

STATE OF NEVADA

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

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

Date: Tuesday, December 19, 2023

Time: 10:00 a.m.

Locations:

Physical in-person location:

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

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

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

Financial Institutions Division Staff Present at the Hearing:

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

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

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

Section 3.

Section 8, subsection e.

Section 10, subsection 2.

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

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

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

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

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

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

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

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

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

Mary Young, FID. Thank you for your comment.

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

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

Agenda Item 4. Public Comments:

There were no comments during this general public comment period.

Agenda Item 5. Close Workshop (Adjournment):

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

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



December 12, 2023

Dear Ms. Young,

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

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

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

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

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

Sincerely,

Nicole Miller

Associate General Counsel

December 12, 2023

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

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

Dear Deputy Commissioner Young:

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

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

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

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

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

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

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

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

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

Sincerely,

/s/

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

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