

STATE OF NEVADA



DEPARTMENT OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION

**NOTICE OF INTENT TO ACT UPON A REGULATION  
AND HEARING AGENDA**

**Notice of Hearing for the Adoption of Regulations**

The State of Nevada, Department of Business and Industry, Financial Institutions Division (“Division”) will hold a public hearing on Friday, **March 1, 2024, at 9:30 a.m.** via Webex conference and in-person. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of permanent regulations that pertain to Chapter 604D of the Nevada Administrative Code (“NAC”), established by Senate Bill 290.

Date: March 1, 2024

Time: 9:30 a.m. PST

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

<https://businessnv2.webex.com/businessnv2/j.php?MTID=m6e44a11aed9188cfea75815e3ea74093>

Meeting number (access code): 2490 578 8534

Meeting password: SB290AH

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, 4<sup>th</sup> Floor  
3300 W. Sahara, Avenue

Las Vegas, Nevada 89102

The purpose of this public hearing is to receive final comments from all interested persons regarding this permanent regulation and the adoption of Chapter 604D of the Nevada Administrative Code (“NAC”), established by Senate Bill 290, LCB File No. R096-23, dated January 24, 2024.

The following information is provided pursuant to the requirements of the Nevada Revised Statutes (“NRS”) 233B.0603:

**LCB File No. R096-23**

A regulation relating to providers of earned wage access services; defining and interpreting certain terms relating to providers; interpreting certain provisions of Senate Bill No.290 of the 2023 Legislative Session relating to providers; establishing certain fees and assessments; requiring a provider to provide certain information to the Commissioner of Financial Institutions; imposing certain requirements relating to the retention of certain records by a provider; setting forth certain restrictions concerning advertising by a provider; setting forth certain requirements for a person to engage in the business of providing earned wage access services; establishing circumstances under which the Commissioner may suspend or revoke the license of a provider; authorizing the Commissioner to request certain information or documentation; and providing other matters properly relating thereto.

1. Need for and purpose of the proposed regulation:

The regulation is required as a result of the passage of Senate Bill 290 (“S.B. 290”) during the 82<sup>nd</sup> Session of the Nevada Legislature. This regulation is needed for the Division to administer, carry out and enforce the provisions of S.B.290, which will be codified NRS 604D.

2. Description of proposed regulation and the manner in which approved or revised text of the proposed regulation prepared by the Legislative Counsel Bureau (“LCB”) may be obtained.

The regulation proposed for adoption is stated in the attached Proposed Regulation of the Commissioner of the Financial Institutions Division, LCB File No. R096-23. This includes:

- Provide a framework that will create the best relationship between NFID and the earned wage access community.
- Provide a schedule for initial application and licensing fees, and renewal and reinstatement fees.
- Provide a schedule for all fees and assessments.
- Provide disclosure requirements.
- Provide reporting requirements.
- Provide other matters properly relating to the regulation of SB290.

Access to the approved or revised text of the proposed regulation prepared by the LCB pursuant to NRS 233B.063 may be obtained by visiting the website of the Nevada Legislature at <http://www.leg.state.nv.us>, click “Register of Administrative Regulations” on the right-hand side of the home page, click “Numerical Index” appearing under the category “2023 Regulations.” Access may then be obtained by scrolling down the list of LCB File Numbers to seek “R096-23” or by performing a search function specifying LCB File Number “R096-23” and clicking upon the item(s).

3. Statement of estimated economic effect of the proposed regulation on the business of financial product or service providers and upon the public.

The estimated economic effect of the proposed regulation on the business which it is to regulate:

a. Adverse effect:

- i. Immediate effect- 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. Long-term effect- 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.

b. Beneficial effect:

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

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

4. Statement identifying the methodology used by the Division in determining the impact of the proposed regulation upon a small business.

The Division reviewed the proposed regulation and preliminarily determined that it will not 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 vetted this preliminary determination by soliciting comments on the issue as part of the small business impact questionnaire and of its notice of workshop for the proposed regulation and in its e-mail notification to all known interested parties, as well as the Division's regulatory action contact list. Additionally, the notice of workshop and small business impact statement was posted on the Division's website, the State's official website, the Nevada Legislature's website and at the public location of the Division's office in Las Vegas. Following the conducted two workshops and consideration of the comments received during both workshops and comments from seven (7) entities who responded to the small business impact questionnaire, the Commissioner concluded that the proposed regulation does not impose a significant and direct burden upon a small business or restrict the formation, operation, or expansion of a small business.

