rule limits its investigative powers to a person that is either an "applicant" or a "licensee."

Section 17.1(1) of SB290 provides that the "Commissioner may conduct any necessary *investigations* and hearings to determine whether any licensee *or other person* has violated any of the provisions of this chapter or whether any licensee has conducted himself or herself in a manner that requires the suspension . . . of his or her license." (Emphases added.) Likewise, Section 17.1(2) authorizes the Commissioner, when "conducting any investigation or hearing" under that law, to "require the attendance and testimony *of any person* and compel the production of all relevant books, records, accounts, and other documents" (*i.e.*, of that person). Rain believes Section 16 of the NFID's regulations should track the Commissioner's authorities to conduct investigations of any "person" that may violating requirements of SB290 so that the EWA industry can be protected against unlawful practices conducted by unlicensed providers.

Accordingly, Rain recommends that the NFID modify Section 16 as follows:

16. The Commissioner may request any information ~~or documentation~~, ***whether through any documentation or testimony***, deemed necessary to perform an examination or investigation of ~~an applicant or licensee~~ ***any applicant, licensee, or other person that may be subject to any requirement under Senate Bill 290.***

VIA Federal Express

October 26, 2023

Mary Young
Deputy Commissioner
Financial Institutions Division
3300 W. Sahara Ave., Suite 250
Las Vegas, NV 89102

Email: fidmaster@fid.state.nv.us

Re: Ceridian HCM, Inc. (“Ceridian”) Comment on Proposed Regulations of Senate Bill 290 (SB 290)

Dear Deputy Commissioner Young,

Ceridian is writing in response to the October 16, 2023 request for comments in advance of the November 3, 2023 Notice of Workshop to Solicit Comment on Proposed Regulations pertaining to SB 290. Ceridian’s position is that SB 290 exempts compliant payroll providers from its requirements and regulations. Accordingly, Ceridian proposes to add additional language to the Proposed Regulations to explicitly exempt compliant payroll providers from any requirement to register with the Commissioner of Financial Institutions as an earned wage provider for the reasons set forth herein.

I. Ceridian is a Compliant Payroll Provider

Ceridian is a global human capital management (“HCM”) software company, providing human resources, payroll, benefits, workforce management, and talent management capabilities to commercial customers in a single solution.

Given Ceridian’s core business is payroll, Ceridian continues to see cohorts of workers whose needs are not automatically met by traditional payment cycles, in which over 70% of paychecks are paid monthly or bi-weekly. As a result, some workers turn to high interest payday loans and credit cards to access an instant payment that bridges the gap between regularly scheduled pay periods. Additionally, more than 1/3 of U.S. adults would be unable to cover an unexpected \$400 expense, disproportionately affecting Black and Hispanic households and adults without a college degree.¹

¹ Economic Well-Being of U.S. Households in 2021, published May 2022 by the Board of Governors of the Federal Reserve System, <https://www.federalreserve.gov/publications/files/2021-report-economic-well-being-us-households-202205.pdf>.

In response to this demand, and given Ceridian’s unique capabilities as a payroll provider, Ceridian launched Dayforce Wallet in 2020. Dayforce Wallet is a digital financial management solution – offered through employers using Ceridian’s HCM payroll software – that empowers employees by providing their pay through the innovative Dayforce Wallet program that provides compliant access to earned but unpaid wages on demand (“On-Demand Pay” or “ODP”). Generally speaking, there are broadly two models of providing employees with access to their earnings prior to a regular payday: 1) employees drawing funds against a future paycheck, or 2) Ceridian’s ODP model. Ceridian’s ODP program is driven by innovation in the payroll process, allowing employees to access wages on demand that they have already earned for no fee through a true payroll run that is compliant with Federal, State, and local law, including applicable tax laws and the Fair Labor Standards Act of 1938.

