

In the
Supreme Court of the State of Nevada

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Elizabeth A. Brown
Clerk of Supreme Court

KATE FELDMAN, an individual;
STOP PREDATORY LENDING NV,
a Nevada nonprofit corporation,

Appellants,

vs.

NEVADANS FOR FINANCIAL
CHOICE, a Nevada Political Action
Committee; CHRISTINA BAUER,
an individual; FRANCISCO V.
AGUILAR, in his official capacity as
Nevada Secretary of State;
DAILYPAY, INC., a Delaware
Corporation; PREFERRED
CAPITAL FUNDING-NEVADA,
LLC, a Nevada limited liability
company; ALLIANCE FOR
RESPONSIBLE CONSUMER
LEGAL FUNDING, an Illinois
nonprofit corporation;
ACTIVEHOURS, INC., a Delaware
corporation; and STACY PRESS, an
individual,

Respondents.

Case No.: 88526

District Court Case No.:
Lead Case No.: 24 OC 00018 1B

Consolidated with:

Case No.: 24 OC 00021 1B

Case No.: 24 OC 00023 1B

Case No.: 24 OC 00029 1B

APPELLANTS' APPENDIX Vol. 2 of 4

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DATED this 1st day of May, 2024.

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By: /s/ Bradley Schrager

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of May, 2024, a true and correct copy of **APPELLANTS' APPENDIX** was served upon all counsel of record by electronically filing the document using the Nevada Supreme Court's electronic filing system:

By: /s/ Dannielle Fresquez
Dannielle Fresquez, an Employee of
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and Stacy Press

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

ACTIVEHOURS, INC., a Delaware
corporation, and STACY PRESS, an individual,

Plaintiffs,

vs.

KATE FELDMAN, an individual, STOP
PREDATORY LENDING NV, a Nevada
nonprofit corporation, and FRANCISCO V.
AGUILAR, in his official capacity as
NEVADA SECRETARY OF STATE,

Defendants.

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Case No.

Dept. No.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CHALLENGING
INITIATIVE PETITION S-03-2024
(Priority Matter Pursuant to NRS 295.061(1))**

Plaintiffs Activehours, Inc., a Delaware corporation registered to do business in Nevada, and Stacy Press, file this Complaint for Declaratory and Injunctive Relief against Defendants Kate Feldman, Stop Predatory Lending NV, a Nevada nonprofit corporation, and Francisco V. Aguilar, in his official capacity as Nevada Secretary of State, pursuant to NRS 295.061 and NRS 30.010. Plaintiff complains and alleges as follows:

PARTIES

1. Plaintiff Activehours Inc. is a Delaware corporation registered to do and doing business in the State of Nevada.

2. Plaintiff Stacy Press is a registered voter and resident of the State of Nevada.

3. Defendant Kate Feldman is, upon information and belief, a resident of the State of Nevada, who filed with the Nevada Secretary of State a Petition for Initiative on January 24, 2024, designated by the Secretary of State as S-03-2024.

4. Defendant Stop Predatory Lending NV is a Nevada nonprofit corporation registered to engage in political activity in the State of Nevada and, based on information and belief, is a proponent of the Petition for Initiative filed by Defendant Feldman.

5. Defendant Francisco V. Aguilar is the Nevada Secretary of State and under that capacity, is responsible for qualifying initiatives for submission to the Legislature and the electorate as well as disqualifying initiatives determined to be invalid.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to NRS 295.061.

7. Venue is proper under NRS 295.061 which requires challenging petitions in this Court. Venue is also proper under NRS 13.020 and 13.040 because this action is against a public officer in his official capacity.

GENERAL ALLEGATIONS

Overview of the Petition

8. On or about January 24, 2024, Kate Feldman filed a Petition for Initiative with the Nevada Secretary of State, designated as S-03-2024 (the "Initiative"). See Ex. 1, Notice of Intent Statewide Initiative or Referendum Petition.