5. 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.

6. Overlap or duplication with other state, local governmental or federal agencies.

To our knowledge, the proposed regulation does not duplicate any existing federal, state, or local standards regulating the same activity.

7. Existence of federal law requirement for proposed regulation or whether proposed regulation includes more stringent provisions than required by federal regulation governing same activity

The proposed regulation does not duplicate any existing federal, state, or local standards regulating the same activity.

8. Establishment of new fee or increase to existing fee.

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

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

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

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

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

## COMMENTS AND WRITTEN SUBMISSIONS

Persons wishing to comment upon the proposed action of the Financial Institutions Division may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Financial Institutions Division at [fidmaster@fid.state.nv.us](mailto:fidmaster@fid.state.nv.us) or at 3300 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102. Written submissions must be received by the Division on or before **February 22, 2024**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Financial Institutions Division may proceed immediately to act upon any written submissions.

## COPIES OF PROPOSED REGULATION

A copy of this notice and the proposed regulation to be adopted will be on file at the Nevada State Library & Archives, 100 N. Stewart Street, Carson City, Nevada, 89701, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation to be adopted will be available at the Division's website at [www.fid.nv.gov](http://www.fid.nv.gov)

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed or emailed to members of the public upon request. A reasonable fee may be charged for copying.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation as far in advance as possible via email [fidmaster@fid.state.nv.us](mailto:fidmaster@fid.state.nv.us)

Note that NRS 233B.064(2) provides as follows:

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This Hearing Notice has been sent to all interested persons on the Division's email list for administrative regulations and posted at the following locations:

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>

**NOTICE OF PUBLIC MEETING  
TO CONDUCT A HEARING FOR ADOPTION  
OF REGULATIONS OF THE COMMISSIONER OF THE FINANCIAL  
INSTITUTIONS DIVISION  
LCB FILE No. R096-23  
AND  
MEETING 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 to Chapter 604D of the Nevada Administrative Code (“NAC”). 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. A public meeting on this matter has been set for Friday, **March 1, 2024, at 9:30 a.m.**, via Webex conference and in-person.

Date: March 1, 2024

Time: 9:30 a.m. PST

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

<https://businessnv2.webex.com/businessnv2/j.php?MTID=m6e44a11aed9188cfea75815e3ea74093>

Meeting number (access code): 2490 578 8534

Meeting password: SB290AH

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, 4<sup>th</sup> Floor  
3300 W. Sahara, Avenue  
Las Vegas, Nevada 89102

The purpose of the meeting is to conduct a hearing of all interested persons regarding the following proposed regulation and for the Division to take possible action on the regulation's adoption. Please submit any written comments no later than **February 22, 2024**.

**LCB File No. R096-23**

A regulation relating to providers of earned wage access services; defining and interpreting certain terms relating to providers; interpreting certain provisions of Senate Bill No.290 of the 2023 Legislative Session relating to providers; establishing certain fees and assessments; requiring a provider to provide certain information to the Commissioner of Financial Institutions; imposing certain requirements relating to the retention of certain records by a provider; setting forth certain restrictions concerning advertising by a provider; setting forth certain requirements for a person to engage in the business of providing earned wage access services; establishing circumstances under which the Commissioner may suspend or revoke the license of a provider; authorizing the Commissioner to request certain information or documentation; and providing other matters properly relating thereto.

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

Notice of the meeting was provided via electronic means to all persons on the e-mail lists for noticing of administrative regulations maintained by the Division and all known interested parties. This *Notice of Public Meeting* was posted to the agency's website at [Proposed Regulations \(nv.gov\)/](http://ProposedRegulations(nv.gov)/), the Nevada Legislature's website at <http://www.leg.state.nv.us>,

**HEARING AGENDA**

The State of Nevada, Department of Business and Industry, Financial Institutions Division  
March 1, 2024 • 9:30 a.m.

The purpose of this public hearing is to receive final comments from all interested persons regarding this permanent regulation pertaining to Chapter 604D of the Nevada Administrative Code (“NAC”). LCB File No. R096-23, dated January 24, 2024.

1. Open Hearing: R096-23.
2. Public comment.
3. Presentation and Discussion of Proposed Regulation. (For Possible Action)



LCB File No. R096-23- NAC chapter 604D/Senate Bill 290

4. Adoption of Proposed Regulation R096-23 (For Possible Action)
5. Public Comment.
6. Close Hearing: R096-23. (Adjournment)

Supporting public material for this workshop may be requested from Mary Young, Deputy Commissioner, Financial Institutions Division, 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120 or [fidmaster@fid.state.nv.us](mailto:fidmaster@fid.state.nv.us)

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and discussion relating to an item may be delayed or continued at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker. Members of the public are encouraged to submit written comments for the record.