To elaborate, Ceridian’s unique HCM platform architecture allows it to immediately and continuously update time, attendance data and other pay related data in order to calculate, throughout the duration of the pay cycle, withholdings for pre-tax deductions, post-tax deductions, and garnishment amounts, and the resulting net pay based on earned wages. Ceridian’s ODP product is not a loan or advance to employees. Instead, Ceridian provides wages to the employees of its employer customers as a tangential payroll service to employer customers, thus there is no obligation by the consumer (employee). Further, Ceridian’s Dayforce Wallet does not charge consumers mandatory fees nor request tips. Instead, Ceridian’s Dayforce Wallet enables employees to request an ODP payout of their net earnings any time during the pay cycle for no fee, giving consumers a risk-free way to access funds for everyday or unexpected expenses. In order to provide access to funds, Ceridian partners with an FDIC insured institution to issue Dayforce Wallet accounts into which ODP proceeds are nearly instantaneously credited upon employee request. Ceridian’s ODP products allow consumers to use earned funds paid prior to the normal payday to pay bills on time, cover unplanned expenses, engage in financial planning, and improve overall financial health with net wages actually calculated and paid. See attached Appendix A for visual aid.

II. Application of SB 290 to Compliant Payroll Providers

Ceridian understands that states and federal agencies are concerned with protecting vulnerable consumers and have been requiring persons who provide income-based advances products and services to register and report on their business practices. However, Ceridian does not interpret the text and meaning of SB 290 as applicable to its business, and seeks further clarity in the proposed regulations through inclusion of an explicit exemption for compliant payroll providers.

SB 290 defines “Employer-integrated earned wage access provider” as a person who is “engaged in the business of offering to provide or providing employer-integrated earned wage access services.” SB 290, Section 9, paragraph 1. Furthermore, the same section excepts “payroll service providers, including, without limitation, payroll service providers whose role may include verifying the available earnings but who are not contractually obligated to fund earned wage access service proceeds to a user” from the defined group of Employer-integrated earned wage access providers. SB 290, Section 9, paragraph 2. This language is included in the proposed regulations

in sections 10.6.1 and 10.6.2. Ceridian proposes that the following language be included as section 10.6.3 in the regulations:

“The term Provider does not include a payroll service provider that facilitates payments to workers of earned, available wage balances in accordance with Federal, State, and local law, including the Fair Labor Standards Act of 1938.”

Ceridian proposes that the explicit exception should apply to itself and similarly situated compliant payroll service providers. This includes all business models in which employees request ODP services from the company that processes their normal, compliant payroll and provides earned, unpaid, net income for employees without mandatory fees, charges, or other costs. The inclusion of an explicit exception is supported by the text of SB 290 Section 9, as a payroll services provider, Ceridian is not contractually obligated to fund ODP proceeds absent an employer’s contractual election to use Ceridian’s ODP service.

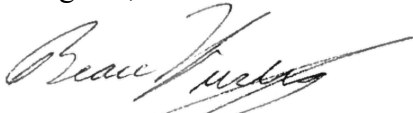
Compliant ODP is distinguishable from any type of loan, advance, or other exchange in which the end user is ultimately not receiving compliant, net pay from its employer, but is actually obtaining funds against a future paycheck from a third party, regardless of whether the exchange of funds is premised on actual or verified earned but unpaid income. Compliant payroll providers, like Ceridian, grant their services in addition to processing the employer’s normal payroll, and do so in a manner free to employees such that the complaint payroll provider’s main business and source of income is *not* EWA services. Further, compliant payroll providers have absolutely no recourse against the employee for ODP proceeds and must instead proceed against the employer in the event of default.

III. Conclusion

Ceridian believes that employees are entitled to payment in real time, rather than being limited to receiving payment during traditional pay periods. As set forth above, Ceridian’s ODP program allows consumers to receive compliant, net payment for work that they have already performed at any point in the payment cycle for no fee. Since Ceridian offers net income access that is calculated when employees have earned it, the ODP system does not constitute a consumer advance as contemplated in the bill, as this would require payment to the employee before net earnings are calculated and due. Moreover, Ceridian’s ODP business model does not require the employee to draw funds against a future paycheck, but instead innovates the payroll process to allow employees to access their earned wages through a true, compliant payroll on demand service. Ceridian has absolutely no recourse against the employee for ODP proceeds and must instead proceed against the employer in the event of default.

