

STATE OF NEVADA



JOE LOMBARDO
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

TERRY REYNOLDS
Director

FINANCIAL INSTITUTIONS DIVISION

SANDY O'LAUGHLIN
Commissioner

DATE: October 16, 2023
TO: Whom It May Concern
FROM: Mary Young
Deputy Commissioner

The State of Nevada, Department of Business and Industry, Financial Institutions Division (Division) is providing the enclosed Notice of Workshop to Solicit Comment on Proposed Regulations pertaining to Senate Bill 290 (S.B.290) – Earned Wage Access from the 2023 Legislative Session.

The regulation included in this memorandum is being proposed for permanent adoption. In order to review the proposed regulation and solicit comments from interested persons, a workshop will be held via Webex conference at 10:00 a.m. on Friday, November 3, 2023, and for those wish to participate in-person, at the Nevada State Business Center.

Enclosures:

Notice of Workshop and Workshop Agenda
Proposed Regulation
Small Business Impact Statement
Enrolled Version S.B.290

NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS PERTAINING TO
SENATE BILL 290 (S.B.290) – EARNED WAGED ACCESS
AND
WORKSHOP AGENDA

The State of Nevada, Financial Institutions Division (“Division”), 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120 is proposing the adoption of regulations for earned wage access providers. The proposed regulations are required as a result of the passage of Senate Bill 290 (S.B.290) during the 82nd Session of the Nevada Legislature. This workshop will be conducted in accordance with NRS 233B.061 and the purpose is to solicit comments from interested persons on the proposed regulations to be held through videoconference, teleconference, and in-person:

Date: Friday, November 3, 2023

Time: 10:00 a.m.

To join by Webex, join the Webex meeting by clicking on the link below:

<https://businessnv2.webex.com/businessnv2/j.php?MTID=m0655e62e638757dacc075befab17d14d>

Meeting number (access code): 2493 620 9513

Meeting password: SB290

To join by telephone, call the toll-free number:

1-844-621-3956 United States Toll-Free

For those wishing to participate in-person, the following physical location is being made available:

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

Below is an agenda of all items scheduled to be considered. Persons who may be subject to the provisions of the new law regarding earned wage access should attend. At the discretion of the Commissioner, public comment may be limited to three minutes per person. Members of the public are encouraged to submit written comments for the record no later than **October 27, 2023**. Written comment can be submitted to the Division by email: fidmaster@fid.state.nv.us or by mail: 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102.

A copy of all materials relating to the proposal may be obtained by visiting the Division's website at: <http://fid.nv.gov> or by contacting the Division, 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120. Members of the public who would like additional information about a proposed regulation may contact Mary Young, Deputy Commissioner, at (702) 486-4120, or via e-mail to fidmaster@fid.state.nv.us

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing no later than five (5) working days before the workshop via email to fidmaster@fid.state.nv.us

WORKSHOP AGENDA:

1. Open Workshop
2. Public Comment
3. Presentation of Proposed Regulation regarding Earned Wage Access - S.B. 290 (2023 Legislative Session). -**FOR DISCUSSION AND POSSIBLE ACTION**
4. Public Comment
5. Close Workshop

PROPOSED REGULATIONS:

See attached.

NOTICE OF THE WORKSHOP HAS BEEN PROVIDED AS FOLLOWS:

By email to all persons on the Division's email list for noticing of administrative regulations.
By email to all licensees under NRS 675 and known contacts for earned wage access providers.
Posted at the Division's principal office/in-person physical location- 3300 W. Sahara, Ave., Las Vegas, Nevada 89102
Posted online to the Nevada Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>
Posted online to the State of Nevada Public Notice website: <https://notice.nv.gov>
Posted online to the Division's website: <https://fid.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.*

**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 comment 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 employee 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>
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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.
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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.
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.

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

Senate Bill No. 290—Senators Cannizzaro and Lange
CHAPTER.....

AN ACT relating to financial services; requiring a person who provides earned wage access services to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; authorizing the Commissioner, in furtherance of his or her duties with respect to the issuance and renewal of certain licenses, to participate in the Nationwide Multistate Licensing System and Registry; authorizing the Commissioner to take certain actions relating to participation in the Registry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-33.5 of this bill establish provisions relating to businesses that deliver to a person money that represents income that the person has earned but that has not yet been paid to the person. **Section 9** of this bill defines “employer-integrated earned wage access provider” as a person who provides such a service after verifying the earned income of the user through certain data provided by the user’s employer, or a person who provides payroll services to that employer. **Section 3.1** of this bill defines a “direct-to-consumer earned wage access provider” as a person who provides such a service after verifying the earned income of the user through certain data that is not provided by the user’s employer or a person who provides payroll services to that employer. **Section 10.6** of this bill defines “provider” to include an employer-integrated earned wage access provider and a direct-to-consumer earned wage access provider.