**REVISED PROPOSED REGULATION OF THE  
COMMISSIONER OF FINANCIAL INSTITUTIONS**

**LCB File No. R096-23**

January 24, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

**AUTHORITY:** §§ 1, 2 and 11-17, section 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2407; § 3, sections 9.1 and 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2396 and 2407, respectively; §§ 4 and 7, sections 13.1, 13.2 and 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2398, 2399 and 2407, respectively; § 5, sections 29 and 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2406 and 2407, respectively; § 6, sections 12 and 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2396 and 2407, respectively; §§ 8 and 9, sections 21 and 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2403 and 2407, respectively; § 10, sections 28 and 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2405 and 2407, respectively.

A REGULATION relating to providers of earned wage access services; defining and interpreting certain terms relating to providers; interpreting certain provisions of Senate Bill No. 290 of the 2023 Legislative Session relating to providers; establishing certain fees and assessments; requiring a provider to provide certain information to the Commissioner of Financial Institutions; imposing certain requirements relating to the retention of certain records by a provider; setting forth certain restrictions concerning advertising by a provider; setting forth certain requirements for a person to engage in the business of providing earned wage access services; establishing circumstances under which the Commissioner may suspend or revoke the license of a provider; authorizing the Commissioner to request certain information or documentation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Senate Bill No. 290 (S.B. 290) of the 2023 Legislative Session provides for the licensure and regulation by the Commissioner of Financial Institutions of persons engaged in the business of providing earned wage access services. (Sections 2 to 33.5, inclusive, of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2395-2408) S.B. 290 designates such persons,

including direct-to-consumer earned wage access providers and employer-integrated earned wage access providers, as “providers.” (Sections 3.2, 9.1 and 10.6 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2395 and 2396) S.B. 290 authorizes the Commissioner to adopt regulations for the administration and enforcement of provisions of S.B. 290 governing providers. (Section 32 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2407)

S.B. 290 defines “employer-integrated earned wage access provider” to mean a person who is engaged in the business of offering to provide or providing employer-integrated earned wage access services. (Section 9 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2395) S.B. 290 defines “employer-integrated earned wage access services” to mean 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. (Section 9.1 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2396) **Section 3** of this regulation sets forth the manner in which the Commissioner will interpret the term “indirectly” as used in the definition of “employer-integrated earned wage access services.”

S.B. 290 enacts provisions governing 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. (Sections 10.1, 13.1-13.3 and 18.1 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2396, 2398-2400 and 2403) S.B. 290 requires the submission of fingerprints and certain other information to the Registry by: (1) each applicant for the issuance of a license as a provider; (2) each owner, officer, director, responsible person and person in control of an applicant; and (3) any other person the Commissioner may require in accordance with the guidelines of the Registry or other multistate agreements. (Section 13.2 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2399) **Section 4** of this regulation provides that the Commissioner will interpret the term “owner” for the purposes of such requirements to mean a person who holds an ownership interest of 10 percent or more in an applicant for the issuance of a license as a provider that is a business entity. **Section 7** of this regulation requires an applicant for the issuance of a license as a provider that is a business entity to submit to the Commissioner a list consisting of each person who holds any ownership interest in the applicant. **Section 7** authorizes the Commissioner to require any person on the list who is not otherwise required to comply with the requirements concerning the submission of fingerprints and certain information to the Registry to comply with those requirements, if the Commissioner determines it to be necessary.

S.B. 290 requires a provider to allow a 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. (Section 29 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2406) **Section 5** of this regulation provides that the Commissioner will interpret that provision as prohibiting a provider from charging a user a cancellation fee or other fee of any kind for the user to cancel his or her participation in such an agreement.

S.B. 290 requires the Commissioner to establish by regulation certain fees relating to the licensure of providers. (Section 12 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2396) **Section 6** of this regulation establishes fees for: (1) the initial application for and the initial issuance of a license as a provider; (2) the annual renewal of such a license; and (3) the reinstatement of an expired license.