Ceridian encourages the Commissioner to formalize the distinction in EWA services and explicitly exempt complaint payroll providers from the proposed regulations of SB 290, through inclusion of the proposed language, or similar language, to create a new section 10.6.3. Ceridian submits that compliant payroll providers are not engaging in the type of EWA business activities regulated (or intended to be regulated) by the bill. Thank you for your attention to this matter, and please do not hesitate to contact me with questions or comments.

Regards,

A handwritten signature in cursive script, appearing to read "Beau J. Huttig". The signature is written in black ink and is positioned above the printed name.

Beau J. Huttig
Vice President, Associate General Counsel, Financial Services

enclosure

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Second Workshop to Solicit Comments on
Proposed Regulations S.B.290- Earned Wage Access**

Date: Tuesday, December 19, 2023

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The second workshop to consider S.B.290 was called to order Tuesday, December 19th at 10:01 a.m. The purpose of the workshop was to receive input with respect to the proposed regulations pertaining to Senate Bill 290, as described by the Notice of Workshop dated and posted on December 1, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

A summary of the changes made to four sections of the proposed regulations was read during the workshop.

Section 3.

Section 8, subsection e.

Section 10, subsection 2.

Section 15. We received two written comments directed towards the application vetting language in SB290, which states we will vet “each” owner of an applicant. The comments requested we add language in the regulation to exclude individuals with minimal ownership to ease the burden on both an applicant and the Division to vet hundreds of individuals that have minimal ownership and no say in the day-to-day operations of the applicant. The Division agrees to add language in the regulation to minimize such burden. The proposed language was read during the workshop.

- Aaron Marienthal, Payactiv. Section 17- Is there a specific way the Division is requiring the exemption to be requested. Is it a blanket request?

Mary Young, FID. It will be part of the initial application process; the licensing supervisor will review the full list of ownership and work with you what the exemption will look like. This is for initial application. Once licensed, if there were a change of control, that would fall under a different provision in SB290.

Aaron Marienthal, Payactiv. We will just work with the department.

Mary Young, FID. Correct. We still need to know all the owners of the company we will license but we may not need to vet them all. The licensing supervisor will review and advise on how to proceed.

- Clark Warthen, DailyPay, Inc. Same as what Aaron said. Just making sure the Division is not looking for several hundred individual exemption applications for holders that hold a small number of stock or a blanket exemption. But it sounds like we go ahead and submit the application and the Division will let us know what they are looking for. Let me know if I am misstating that.

Mary Young, FID. You are correct. Licensing will review the complete ownership. You will submit the complete ownership with the percentage each individual holds. From there, she will request what she needs from those individuals to vet those individuals. If any change from the initial approval, that would be considered a change of control, which is covered in a separate section of the bill.

Clark Warthen, DailyPay, Inc. Excellent. Understood. Thank you and thank Aaron for raising that as well.

Mark Fiorentino, Earnin. It may be better to change the language in section 17 to say the direct owners may request and exemption instead of the applicant, which seems consistent with the direction you just gave.

Mary Young, FID. Thank you for your comment.

Katherine Gamelin, Branch Messenger, Inc. We also second and have a concern with the number of owners and the number of exemption applications that the Division will receive.

Mary Young, FID. The exemption will not be for each individual but the applicant as a whole. One listing of all ownership will be submitted, and our licensing staff will decide pursuant to the regulation, granted the language is approved by LCB to move forward to adopt this language, what individuals will need to be vetted as stated in the regulation. The exemption will be for the applicant as a whole, again if there is any change to applicant, that would be considered a change of control.

Agenda Item 4. Public Comments:

There were no comments during this general public comment period.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Senate Bill 290 was closed and adjourned on December 19, 2023, at 10:14 a.m.

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](#)



December 12, 2023

Dear Ms. Young,

I am writing on behalf of Activehours, Inc. d/b/a EarnIn ("EarnIn") in connection with S.B.290 and the proposed rules regarding the Earned Wage Access ("EWA") licensing process that are currently being considered by the Nevada Financial Institutions Division (the "Division").

