

**DRAFT PROPOSED REGULATION OF THE COMMISSIONER OF
THE FINANCIAL INSTITUTIONS DIVISION**

(Earned Wage Access)

LCB File No. ____ - ____

August 18, 2023

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.

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 obtained from an integrated system, which is not directly obtained from an employer’s system, and is not 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 of all users with zero fees or charges; and*
- (g) The total number and value of each voluntary tip, gratuity or donation received.*

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 advertising by licensees will be permitted and the Commissioner reserves the right to 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 their designee; or*
- (b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or their designee 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 or their designee, 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 or their designee may request any information or documentation deemed necessary to perform an examination or investigation of an applicant or licensee.*