S.B. 290 requires the Commissioner to: (1) charge and collect a fee from each licensee for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to the provisions of S.B. 290 governing providers; and (2) levy an assessment upon each licensee to cover the costs related to the employment of a certified public accountant and the performance of certain audits and examinations conducted by such an accountant. (Section 21 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2403) **Section 8** of this regulation establishes an hourly fee that the Commissioner will charge to and collect from a licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to the provisions of S.B. 290 governing providers. **Section 9** of this regulation requires each licensee to pay an annual assessment to the Division of Financial Institutions of the Department of Business and Industry to cover costs related to the employment of a certified public accountant. **Sections 8 and 9**: (1) set forth the time within which the fee and assessment are required to be paid; (2) provide for penalties for late payment; and (3) provide that the failure of a licensee to pay the fee or assessment is grounds for revocation of the license of the licensee.

S.B. 290 requires a licensee to annually submit to the Commissioner a report containing certain information. (Section 28 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2405) **Section 10** of this regulation requires that the report contain certain additional information. **Section 11** of this regulation requires a licensee to retain certain records for at least 6 years.

**Section 12** of this regulation prohibits a licensee from advertising in any manner that: (1) may tend to confuse the identity of the licensee; or (2) is unethical, false or misleading. **Section 12** authorizes the Commissioner to require a licensee to submit a proposed advertisement for approval before its dissemination, under certain circumstances.

**Section 13** of this regulation prohibits a person from engaging in the business of a provider unless: (1) the person holds a license issued by the Commissioner and any license or permit required by a local governmental entity; and (2) the location of the principal place of business complies with any applicable planning and zoning ordinances and is a commercial place of business and not a private residence. **Section 2** of this regulation defines “principal place of business.” **Section 14** of this regulation requires a person who wishes to apply for a license as a provider where the location of the principal place of business is outside this State to agree to: (1) make available to the Commissioner, at a location within this State, certain books, accounts, papers, records and files; or (2) pay the reasonable expenses of the Commissioner incurred during any investigation or examination made at a location outside this State. **Section 14** also authorizes the Commissioner, for good cause, to allow the electronic submission of such books, accounts, papers, records and files.

**Section 15** of this regulation authorizes the Commissioner to revoke or suspend the license of a licensee, in accordance with the procedures set forth in S.B. 290, for certain violations. **Section 16** of this regulation authorizes the Commissioner to request any information or documentation deemed necessary to perform an examination or investigation of an applicant or licensee.

**Section 1.** Chapter 604D 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, “principal place of business” means a physical location where the officers or senior management of a provider direct the provider’s business of providing earned wage access services, oversee the day-to-day operations of the provider’s business of providing earned wage access services and maintain all books and records relating to the provider’s business of providing earned wage access services.*

**Sec. 3.** *As used in section 9.1 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2396, the Commissioner will interpret the term “indirectly” to mean verified data of the employment, income or attendance of the user that is:*

- 1. Obtained from an integrated system;*
- 2. Not directly obtained from the system of an employer; and*
- 3. Not directly obtained from the user.*

**Sec. 4.** *As used in section 13.2 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2399, the Commissioner will interpret the term “owner” to mean a person who holds an ownership interest of 10 percent or more in an applicant for the issuance of a license as a provider that is a business entity.*

**Sec. 5.** *The Commissioner will interpret the provisions of subsection 3 of section 29 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2406, to prohibit a provider from charging a user a cancellation fee or other fee of any kind, regardless of the name given to the fee, for the user to cancel his or her participation in an agreement for the provision of earned wage access services.*

**Sec. 6. 1.** *An application for a license as a provider must be accompanied by:*

*(a) A nonrefundable application fee of \$1,000; and*

*(b) A nonrefundable license fee of \$1,000.*

*2. An application for the annual renewal of a license as a provider must be accompanied by a renewal fee of \$1,000.*

*3. An application for the reinstatement of an expired license as a provider must be accompanied by a late renewal fee of \$1,000 in addition to the renewal fee prescribed in subsection 2.*

**Sec. 7.** *1. In addition to any other requirements set forth in this chapter and sections 2 to 33.5, inclusive, of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2395 to 2408, inclusive, each applicant for the issuance of a license as a provider that is a business entity must submit to the Commissioner, with the application required by section 12 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2396, a list consisting of each person who holds an ownership interest in the applicant.*

*2. If the Commissioner determines it to be necessary, the Commissioner may require any person on the list submitted pursuant to subsection 1 who is not otherwise required to comply with the requirements of section 13.2 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2399, to comply with the requirements of that section.*

**Sec. 8.** *1. The Commissioner will charge and collect a fee of \$75 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to sections 2 to 33.5, inclusive, of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2395 to 2408, inclusive.*