It has come to our attention that the Division is considering requiring applicants for an EWA license to obtain Personal History Forms and fingerprints for each owner of an applicant. We strongly encourage the Division to reconsider this requirement as it will be nearly impossible for most applicants to satisfy this requirement in a timely fashion, if at all.

For example, EarnIn is a C corporation with over 400 individual shareholders. It is unrealistic and unnecessarily burdensome and expensive to expect EarnIn to obtain detailed personal information for each shareholder or to expect each shareholder to obtain and provide fingerprint cards as part of EarnIn's EWA license application. We believe other companies in the EWA industry will face the same administrative challenges.

Further, this requirement would create a significant burden for the Division to maintain the confidentiality of all of the personally identifiable information collected as part of each EWA application.

Therefore, we respectfully request that the Division remain true to the spirit of S.B.290 and only require Personal History Forms and fingerprints for those persons who are control persons or executives in key functions actively involved in the conduct of applicants' respective EWA businesses.

Sincerely,

Nicole Miller

Associate General Counsel

December 12, 2023

Deputy Commissioner Mary Young
Financial Institutions Division
3300 W Sahara Ave,
Las Vegas, Nevada
fidmaster@fid.state.nv.us

RE: Senate Bill 290 (S.B.290) – Earned Wage Access – 2nd Workshop

Dear Deputy Commissioner Young:

Bridge IT, Inc. d/b/a Brigit (“Brigit”) appreciates the opportunity to submit written comments to the Nevada Financial Institutions Division (“NFID”) in advance of its second workshop regarding its proposed rule governing the registration and regulation of earned wage access (“EWA”) providers under the newly enacted chapter in the Nevada Revised Statutes relating to earned wage access (“S.B. 290”).

Brigit would like to take this opportunity to reiterate the comments it made in response to NFID’s solicitation for responses to its Small Business Impact Questionnaire.

In particular, Brigit recommends that the regulations exclude the requirement to provide vetting information for de minimis owners, both direct and indirect. The specific vetting requirements in the statute and proposed regulation are unclear, and while we understand that NFID has informally adopted policies with respect to other licensing regimes, Brigit recommends that it formalize its vetting policies through this rulemaking process.

Without excluding de minimis owners from vetting requirements, EWA providers would be unreasonably burdened. For instance, for EWA providers with many individual, de minimis shareholders, the costs to have each individual shareholder (i) complete an Individual MU2 through NMLS, (ii) request a criminal background report and credit report through NMLS, and (iii) submit fingerprints, is prohibitive. Further, many small (and large) businesses like Brigit have many employees and former employees with small ownership shares that are practically meaningless with respect to control¹ of a licensee or applicant.

The position that all owners must be vetted may even discourage investment into businesses and is clearly untenable when public companies are considered. Publically traded companies have millions of shares which trade hands without the company’s participation. Such companies are limited in their ability to track ownership, much less to require submitting fingerprints and background reports. Brigit does not imagine that NFID would require such companies to provide vetting information for all owners, and it would be appropriate for it to adopt a rule explicitly adopting control as the criterion for determining the need for vetting materials.

Additionally, alternative proposals would be less effective at ensuring appropriate oversight while balancing the burden on regulated institutions. For example, applying a de minimis threshold only with respect to indirect owners would only serve to encourage entities to form subsidiaries to hold a license, without any corresponding benefit to consumer protection.

Adopting a definition of “owner” that provides a percent threshold or otherwise excluding de minimis owners is consistent with S.B. 290 as well, which only requires that the name and address of 25%, direct or indirect, owners be

¹ “‘Control’ means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.” Nev. Rev. Stat. Ann. § 682A.047 (incorporated by reference per 2023 Nevada Laws Ch. 400 (S.B. 290), § 13.2, Subsection 2).

listed in an application.² Accordingly, Brigit recommends NFID adopt an exclusion for providing vetting information of de minimis owners, both direct and indirect.