Section 12 of this bill prohibits a person from engaging in the business of a provider without a license issued by the Commissioner of Financial Institutions. **Sections 12-15** of this bill set forth certain requirements for licensure as a provider. **Section 16** of this bill requires each holder of a license as a provider to maintain a surety bond. **Sections 18-20** of this bill authorize the Commissioner to conduct certain examinations of licensees. **Section 21** of this bill requires the Commissioner to: (1) charge a fee for such examinations; (2) employ a certified public accountant to review and conduct independent audits and examinations of licensed providers; and (3) levy an assessment upon each licensed provider to cover the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

Sections 10.1, 13.1-13.3 and 18.1 of this bill enact provisions to govern the licensing of providers through the Nationwide Multistate Licensing System and Registry developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC. Under **section 37** of this bill, these provisions relating to the Registry become effective on the date that the Commissioner notifies the Governor and the Director of the Legislative Counsel Bureau that the Registry has sufficient capabilities to allow the Commissioner to carry out the provisions of law relating to the issuance and renewal of licenses through the Registry. (Chapter 347, Statutes of Nevada 2021, at page 2030) **Section 13.1** of this bill authorizes the Commissioner to: (1) in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this bill, to participate in the Registry; (2) require an applicant for licensure or a licensee to submit a complete set of fingerprints when the Commissioner determines necessary; and (3) use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation and certain other federal and state agencies for the purposes of conducting a criminal background check. **Section 13.1** also sets forth certain actions that the Commissioner is authorized to take concerning participation in the Registry, including, among others, requiring applicants for or holders of licenses to use the Registry to submit certain information and fees relating to licensure.

Section 13.2 of this bill requires each applicant for the issuance of a license and certain other persons to submit a complete set of fingerprints to the Registry. **Section 13.3** of this bill: (1) authorizes the Commissioner to issue a license through the Registry; and (2) provides that, to the extent that the Commissioner has delegated his or her duties with respect to the issuance or renewal of licenses as authorized under the provisions of this bill, references to the Commissioner in provisions of existing law governing the issuance or renewal of such licenses are deemed to be references to the Registry.

Section 17.1 of this bill authorizes the Commissioner to conduct any necessary investigations and hearings to determine whether any licensee or person has violated any provision of this bill or whether any licensee has conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license. In conducting such investigation or hearing, **section 17.1** authorizes the Commissioner to: (1) require the attendance and testimony of certain persons; (2) compel the production of certain documents; and (3) collect certain fees from each licensee or person.

Section 18.1 of this bill: (1) requires the Commissioner to report to the Registry certain information concerning violations of applicable laws by applicants for licenses and licensees; and (2) authorizes the Commissioner to enter into certain agreements or sharing arrangements with the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, and certain other entities.

Sections 22 and 23 of this bill set forth certain procedures for disciplinary actions against a licensee or person who violates the provisions of this bill. **Section 25** of this bill sets forth a process for filing complaints against a licensee. **Sections 26 and 27** of this bill require a licensee to submit a notice to and obtain the approval of the Commissioner before taking certain actions. **Section 28** of this bill requires a licensee to submit certain information to the Commissioner annually. **Section 34** of this bill makes conforming changes relating to the confidentiality of the information collected by a governmental agency related to **sections 25 and 28**.

Section 29 of this bill sets forth certain requirements for the operation of a provider. **Section 31** of this bill, among other things, prohibits a provider from: (1) sharing certain fees, voluntary tips, gratuities or other donations with an employer; and (2) compelling or attempting to compel payment by a user through certain actions.

Section 33 of this bill provides that earned wage access services provided by a provider licensed pursuant to **sections 2-33.5** are not a loan or money transmission and are not subject to any provisions of existing law governing loans and money transmitters.

Sections 34.5-35.5 of this bill provide that the provisions of existing law governing persons engaged in the business of transmitting money or certain loans do not apply to a provider.

Section 32 of this bill authorizes the Commissioner to adopt regulations for the administration and enforcement of sections 2-33.5. Sections 36 and 36.1 of this bill requires the Commissioner to: (1) on or before December 31, 2025, submit a report to the Legislature containing certain information relating to the regulation of earned wage access services; and (2) prescribe the form and content of an application for a license to provide earned wage access services.