*2. The Commissioner will bill each licensee upon 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. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee 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 shown.*

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

**Sec. 9.** *1. Each licensee shall pay to the Division of Financial Institutions of the Department of Business and Industry an annual assessment of not more than \$300 to cover the costs related to the employment of a certified public accountant.*

*2. The Division shall bill each licensee for the assessment. The assessment must be paid within 30 days after the date on which the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the assessment plus an additional 1 percent of the assessment for each month, or portion of a month, that the assessment is not paid. The Division may waive the penalty for good cause shown.*

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

**Sec. 10.** *1. In addition to the information required by section 28 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2405, a report submitted by a licensee pursuant to that section must include:*

*(a) The total number of fees paid by users and the total value of fees paid by users in this State in the immediately preceding year;*

*(b) The total number of fees for expedited delivery of proceeds paid by users and the total value of such fees paid by users in this State in the immediately preceding year;*

*(c) The total number of users who have outstanding proceeds at the time of reporting and the total value of such outstanding proceeds;*

*(d) The total number of requests for reimbursement of overdraft or non-sufficient funds fees in this State in the immediately preceding year;*

*(e) In cases where the licensee is seeking repayment of outstanding proceeds, the total number of reimbursed overdraft or non-sufficient funds fees in this State and the total value of reimbursed overdraft or non-sufficient funds fees in this State in the immediately preceding year;*

*(f) The total number of users with zero fees or charges; and*

*(g) The total number of voluntary tips, gratuities or donations received and the total value of such voluntary tips, gratuities or donations received.*

*2. The information required by this section does not restrict the Commissioner from requesting additional information during an examination or investigation, including, without limitation, a full listing of all users in this State and associated information for such users.*

*3. If audited financial statements are not available before April 15 and a licensee submits unaudited financial statements on or before April 15, the licensee shall submit audited financial statements to the Division of Financial Institutions of the Department of Business and Industry on or before June 30 of the same year, unless the licensee requests an extension and the Commissioner grants such an extension for good cause.*

**Sec. 11.** *Each licensee shall retain all records concerning a user or employer in this State for at least 6 years.*

**Sec. 12.** *1. A licensee shall not advertise in any manner that:*

*(a) May tend to confuse the identity of the licensee with any other unrelated licensee or the employer of a user; or*



*(b) Is unethical, false or misleading.*

*2. If any violation pertaining to the advertising practices of a licensee is discovered during an examination or investigation of a licensee, the Commissioner may require the licensee to submit to the Commissioner for approval any proposed advertisement before the advertisement is disseminated through:*

*(a) The press or by radio, television or the Internet; or*

*(b) Any electronic or print format that is distributed in a workplace where the licensee offers to provide earned wage access services.*

**Sec. 13.** *A person shall not engage in the business of providing earned wage access services in this State unless:*

*1. The person holds a license issued pursuant to section 12 of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at page 2396, and any license or permit required by a local governmental entity; and*

*2. The location of the principal place of business:*

*(a) Complies with any applicable planning and zoning ordinances; and*

*(b) Is a commercial place of business and not a private residence.*

**Sec. 14.** *1. Except as otherwise provided in subsection 2, a person who wishes to apply for a license as a provider where the location of the principal place of business is outside of this State must agree to:*

*(a) Make available to the Commissioner, at a location within this State, the books, accounts, papers, records and files of the principal place of business located outside this State; 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.*

*2. The Commissioner may, for good cause, allow the electronic submission of books, accounts, papers, records and files described in subsection 1.*

**Sec. 15.** *1. The Commissioner may revoke or suspend the license of a licensee for any violation of this chapter or sections 2 to 33.5, inclusive, of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2395 to 2408, inclusive, including, without limitation, a violation of any provision that imposes a fee or assessment.*

*2. The Commissioner may revoke the license of a licensee if the licensee does not allow the Division of Financial Institutions of the Department of Business and Industry to conduct an examination, investigation or audit of any books, accounts, papers, records and files.*

*3. Any revocation or suspension of a license pursuant to this section must be made in accordance with the procedures set forth in sections 2 to 33.5, inclusive, of Senate Bill No. 290, chapter 400, Statutes of Nevada 2023, at pages 2395 to 2408, inclusive.*

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

**Sec. 17.** This regulation becomes effective on the later of:

1. July 1, 2024; or
2. The date on which this regulation is approved by the Legislative Commission and filed with the Secretary of State pursuant to NRS 233B.070.