9. The Initiative seeks to amend the Nevada Revised Statutes by adding a new

Chapter, entitled: "Chapter 604D Preventing Payday and Other Loans Act," and by amending NRS 99.050 to reference this new proposed chapter.

10. The Initiative includes the following description of effect:

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

See Ex. 1, Notice of Intent Statewide Initiative or Referendum Petition at p. 11.

The Initiative Proposes to Add "NRS Chapter 604D, Preventing Predatory Payday and Other Loans Act" to the Nevada Revised Statutes

11. The Initiative proposes to add NRS Chapter 604D for the purpose of "combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities." *Id.* at Secs. 1-2.

12. Transactions from various chapters of Nevada Revised Statutes are included within the "transactions subject to" the Initiative, including: deferred deposit loans, high-interest loans, and title loans (NRS Chapter 604A), refund anticipation loans (NRS Chapter 604B.060); consumer litigation funding transactions (NRS Chapter 604C); installment loans (NRS Chapter 675); retail installment transactions (NRS Chapter 97); loans secured by a life insurance or annuity contract (NRS Chapter 688A); and loans made by a bank, savings bank, savings and loan

1 association, or credit union organized, chartered, or holding a certificate of authority to do business
2 under Nevada law "notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710,
3 NRS 673.3272, NRS 677.730 or any other provision of law." *Id.* at Sec. 8.

4 13. The Initiative further defines a "loan" as:

5 (a) Money or credit provided to a consumer in exchange for the consumer's
6 agreement to a certain set of terms, including, but not limited to, provisions for
7 direct or indirect repayment, interest, fees, charges or other payments, or other
8 conditions;

9 (b) Any deferred deposit transaction or payday loan, installment loan, line of credit,
10 retail installment sales contract, and motor vehicle retail installment sales contract,
11 and other closed-end or open-end credit; and

12 (c) Any sale, assignment, order, or agreement for the payment of unpaid wages,
13 salary, commissions, compensation, or other income, or any portion or amount
14 thereof, whether earned, to be earned, or contingent upon future earnings, that is
15 made in consideration for goods or services, credit, or the payment of money to or
16 for the account of the person earning or receiving, or potentially earning or
17 receiving, the wages, salary, commissions, compensation, or other income.

18 *Id.* at Sec. 5.

19 14. The Initiative purports to set a maximum annual interest rate of 36%
20 permitted for any loan or transaction subject to its proposed terms. *Id.* at Sec. 9.

21 FIRST CAUSE OF ACTION

22 (Violation of Single-Subject Requirement, NRS 295.009(1)(a))

23 15. Plaintiffs repeat and re-allege the allegations contained in the preceding
24 paragraphs and incorporate them as though fully set forth here.

16 16. NRS 295.009(1)(a) requires that initiative petitions "[e]mbrace but one
17 subject and matters necessarily connected therewith and pertaining thereto."

18 17. For purposes of this requirement, "if the parts of the proposed initiative or
19 referendum are functionally related and germane to each other in a way that provides sufficient
20 notice of the general subject of, and of the interests likely to be affected by, the proposed initiative

1 or referendum.” NRS 295.009(2).

2 18. “The single-subject requirement ‘facilitate the initiative process by
3 preventing petition drafters from circulating confusing petitions that address multiple subjects.”
4 *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309, 314 (2022) (quoting
5 *Nevadans for the Prot. Of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240
6 (2006)).

7 19. The Initiative violates the single-subject requirement because it addresses a
8 multitude of subjects under the guise and stated objective of combatting predatory payday lending.

9 20. The Initiative embraces several subjects throughout its sections, all of which
10 are subjects of their own respective Chapters of Nevada Revised Statutes.