Section 36.2 of this bill authorizes a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services to continue to engage in that business without obtaining a license pursuant to sections 2-33.5 until December 31, 2024, if the person submits an application for such a license before January 1, 2024.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33.5, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 3.1. *“Direct-to-consumer earned wage access provider” means a person who is engaged in the business of providing direct-to-consumer earned wage access services.*

Sec. 3.2. *“Direct-to-consumer earned wage access services” means the delivery to a user of an advance of earned but unpaid income based on data that is not employment, income or attendance data obtained directly from an employer or an employer’s payroll service provider.*

Sec. 4. 1. *“Earned but unpaid income” means salary, wages, compensation or other income that:*

(a) A user or employer has represented, and a provider has reasonably determined to have been, earned or accrued to the benefit of the user in exchange for the user’s provision of services to the employer or on behalf of the employer; and

(b) Has not been paid to the user by the employer at the time a provider delivers the payment of the proceeds to a user.

2. The term includes, without limitation, salary, wages, compensation or other income earned:

(a) On an hourly, project-based, piecework or other basis.

(b) Through services rendered as an independent contractor.

Secs. 5 and 6. (Deleted by amendment.)

Sec. 7. 1. *“Earned wage access services” means the delivery to a user of money that represents earned but unpaid income.*

2. The term includes both employer-integrated earned wage access services and direct-to-consumer earned wage access services.

Sec. 8. 1. “Employer” means:

(a) A person who employs a user; or

(b) Any other person who is contractually obligated to pay a user any earned but unpaid income.

2. The term does not include:

(a) A customer of an employer; or

(b) Any other person whose obligation to make a payment of salary, wages, compensation or other income to a user is not based on the provision of services by that user for or on behalf of such person.

Sec. 9. 1. *“Employer-integrated earned wage access provider” means a person who is engaged in the business of offering to provide or providing employer-integrated earned wage access services.*

2. The term does not include 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.

Sec. 9.1. *“Employer-integrated earned wage access services” means 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, including, without limitation, an employer’s payroll service provider.*

Sec. 9.2. 1. “Fee” includes:

(a) A fee imposed by a provider for delivery or expedited delivery of proceeds to a user; and
(b) A subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services.

2. The term does not include a voluntary tip, gratuity or donation.

Sec. 10. “Licensee” means a person who has been issued one or more licenses to engage in the business of:

1. An employer-integrated earned wage access provider; or

2. A direct-to-consumer earned wage access service provider.

Sec. 10.1. “Nationwide Multistate Licensing System and Registry” or “Registry” means a multistate licensing system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry, LLC, for the licensing and registration of non-depository financial service entities by participating state agencies, or any successor to the Nationwide Multistate Licensing System and Registry.

Sec. 10.2. “Outstanding proceeds” means proceeds remitted to a user by a provider that have not yet been repaid to that provider.

Sec. 10.4. “Preauthorized electronic fund transfer” has the meaning ascribed to it in 12 C.F.R. § 1005.2(k).

Sec. 10.5. “Proceeds” means a payment delivered to a user by a provider that is based on earned but unpaid income.

Sec. 10.6. 1. “Provider” means a person who is engaged in the business of providing earned wage access services, including a direct-to-consumer earned wage access provider and an employer-integrated earned wage access provider.

2. The term does not include payroll service providers, including, without limitation, payroll service providers whose role may include verifying available earners but who are not contractually obligated to fund proceeds to a user.

Sec. 11. “User” means a natural person residing in this State who receives earned wage access services.

Sec. 12. 1. A person shall not engage in the business of a provider unless the person has been issued a license by the Commissioner pursuant to this section.

2. A person who wishes to be licensed as a provider must submit to the Commissioner the application fee established pursuant to subsection 7, and an application, on a form prescribed by the Commissioner, which must contain:

(a) The name and address of the applicant;

(b) A copy of the proposed terms and conditions of use which will govern the provision of earned wage access services by the applicant, which must include, without limitation, a statement by the applicant that he or she will provide services in accordance with the applicable provisions of the federal Electronic Fund Transfer Act 15 U.S.C. §§ 1693 et. seq., and the regulations thereunder;

(c) A copy of the policy of the applicant relating to the privacy of information concerning users;

(d) A schedule of fees proposed to be charged to a user or employer for the provision of earned wage access services, which must include, without limitation, a statement identifying at least one option for a user to obtain earned wage access services from the applicant at no cost to the user;

(e) A statement that the applicant is applying to be licensed as an employer-integrated earned wage access provider or a direct-to-consumer earned wage access provider, or both;

(f) Financial statements of the applicant for the immediately preceding year that have been audited by an independent certified public accountant; and

(g) Any other information required by any regulations adopted by the Commissioner pursuant to section 32 of this act.