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

**The 2<sup>nd</sup> Year → \$81,250** (Based on yearly renewal fee of \$1,000 and hourly examination Fee of \$75 with the average examination projected to take approximately 30 hours to complete). It is

also expected that the following yearly examinations will not take 30 hours to complete thus lowering this cost in future years.

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

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

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

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

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

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

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



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Sandy O'Laughlin  
Commissioner  
Financial Institutions Division  
State of Nevada, Department of Business and Industry

<b>SB290- Earned Wage Access- Direct or Indirect Impact Item from Small Businesses</b>	<b>Number/ and %</b>	<b>Direct or Indirect</b>	<b>Adverse or Beneficial</b>	<b>NFID Answer/Mitigation</b>
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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.
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Would like the Division to amend the regulations to make explicit that earned wage advance providers who provide technology and other services to assist banks need only comply with the provisions of the proposed regulation that regulates to the earned wage advance providers servicing and collection activities.	2 (28.6%)	Indirect	Adverse	SB290 does not exempt these types of entities, therefore, the Division cannot draft regulations to exempt these entities. A person who believes they are exempt may request a licensure determination from the Division.
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Welcomes earned wage access regulation. Will help consumers evaluate earned wage access providers and the cost of competing earned wage advance products.	1 (14.3%)	Indirect	Beneficial	No response is required since this comment does not have an adverse impact on small business.
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<p>The specific vetting requirements in the statute and proposed regulation are unclear.</p>	<p>3 (42.9%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>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.</p>
<p>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.</p>	<p>1 (14.3%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>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.</p>
<p>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.</p>	<p>1 (14.3%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>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.</p>



<p>For a start-up company that has just begun raising capital, the fees and costs outlined in the proposed rules, Draft Proposed Regulation Sec. 5-7, 12(b), would impose a significant burden on fledgling companies like it, as many rely initially on self-funding. In order to attract investment and raise capital, such companies often need to first pilot their programs on a limited basis to serve as “proof of concept” for investors and allow the company to hone their products to better serve consumers prior to a full-scale launch. Under the proposed rules, there are no accommodations to provide relief to start-up companies. We urge NFID to consider including a waiver of some or all application and licensing-related fees based on company size and/or number of customers. For example, NFID could waive fees for companies with less than 10 employees who have less than 500 Nevada customers.</p>	<p>1 (14.3%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>The fees are in align with other license types of the Division and the maximum was set by SB290. The start-up cost for the initial application and licensing is \$2,000. \$1,000 annually after that for renewing the license. The examination hours will be based on the sampling size and other factors, such as if a licensee is in compliance with the provisions of SB290 and regulation. More violations, more time spent on an examination. The CPA fee is annually and no more than \$300.00. The travel expenses for an examiner to travel to an out-of-state location will occur if the licensee requests the Division to go onsite or if the licensee is operating at an unsatisfactory level.</p>
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<p>The lack specificity in defining what an EWA provider is opens the door for payday lenders and other predatory lenders to now license themselves as EWA providers. The lack of fee caps, no clear definition of how the earned wage is determined and the ability to debit a consumer’s bank account creates a platform for companies to avoid usuary or other limitations present in other licensing requirements. For small companies focused on an employer-based solution, consistent with the CFPB Advisory Opinion requirements the message will be drowned out in the marketing hype of larger players entering the marketplace to the detriment of the Nevada consumers.</p>	<p>1 (14.3%)</p>	<p>Indirect</p>	<p>Adverse</p>	<p>SB290 defined an earned wage access provider and did not allow for caps. The Division cannot change the language in SB290 or write regulations that do not support SB290.</p>
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<p>The proposed regulations will provide regulatory clarity and certainty for our businesses to continue to grow and operate in the state of Nevada.</p>	<p>1 (14.3%)</p>	<p>Direct</p>	<p>Beneficial</p>	<p>No response is required since this comment does not have an adverse impact on small business.</p>
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<p>The proposed regulations will provide a benefit to our current and prospective employer partners in Nevada, as they will be able to readily determine which EWA providers are licensed. As a result, more employers are likely to adopt an EWA program, and the compliance process of onboarding an EWA provider will go more quickly. Taken together, this will have an indirect, beneficial effect on business growth in Nevada.</p>	<p>1 (14.3%)</p>	<p>Indirect</p>	<p>Beneficial</p>	<p>No response is required since this comment does not have an adverse impact on small business.</p>
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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%