11 21. For example, as set forth above, the “transactions” which are applicable in
12 the Initiative include: deferred deposit loans, high-interest loans, and title loans, all addressed in
13 NRS Chapter 604A; refund anticipation loans, addressed in NRS Chapter 604B; consumer
14 litigation funding transactions addressed in NRS Chapter 604C; installment loans, addressed in
15 NRS Chapter 675; retail installment transactions, addressed in NRS Chapter 97; loans secured by
16 a life insurance or annuity contract, addressed in NRS Chapter 688A; loans made by a bank,
17 savings bank, savings and loan association, or credit union, all addressed in NRS Chapters 662,
18 672, 673, and 677.

19 22. The Initiative does this with the caveat that the Initiative’s proposed statutes
20 will apply irrespective of what the corresponding statutes say, in essence abolishing those statutes.

21 23. The Initiative also effectively invalidates NRS 604A.0703, NRS
22 604A.5029, NRS 604A.5052, and NRS 604A.5057 to the extent they conflict with the Initiative’s
23 proposed maximum interest rate permitted.

24 24. These provisions within the Initiative violate the single-subject requirement

1 because they constitute logrolling—they regulate separate conduct but are lumped together in the
2 same petition by pairing unpopular or undesirable provisions with popular provisions under the
3 moniker of “consumer protection.”

4 25. The Initiative also includes earned wage access services within its
5 framework, defining those services as “loans” and licensees of earned wage access services as
6 “lenders.”

7 26. These definitions are in direct conflict with SB 290, adopted in 2023 and
8 not yet codified in the Nevada Revised Statutes, which expressly states that earned wage access
9 services provided by a licensee shall not be construed as a loan or other form of credit, and earned
10 wage access service licensees shall not be deemed a creditor, lender, or money transmitter. *See*
11 *Ex 2, Senate Bill 290 at p. 20, Sec. 33.*

12 27. SB 290 further differentiates earned wage access services from those
13 services under NRS Chapter 604A, including Nevada’s Payday Lender Best Practices Act and
14 from installment loans (NRS Chapter 675). Yet, both of these chapters are included as transactions
15 subject to the Initiative. *See Ex. 1, Initiative at Sec. 8, compared to Ex. 2, SB 290 at Secs. 34.5 and*
16 *35.5.*

17 28. While the Initiative carves out an exception to earned wage access services
18 prior to January 1, 2030, the exception only applies to section 9 of the Initiative—the maximum
19 interest rate permitted (36%). It does not exempt earned wage access services from the remainder
20 of the Initiative, including the definition of loan and the applicability of the chapter as a whole.
21 *Ex. 1, Initiative at Sec. 15.*

22 29. The Initiative therefore encompasses multiple subjects in violation of NRS
23 295.009(1)(a)’s single-subject requirement.

1 SECOND CAUSE OF ACTION

2 (Violation of Description of Effect Requirement, NRS 295.009(1)(b))

3 30. Plaintiffs repeat and re-allege the allegations contained in the preceding
4 paragraphs and incorporate them as though fully set forth here.

5 31. NRS 295.009(1)(b) requires that the Initiative "set forth, in not more than
6 200 words, a description of the effect of the initiative or referendum if the initiative or referendum
7 is approved by the voters."

8 32. "A description of effect must be a straightforward, succinct, and
9 nonargumentative summary of what the initiative is designed to achieve and how it intends to
10 reach those goals." *Helton*, 138 Nev., Adv. Op. 45, 512 P.3d at 314.

11 33. A description must also sufficiently "explain the ramifications of the
12 proposed amendment" to allow voters to make an informed decision. *Nev. Judges Ass'n v. Lau*,
13 112 Nev. 51, 59, 910 P.2d 26 898, 903 (1996).

14 34. Here, the Initiative's description of effect is legally deficient because it fails
15 to explain the ramifications of the proposed Initiative such that Nevada voters would be able to
16 make an informed decision.