3. Upon receipt of the application for licensure and when satisfied that the applicant is entitled thereto, the Commissioner shall notify the applicant of the Commissioner’s approval of the application and issue to the applicant a license as a provider that contains a unique license number. A licensee shall prominently display the license on the Internet website of the licensee.

4. Except as otherwise provided by regulation of the Commissioner, a license issued pursuant to this section expires on December 31 of each year unless it is earlier surrendered, suspended or revoked.

5. The license may be renewed annually upon approval of the Commissioner if the licensee, on or after November 1 and on or before December 31 of each year, files an application conforming to the requirements for an initial application.

6. An application for the annual renewal of the license must be accompanied by a fee of not more than \$1,000. No investigation fee may be charged for the renewal of the license. If the application or fee for renewal is not filed within the required time, the Commissioner may reinstate the expired license if the licensee files the application, submits the fee for renewal and submits a fee of not more than \$1,000 for late renewal, if applicable, on or before February 28 of the year following the expiration date of the license.

7. The Commissioner shall adopt regulations establishing the amount of fees required pursuant to this section. The fees for the application, initial license, and license renewal shall not exceed \$1,000. All fees collected pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

8. A license issued pursuant to this section is not transferrable or assignable.

9. This section does not apply to a depository institution in which the deposits are federally insured up to applicable limits.

Sec. 13. 1. *In addition to any other requirements set forth in this chapter, each applicant for licensure as a provider must submit:*

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Is competent to transact the business of a provider.

(2) Has not made a false statement on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license as a provider suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(b) If the applicant is a corporation or association:

(1) 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;

(2) If required by the Commissioner, a complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national or international background check on the criminal history of the principal officers of the corporation or association, which must include a written statement authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(3) If required by the Commissioner, information concerning the personal history and experience of the principal officers of the corporation or association; and

(4) If required by the Commissioner, information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the principal officers of the corporation or association.

(c) If the applicant is a natural person:

(1) Proof satisfactory to the Commissioner that the applicant is at least 21 years of age;

(2) Proof satisfactory to the Commissioner that the applicant is a citizen of the United States or lawfully entitled to work in the United States; and

(3) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. *In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant for licensure as a provider if the applicant:*

(a) Has committed or participated in any act for which, if committed or done by a licensee, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for the license.

Sec. 13.1. 1. *The Commissioner may, in furtherance of his or her duties with respect to the issuance and renewal of licenses pursuant to this chapter, participate in the Nationwide Multistate Licensing System and Registry. The Commissioner may take any action with respect to participation in the Registry that the Commissioner deems necessary to carry out his or her duties, including, without limitation:*

(a) Facilitating and participating in the establishment and implementation of the Registry;

(b) Establishing relationships or contracts with the Registry or other entities designated by the Registry;

(c) Authorizing the Registry to collect and maintain records of applicants for licenses and licensees;

(d) Authorizing the Registry to, on behalf of the Commissioner, collect and process any fees associated with licensure, examinations, fines, assessments and any other similar fees;

(e) Requiring an applicant for a license or a licensee to use the Registry to:

(1) Apply for the issuance or renewal of a license;

(2) Amend or surrender a license;

(3) Submit any reports or the results of any examination that the Commissioner may require;

(4) Pay any applicable fees; and

(5) Engage in any other activity that the Commissioner may require; and

(f) Authorizing the Registry to, on behalf of the Commissioner, collect fingerprints in order to receive or conduct a background check on the criminal history of an applicant for a license or a licensee.

2. The Commissioner may require an applicant for a license or a licensee to submit a complete set of fingerprints when the Commissioner determines necessary. The Commissioner may use the services of the Registry to process and to submit the fingerprints to the Federal Bureau of Investigation, to the Central Repository for Nevada Records of Criminal History, to any federal or state law enforcement agency or to any other entity authorized to receive such information for the purpose of conducting a background check of the criminal history of an applicant for a license or a licensee.

3. An applicant for a license or a licensee shall, in addition to any other fees associated with the license, pay all applicable charges to use the Registry, including, without limitation, any processing charges established by the administrator of the Registry.

4. The Commissioner may adopt any regulations the Commissioner determines to be necessary or appropriate to carry out the provisions of this section. Such regulations may, without limitation, establish additional procedures and requirements for participation in the Registry.

5. The provisions of this section shall not be construed to replace or affect the authority of the Commissioner to grant, deny, suspend, terminate, revoke or refuse to renew a license.