Sincerely,

/s/

Hamel Kothari
Chief Technology Officer
Bridge IT, Inc. d/b/a Brigit

² “[E]ach applicant for licensure as a provider must submit . . . If the applicant is a corporation or association . . . The name and address of each of the directors, trustees and principals of the corporation and of any stockholder who owns 25 percent or more of the applicant's stock.” 2023 Nevada Laws Ch. 400 (S.B. 290), Section 13.1, Subsection 1(b)(1).



**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Adoption Hearing to Solicit Comments on
Proposed Regulations S.B.290- NRS/NAC 604D**

Date: Friday, March 1, 2024

Time: 9:30 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The hearing to consider S.B.290 was called to order Friday, March 1, 2024, at 9:32 a.m. The purpose of the adoption hearing was to receive input with respect to the proposed regulations pertaining to Chapter 604D of the Nevada Administrative Code ("NAC"), as provided by Senate Bill No. 290, as described by the Notice of Intent to Act Upon a Regulation and Hearing Agenda dated and posted on January 29, 2024.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

Each section of the proposed regulation being adopted today was read into the record.

Sections 1 through 8. There were no comments received on Sections 1 through 8.

Sections 9 through 17. There were no comments received on Sections 9 through 17.

Agenda Item 4. Adoption of Proposed Regulation:

The Financial Institutions Division hereby adopts regulation R096-23, which pertains to Chapter 604D of the Nevada Administrative Code and Senate Bill 290, as described in the Legislative Counsel Bureau draft dated January 24, 2024.

Agenda Item 5. Public Comments:

There were no comments during this general public comment period.

Agenda Item 6. Close Workshop (Adjournment):

The adoption hearing for R096-23 pertaining to Senate Bill 290 and Chapter 604D of the Nevada Administrative Code was closed and adjourned on March 1, 2024, at 9:47am.

To review and/or listen to comments in their entirety, please refer the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](https://www.nv.gov)

**DRAFT PROPOSED REGULATION OF THE
COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION (“Division”)**

The following document is the initial draft regulation proposed by the Division. The Division solicited comments from the industry on the proposed regulations pursuant to NRS 233B.0608(1) to determine whether the regulations would likely impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The Division considered all comments and removed language and/or requirements that were confusing or would cause unnecessary efforts on the part of the Earned Wage Access licensees, if it did not impact the consumer protection responsibility of the Division.

The revisions and/or omissions are in the following proposed regulations.

Purpose: To adopt regulations under the Nevada Administrative Code to implement Senate Bill No. 290 (2023), which creates a new chapter of the Nevada Revised Statutes related to earned wage access.

Authority: Senate Bill 290, Chapter 400, Statutes of Nevada 2023.

Explanation: Material in *blue bold italics* is new language. All comments received from the small business impact notice were considered but not all could be addressed. The matters addressed are referenced in this draft as *italics* for revised and matters in ~~bold brackets~~ is language to be omitted.

Section 1. *Title 52/Chapter xxx of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.*

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in this chapter have the meanings ascribed to them in those sections and sections 3 through 11 of Senate Bill No. 290 and sections 3 and 4 of this chapter.*

Sec. 3. *For the purpose of section 9.1, “indirectly” means verified live data of the user’s employment, income, or attendance obtained from an integrated system, which is not directly obtained from an employer’s system, and is not employment, income, or attendance data obtained directly from the user.*

Sec. 4. *“Principal place of business” means the physical location where the officers and senior management direct the earned wage access business, oversee the day-to-day operations of the earned wage access business, and all books and records are maintained at such location.*

Sec. 5 *1. An application for an earned wage access provider must be accompanied by:*

- (a) A nonrefundable application fee of \$1,000; and*
 - (b) A nonrefundable license fee of \$1,000.*
- 2. The annual license renewal fee is \$1,000.*
 - 3. The license reinstatement fee is \$1,000.*

Sec. 6. *1. The Commissioner of the Financial Institutions Division will charge and collect a fee of \$75 per hour from each provider of earned wage access services for any supervision, examination, audit, investigation or hearing conducted pursuant to Senate Bill 290.*

2. The Commissioner will bill each provider of earned wage access services upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date on which the bill is received. Any payment received after that date must

include a penalty of 10 percent of the fee amount, plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a provider of earned wage access services to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