17 35. The description of effect specifies that the Initiative addresses lending
18 practices and consumer loans, outlining that it would apply to "consumer loans; deferred-deposit
19 transactions; title loans; and other *loan* types dependent on future earnings and income." Yet,
20 earned wage access services are not loans, nor are earned wage access service licensees lenders,
21 but earned wage access services are included and would be impacted under the Initiative.

22 36. Worse, the description of effect expressly states it will apply to "other loan
23 types dependent on *future earnings and income*," but the language of the Initiative encompasses
24 "...compensation, or other income, or any portion or amount thereof, *whether earned, to be*

1 *earned, or contingent upon future earnings.* The description of effect therefore misleads voters
2 into believing that it applies only to *loans* dealing with *future earnings*.

3 37. The description of effect therefore misleads voters because the Initiative
4 purports to apply only to predatory loans and loans based on future earnings; nevertheless, the
5 Initiative includes earned wage access services within its broad reach. The description of effect
6 does not allow voters to make an informed decision as it pertains to earned wage access services
7 and their inclusion in the Initiative as loans.

8 38. In addition, the Petition's description of effect specifies that it applies to and
9 addresses "high-interest lending practices," yet high-interest loans are expressly defined by statute
10 in NRS Chapter 604A. The Initiative, in contrast, includes many other lending practices not
11 defined or acknowledged as "high-interest." The result is misleading voters into an assumption
12 that the Initiative is intended to address only high-interest loans.

13 39. Because the description of effect does not include these important details, it
14 does not sufficiently identify "what the law proposes and how it intends to achieve that proposal."
15 *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013).

16 WHEREFORE, Plaintiffs Activehours, Inc. and Stacy Press pray for an Order as
17 follows:

18 1. Declaring that the Initiative violates the single-subject requirement as set
19 forth in NRS 295.009(1)(a);

20 2. Declaring that the Initiative's description of effect is misleading and does
21 not sufficiently address what the Initiative proposes and how it intends to achieve that proposal, in
22 violation of NRS 295.009(1)(b);

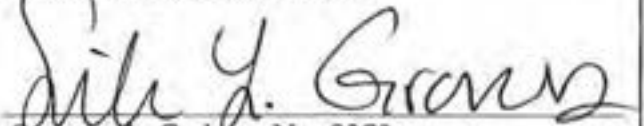
23 3. Enjoining and prohibiting the Nevada Secretary of State from taking
24 further action upon the Initiative or placing the Initiative on the 2024 general election ballot;

1 4. For such other relief as the Court may deem just and proper.

2 **AFFIRMATION**

3 Pursuant to NRS 239B.030, the undersigned affirms this document does not contain
4 the personal information or social security number of any person.

5 KAEMPFER CROWELL

6 

7 Severin A. Carlson, No. 9373

8 Sihomara Graves, No. 13239

9 50 West Liberty Street, Suite 1100

10 Reno, Nevada 89501

11 Attorneys for Plaintiffs Activehours, Inc.
12 and Stacy Press

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EXHIBIT 1

EXHIBIT 1

State of Nevada
Secretary of State
Francisco V. Aguilar



Notice of Intent
Statewide Initiative or
Referendum Petition
NRS 295.009 and 295.015

Pursuant to NRS 295.015, before a petition for initiative or referendum may be presented to registered voters for signatures, the person who intends to circulate the petition must provide the following information:

NAME OF PERSON FILING THE PETITION

Kate Feldman

NAME(S) OF PERSON(S) AUTHORIZED TO WITHDRAW OR AMEND THE PETITION (provide up to three)

1. Kate Feldman

2.

3.

NAME OF THE POLITICAL ACTION COMMITTEE (PAC) ADVOCATING FOR THE PASSAGE OF THE INITIATIVE OR REFERENDUM (if none, leave blank)

Please note, if you are creating a Political Action Committee for the purpose of advocating for the passage of the initiative or referendum, you must complete a separate PAC registration form.