Sec. 13.2. 1. *In addition to any other requirements set forth in this chapter, each applicant for the issuance of a license pursuant to this chapter and 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 in accordance with guidelines of the Registry or other multistate agreements shall submit to the Registry:*

(a) A complete set of fingerprints for submission to the Federal Bureau of Investigation and any other governmental agency or entity authorized to receive such information for a state, national and international background check on the criminal history of the person;

(b) Information concerning the personal history, financial history and experience of the person in a form prescribed by the Registry, including, without limitation, an authorization of the person for the Registry and the Commissioner to obtain:

(1) An independent credit report and credit score from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f), for the purpose of evaluating the financial responsibility of the person at the time of the submission of the application; and

(2) Additional independent credit reports and credit scores to confirm that the person continues to comply with any applicable requirements concerning financial responsibility;

(c) Information related to any administrative, civil or criminal findings made by any governmental jurisdiction concerning the person; and

(d) Any other information concerning the person that the Registry or the Commissioner may require.

2. As used in this section:

(a) "Control" has the meaning ascribed to it in NRS 682A.047.

(b) "Responsible person" means a person who is employed by an applicant and who has principal, active managerial authority over the provision of services in this State.

Sec. 13.3. 1. *Each licensee shall register with and maintain a valid unique identifier with the Registry.*

2. *The Commissioner may issue a license through the Registry.*

3. *To the extent that the Commissioner has delegated to the Registry any of his or her duties with respect to the issuance and renewal of licenses as authorized by the provisions of this chapter, any reference to the Commissioner in this chapter shall be deemed to be a reference to the Registry.*

4. *As used in this section, "unique identifier" means a number or other identifier assigned by the protocols established by the Registry.*

Sec. 14. 1. *In addition to the requirements set forth in sections 12 and 13 of this act, a natural person who applies for the issuance or renewal of a license as a provider shall:*

(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. *The Commissioner shall include the statement required pursuant to paragraph (b) of subsection 1 in:*

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. *A license as a provider may not be issued or renewed by the Commissioner if the applicant:*

(a) Fails to submit the statement required pursuant to paragraph (b) of subsection 1; or

(b) Indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. *If an applicant indicates on the statement submitted pursuant to paragraph (b) of subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 15. 1. *If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a provider, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. *The Commissioner shall reinstate a license as a provider that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 16. 1. *Each licensee shall have in force a surety bond payable to the State of Nevada in the amount of \$35,000.*

2. The bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of earned wage access services.

3. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of the business of a provider of earned wage access services in this State, give notice thereof to the Commissioner by registered or certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

4. Whenever the principal sum of the bond is reduced by recoveries or payments thereon, the licensee shall furnish:

(a) A new or additional bond so that the total or aggregate principal sum of the bonds equals the sum required pursuant to subsection 1; or

(b) An endorsement, duly executed by the surety, reinstating the bond to the required principal sum.

5. The liability of the surety on a bond to a creditor or claimant is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after:

(a) The death of the licensee or the dissolution or liquidation of the business of the licensee; or

(b) The termination of the bond,

→ whichever occurs first.

Sec. 17. *Each license as a provider shall remain in full force and effect until it expires or is surrendered, revoked or suspended as provided in this chapter and the regulations adopted pursuant thereto.*

Sec. 17.1. 1. *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 which requires the suspension, revocation or denial of renewal of his or her license.*

2. In conducting any investigation or hearing pursuant to this chapter, the Commissioner, or any person designated by the Commissioner, may require the attendance and testimony of any person and compel the production of all relevant books, records, accounts and other documents.

Sec. 18. 1. *For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his or her duly authorized representative may, at any time, examine the books, accounts, papers and records that are used or created in connection with the activities covered by the license of:*

(a) Any licensee;

(b) Any other person engaged in the business of a provider or participating in such business as a principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purposes of examination, the Commissioner or his or her authorized representative shall have and be given reasonable access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself or herself out as willing to provide earned wage access services is presumed to be engaged in the business of a provider and must obtain a license from the Commissioner.

4. This section does not entitle the Commissioner or his or her authorized representative to investigate the business or examine the books, accounts, papers or records of any attorney who is not a person described in subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his or her capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 18.1. *1. Subject to any limitations or restrictions contained in federal or state law governing the privacy or confidentiality of records, the Commissioner shall report regularly any violations of applicable laws committed by applicants for licenses or licensees, enforcement actions and other relevant information to the Registry.*

2. The requirements under any federal or state law, including, without limitation, rules of a federal or state court, regarding the privacy and confidentiality of any information or material provided to the Registry and any privilege arising under federal or state law with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with oversight authority over licensees without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

3. The Commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the State Regulatory Registry, LLC, or other associations representing governmental agencies.

