

STATE OF NEVADA



JOE LOMBARDO
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

DR. KRISTOPHER SANCHEZ
Director

FINANCIAL INSTITUTIONS DIVISION

SANDY O'LAUGHLIN
Commissioner

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

Date: Friday, November 3, 2023

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor

3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

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

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin

Deputy Commissioner Mary Young

Senior Deputy Attorney General Louis Csoka

Examiner Jennifer Ramsay

Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

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

Regulation Comments per Section:

Sections 3 and 4.

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

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

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

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

Sections 5 through 8.

Written comment received prior to the workshop regarding section 8:

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

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

Sections 9 through 12.

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

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

There was also one written comment on section 11.1.

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

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

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

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

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

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

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

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

Beau Hurtig, Ceridian. He will seek clarification.

Sections 13 through 16.

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

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

Comments received during discussion of section 15.

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

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

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

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

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

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

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

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

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

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

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

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

Agenda Item 4. Public Comments:

There were no comments during this general public comment period.

Agenda Item 5. Close Workshop (Adjournment):

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

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