Sec. 7. 1. *Each provider of earned wage access services shall pay to the Financial Institutions Division an annual assessment of not greater than \$300 to cover the costs related to the employment of a certified public accountant.*

2. The Division shall bill each provider of earned wage access services for the assessment. The assessment must be paid within 30 days after the date on which the bill is received. Any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee amount for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a licensee to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

Sec. 8. 1. *In addition to the data in section 28 of Senate Bill 290, the annual report shall include:*

- (a) The total number and value of fees paid by users in the preceding year in this State;*
- (b) The total number and value of expedited fees paid by users in the preceding year in this State;*
- (c) The total number of users who have outstanding proceeds at the time of reporting and the value of the outstanding proceeds;*
- (d) The total number of requests for reimbursements of overdraft or non-sufficient funds fees in the preceding year in this State;*

(e) The total number and value of reimbursed overdraft or non-sufficient funds fees in the preceding year in this State;

(f) ~~[Listing]~~ Total number of all users with zero fees or charges; and

(g) The total number and value of each voluntary tip, gratuity or donation received.

↳ The data requested in this section does not restrict the Commissioner from requesting additional information during an examination or investigation, without limitation, a full listing of all users in this state and the associated information for those users.

2. If audited financial statements are not available before April 15, and unaudited financial statements are submitted on or before April 15, the audited financial statements shall be submitted to the Division when available to the licensee but no later than June 30, unless an extension is requested by the licensee and the Commissioner extends for good cause.

Sec. 9. Every provider of earned wage access services shall retain all records concerning a user or employer in this State for at least 6 years.

Sec.10. 1. No licensee may advertise in any manner that may tend to confuse the identity of the licensee with any other unrelated licensee, or any user's employer.

2. No unethical, false, or misleading advertising by licensees will be permitted. If violations pertaining to a licensee's advertising practices are discovered during an examination or investigation of a licensee, ~~[and]~~ the Commissioner ~~[reserves the right to]~~ may require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio, television, or the internet.

Sec.11. A person shall not engage in the business of providing earned wage access services in this State unless:

- 1. The person holds a license required by Senate Bill 290, and any license or permit issued by a local governmental entity; and*
- 2. The location of the principal place of business complies with any applicable planning and zoning ordinances.*
- 3. The principal place of business cannot be a residence; it must be a commercial place of business.*

Sec.12. *A person who wishes to apply for a license for a principal place of business outside this State agrees to:*

- (a) Make available at a location within this State the books, accounts, papers, records and files of the principal place of business located outside this State to the Commissioner; or*
- (b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner incurred during any investigation or examination made at an office or principal place of business located outside this State.*
- (c) At the discretion of the Commissioner, books, accounts, papers, records and files may be electronically submitted to the Office of the Commissioner in lieu of subsections (a) or (b).*

Sec.13. 1. *The Commissioner may revoke or suspend the license of a provider of earned wage access services if the licensee violates any provision of this chapter or Senate Bill 290, including, without limitation, a provision that imposes a fee or assessment.*

- 2. The Commissioner may revoke the license if the licensee does not allow the Division to conduct an examination, investigation or audit of any accounts, books and records.*
- 3. A revocation or suspension of a license must be made in accordance with the procedures set forth in Senate Bill 290.*

Sec. 14. *For the purposes of section 29 subsection 3 of Senate Bill 290, no cancellation fee, or fee of any kind, regardless of the name given to the fee may be charged for a user to cancel their participation in an agreement.*

Sec. 15. *For the purpose of section 29 of Senate Bill 290,*

1. The disclosure required in subsection (5)(a), shall be in at least 16-point bold type font above the user's signature on the agreement; and

2. The option in subsection (5)(b) to select zero as an amount for a tip, gratuity or donation shall be in at least 16-point bold type font above the user's signature on the agreement.

↪ If the agreement already uses a font of 16-point type or more, the font in subsection 1 and 2 of this section must be increased by 4 points from the original font size in the agreement.

Sec. 16. *The Commissioner may request any information or documentation deemed necessary to perform an examination or investigation of an applicant or licensee.*