Sec. 19. *1. The Commissioner may require the attendance of any person and examine him or her under oath regarding:*

(a) Any licensee; or

(b) The subject matter of any audit, examination, investigation or hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 20. *The Commissioner or his or her authorized representative may at least annually make an examination of the place of business of each licensee and of the transactions, books, accounts, papers and records of the person as they pertain to the business of a provider and its activities conducted pursuant to a license issued pursuant to this chapter.*

Sec. 21. *1. The Commissioner shall charge and collect from each licensee a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.*

2. The Commissioner shall employ a certified public accountant to review and conduct independent audits and examinations of licensed providers. The Commissioner shall levy an assessment upon each licensed provider to cover all the costs related to the employment of the certified public accountant and the performance of the audits and examinations.

3. All money collected by the Commissioner pursuant to subsections 1 and 2 must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 22. *1. If the Commissioner finds that probable cause for revocation of a license of a licensee exists and that enforcement of this chapter requires immediate suspension of such a license pending investigation, he or she may, upon 5 days' written notice and a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing about the revocation.*

2. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exists, he or she shall notify the licensee not later than 20 days before the date of the hearing. Such notice must state the contemplated action and, in general, the grounds thereof and set a date for a hearing.

Sec. 23. *1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$50,000 upon a person who conducts any business or activity without a license and for which a license is required pursuant to the provisions of this chapter.

Sec. 24. (Deleted by amendment.)

Sec. 25. *1. A user, an attorney for a user or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:*

- (a) The full name and address of the person filing the complaint;*
- (b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and*
- (c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.*

2. Upon receipt of a complaint filed pursuant to subsection 1, the Commissioner shall send a copy of the complaint to the accused licensee. The licensee, or an authorized representative of the licensee, shall file a verified answer to the complaint within 10 business days after receipt of the complaint, unless for good cause shown, the Commissioner extends the time for a period of not more than 30 days. If the licensee, or an authorized representative of the licensee, fails to file a verified answer within the time required by this subsection, the licensee shall be deemed to have admitted to the allegations contained in the complaint.

3. The Commissioner may make investigations and conduct hearings concerning complaints filed with the Commissioner pursuant to this section.

4. Except as otherwise provided in this section, a complaint filed with the Commissioner pursuant to subsection 1, all documents and other information filed with the complaint and all documents, reports and other information resulting from the investigation of the complaint are confidential and may be disclosed only as the Commissioner deems necessary to administer the provisions of this chapter.

Sec. 26. 1. *A licensee shall not make any of the following changes unless the licensee has obtained the prior approval of the Commissioner in accordance with the provisions of this section:*

- (a) A change in the ownership of 25 percent or more of the capital stock or other equivalent ownership interest of the licensee;*
- (b) A change in control of the licensee;*
- (c) A change in the name of the licensee, including the name under which the licensee is doing business; or*
- (d) A change in the principal business address of the licensee or in the address of any office of the licensee in this State.*

2. A licensee who wishes to make any change described in subsection 1 must, not less than 10 business days before the date on which the change is to occur, submit a notice to the Commissioner. Such notice must include any information that the Commissioner may require.

3. Upon receipt of a notice submitted pursuant to subsection 2, the Commissioner shall approve or disapprove the proposed change. The Commissioner may disapprove a proposed change if, in the reasonable judgment of the Commissioner, the proposed change is inconsistent with the requirements of this chapter. If the Commissioner does not respond to a licensee who submits a notice pursuant to subsection 2, including, without limitation, any request by the Commissioner for additional information from the licensee, within 10 business days of the date on which the notice was submitted, the proposed change shall be deemed approved.

4. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of the licensee.

Sec. 27. *In addition to the notice requirements set forth in section 26 of this act, a licensee must, before making a change in the principal officers or directors of a licensee, submit a notice to the Commissioner within a time period prescribed by the Commissioner. If the submission of such a notice is not possible before the change due to the unilateral resignation of a principal officer or director or other similar circumstance, the licensee must submit to the Commissioner a notice as promptly as possible after such a change. If, in the reasonable judgment of the Commissioner, the change in the principal officers or directors of the licensee is inconsistent with the requirements of this chapter, the Commissioner may require the licensee to take such action as the Commissioner deems necessary to ensure compliance with the provisions of this chapter.*

Sec. 28. 1. *On or before April 15 of each year, a licensee shall submit to the Commissioner a report containing, as applicable to the licensee:*

- (a) Except as otherwise provided in subsection 2, financial statements for the immediately preceding year that have been audited by an independent certified public accountant;*

(b) A copy of each complaint that has been filed by a user who received earned wage access services in this State in the immediately preceding year against the licensee with the Better Business Bureau or the Consumer Financial Protection Bureau and a description of the resolution, if any, of each such complaint;

(c) The total amount of charges paid by users for earned wage access services in the preceding year in this State;

(d) The total number of users in this State who did not receive earned wage access services in the immediately preceding year but who paid a subscription fee or membership fee imposed by a provider for a bona fide group of services that include earned wage access services, including the total amount of subscription fees and membership fees paid by those users in the immediately preceding year;

(e) The total number of users in this State who participated in 12 or more earned wage access transfers provided by the licensee in the immediately preceding year; and

(f) Any other information required by the Commissioner pursuant to regulations adopted pursuant to this chapter.

2. If audited financial statements are not available to a licensee on or before April 15 in any year, the licensee may satisfy the requirements of paragraph (a) of subsection 1 by submitting to the Commissioner:

(a) Unaudited financial statements on or before April 15; and

(b) Audited financial statements when such statements become available to the licensee.

3. Except as otherwise provided in this section, all documents and other information filed with the Commissioner are confidential and may be disclosed only as the Commissioner and the licensee mutually deem necessary to administer the provisions of this section.

4. The Commissioner shall annually publish and make available to the public an aggregated and anonymized analysis of the information submitted as required pursuant to this section.

Sec. 29. A provider shall:

1. Develop and implement policies and procedures to respond to questions raised by users and address complaints from users in an expedient manner;

2. Before entering into an agreement with a user for the provision of earned wage access services:

(a) Inform the user of his or her rights under the agreement; and

(b) Fully and clearly disclose all fees associated with the earned wage access services;

3. Allow the user to cancel, at any time and without incurring a fee, his or her participation in an agreement for the provision of earned wage access services;

4. Comply with all local, state and federal privacy and information security laws;

5. If the provider solicits, charges or receives a tip, gratuity or donation from a user:

(a) Conspicuously disclose or cause to be disclosed to the user that any tip, gratuity or donation paid by the user does not inure to the direct benefit of any specific employee of the provider or any other person; and

(b) Conspicuously provide an option for the user to select zero as an amount for such tip, gratuity or donation;

6. If a provider seeks payment of outstanding proceeds, fees or other payments including, without limitation, voluntary tips, gratuities or other donations from a user's account at a depository institution, including through a preauthorized electronic fund transfer:

(a) Comply with the applicable provisions of the Federal Electronic Fund Transfer Act and regulations thereunder; and

(b) Reimburse the user for the full amount of any overdraft or non-sufficient funds fee imposed on a user by the user's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees or other payments, including, without limitation, voluntary tips, gratuities or other donations on a date before, or in an incorrect amount from, the date or amount disclosed to the user; and

7. The requirements set forth in paragraphs (a) and (b) of subsection 6 do not apply to any payments of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means.

Sec. 30. (Deleted by amendment.)

Sec. 31. 1. A provider shall not:

- (a) Share with an employer any fees, voluntary tips, gratuities or other donations that were received from or charged to a user for earned wage access services;*
- (b) Use a user's consumer credit report, as defined in NRS 686A.630, or a user's credit score to determine the user's eligibility for earned wage access services;*
- (c) Charge a late fee, deferral fee, interest or any other penalty or charge for failure to pay outstanding proceeds, fees, voluntary tips, gratuities or other donations;*
- (d) Report any information about the user regarding the inability of the provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities or any other donations to a consumer agency or debt collector;*
- (e) Compel or attempt to compel payment by a user of outstanding proceeds, fees, voluntary tips, gratuities or other donations to the provider through any of the following means:*
 - (1) A civil action against the user in any court of competent jurisdiction;*
 - (2) Use of a third party to pursue collection from the user on the provider's behalf; or*
 - (3) Sale or assignment of outstanding amounts to a third-party collector or debt buyer for collection from the user.*

2. The limitations set forth in paragraph (e) of subsection 1 shall not preclude the use by a provider of any of the foregoing methods specified in paragraph (e) of subsection 1 to compel or attempt to compel payment of outstanding amounts or fees incurred by a user through fraudulent or other unlawful means, nor shall they preclude a provider from pursuing an employer for breach of its contractual obligations to the provider.

Sec. 32. *The Commissioner may adopt regulations for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter. Such regulations may include, without limitation, requirements relating to the retention of records by a provider.*

Sec. 33. 1. *Nothing in this chapter shall be construed to cause:*

- (a) Any earned wage access services provided by a licensee in compliance with this chapter to be deemed:*
 - (1) A loan or other form of credit;*
 - (2) As violating or noncompliant with the laws of this State governing the sale or assignment of, or an order of, earned but unpaid income; or*
 - (3) A money transmission, or to be subject to any of the provisions of law governing loans or money transmitters;*
- (b) Any licensee in compliance with this chapter to be deemed a creditor, lender or money transmitter; and*
- (c) Any fee provided to a consumer by a provider in compliance of this chapter to be deemed an interest or finance charge.*

2. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

Sec. 33.5. *The proceeds provided to a consumer by a provider in accordance with this chapter shall not be subject to the provisions of chapter 604A or 675 of NRS. A provider of the proceeds shall not be required to be licensed pursuant to chapters 604A and 675 of NRS unless the provider is conducting business pursuant to chapter 604A or 675 of NRS.*

Sec. 34. *NRS 239.010 is hereby amended to read as follows:*

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040,

239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and sections 25 and 28 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 34.5. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage companies, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and

(b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

- (a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;
- (b) Approved by the Federal National Mortgage Association as a seller or servicer; and
- (c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

16. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

17. A provider licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 35. NRS 671.020 is hereby amended to read as follows:

671.020 1. This chapter does not apply to any:

- (a) Bank, its parent or holding company or any subsidiary thereof, trust company, savings bank, savings and loan association, credit union, industrial bank or industrial loan and investment company, organized and regulated under the laws of this state or of the United States;
- (b) Foreign banking corporation licensed to do banking business in this state; **[or]**
- (c) Telegraph company providing a public message service **[.]**; *or*
- (d) A provider who is licensed pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.*

2. Subsection 1 does not reduce or alter any liability otherwise attaching to the sale, issuance, receipt for transmission or transmission of checks or money in any form.

Sec. 35.5. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

- 1. Except as otherwise provided in NRS 675.035, a person doing business under the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage companies, thrift companies, pawnbrokers or insurance companies.
- 2. A real estate investment trust, as defined in 26 U.S.C. § 856.
- 3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.
- 4. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.
- 5. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.
- 6. Except as otherwise provided in this subsection, any firm or corporation:
 - (a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;
 - (b) Approved by the Federal National Mortgage Association as a seller or servicer; and
 - (c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.
- 7. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.
- 8. A seller of real property who offers credit secured by a mortgage of the property sold.
- 9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.
- 10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.
- 11. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

12. Except as otherwise required by the Director of the Department of Business and Industry pursuant to NRS 657A.430 or 657A.620, a participant in the Regulatory Experimentation Program for Product Innovation established and administered pursuant to chapter 657A of NRS.

13. A provider of earned wage access services who is licensed to provide earned wage access services pursuant to the chapter consisting of sections 2 to 33.5, inclusive, of this act.

Sec. 36. 1. On or before December 31, 2025, the Commissioner of Financial Institutions shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature which includes an analysis of and any recommendations concerning earned wage access services and potential changes to regulations governing earned wage access services that may be warranted.

2. As used in this section, “earned wage access services” has the meaning ascribed to it in section 7 of this act.

Sec. 36.1. 1. On or before September 30, 2023, the Commissioner shall prescribe the form and content of an application for a license to provide earned wage access services pursuant to sections 2 to 33.5, inclusive, of this act.

2. As used in this section, “earned wage access services” has the meaning ascribed to it in section 7 of this act.

Sec. 36.2. 1. Notwithstanding the amendatory provisions of this act, a person who, as of January 1, 2023, was engaged in the business of providing earned wage access services in this State may, until December 31, 2024, continue to engage in the business of providing earned wage access services in this State without obtaining a license pursuant to sections 2 to 33.5, inclusive, of this act if the person submits an application for such a license before January 1, 2024, and otherwise complies with this act.

2. As used in this section, “earned wage access services” has the meaning ascribed to it in section 7 of this act.

Sec. 36.4. As soon as practicable after determining that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner of Financial Institutions to carry out the amendatory provisions of sections 2 to 33.5, inclusive, of this act, the Commissioner of Financial Institutions shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish notice to the public of that fact on the Internet website of the Division of Financial Institutions of the Department of Business and Industry.

Sec. 37. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 10, inclusive, 13 to 18, inclusive, and 19 to 36.2, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2024, for all other purposes.

3. Sections 10.1, 13.1, 13.2, 13.3 and 18.1 of this act become effective on the date on which the Commissioner of Financial Institutions, pursuant to section 36.4 of this act, notifies the Governor and the Director of the Legislative Counsel Bureau that the Nationwide Multistate Licensing System and Registry, as defined in section 10.1 of this act, has sufficient capabilities to allow the Commissioner to carry out the provisions of sections 2 to 33.5, inclusive, of this act.

4. Section 17 of this act becomes effective on January 1, 2024.

5. Sections 1 to 13, inclusive, and 16 to 36, inclusive, of this act expire by limitation on December 31, 2029.

6. Sections 14 and 15 of this act expire by limitation on the earlier of December 31, 2029, or the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has the authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

→ are repealed by the Congress of the United States.