Additionally, a copy of the initiative or referendum, including the description of effect, must be filed with the Secretary of State's office at the time you submit this form.

X

Kate Feldman

Signature of Petition Filer

1-24-2024

Date

Explanation - Matter in *italics* is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term “Annual percentage rate” or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, “loan” means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer’s agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a “loan” for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. Network-branded defined. *“Network-branded” means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. Application of chapter. *This chapter applies to any payday lender or other person that:*

- 1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;*
- 2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;*
- 3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;*
- 4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;*

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:

1. *Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*

2. *High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*

3. *Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*

4. *Refund anticipation loans, as defined in NRS 604B.060.*

5. *Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.*

7. *Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;*

8. *Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;*

9. *Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and*

10. *Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS*

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.

Section 10. Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;
2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;
3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;
4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;
5. Structuring the transaction in a manner to obscure the fact that it is a loan; or
6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

- 1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;*
- 2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or*
- 3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:*
 - (a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;*
 - (b) predominantly designs, controls or operates the loan program or transaction;*
 - (c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or*
 - (d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.*

Section 12. Prohibition against facilitation of payday loans or other transactions in violation of chapter. *No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. Remedies for payday loans or other transactions made in violation of this chapter.

- 1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.*
- 2. An action for violation of this chapter may be brought in any court of competent jurisdiction.*
- 3. Any person who violates this chapter is liable to the borrower for:*
 - (a) Actual and consequential damages;*

- (b) Restitution of any amounts paid;*
- (c) Treble the amount of any excess fee, interest, charge, or payment;*
- (d) Statutory damages, at an amount that the court considers just, of at least \$250 and no more than \$1,000 per violation;*
- (e) Injunctive or declaratory relief;*
- (f) Reasonable attorney's fees and costs; and*
- (g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.*

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. Declaration of intent to opt out of DIDMCA. *In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. Application of chapter to earned wage access services. *Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) “Covered service member”:

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) “Credit” means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) “Dependent” with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) "Dwelling" means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

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DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions (“payday loans”); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

County of _____ (**Only** registered voters of this county may sign below)
 Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
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5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
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10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
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11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
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			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

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			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____

_____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by _____.

Notary Public or person authorized to administer oath

EXHIBIT 2

EXHIBIT 2

*

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,
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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 and section 36.4 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 10.2 to 13, inclusive, 14, 15, 16, 17.1, 18 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.



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and Stacy Press

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

ACTIVEHOURS, INC., a Delaware
corporation, and STACY PRESS, an individual,

Plaintiffs,

vs.

KATE FELDMAN, an individual, STOP
PREDATORY LENDING NV, a Nevada
nonprofit corporation, and FRANCISCO V.
AGUILAR, in his official capacity as
NEVADA SECRETARY OF STATE,

Defendants.

Case No.

Dept. No.

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WILLIAM SCOTT ROSE

BY D. ORTIZ
DEPUTY

**BRIEF IN SUPPORT OF COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF CHALLENGING INITIATIVE PETITION S-03-2024**

Plaintiffs Activehours, Inc., a Delaware corporation registered to do business in Nevada, and Stacy Press, submit their motion in support of their Complaint for Declaratory and Injunctive Relief Challenging Initiative Petition S-03-2024 because the Initiative violates Nevada's single-subject requirement and has a legally deficient description of effect. This brief is made pursuant to NRS 295.061 and is based on the underlying Complaint, the attached exhibits, and the following points and authorities.

I. INTRODUCTION

The Petition for Initiative, designated as S-03-2024 (the "Initiative") violates the requirements set forth in NRS 295.009. The Initiative violates Nevada's single subject requirement, which requires initiatives address only one subject, on at least two grounds. First, the Initiative includes various different loan types within its proposed language, all of which are separate and distinct subject matters addressed through their own chapter of the Nevada Revised Statutes. Nevertheless, the Initiative lumps them into one category. Second, the Initiative treats and defines earned wage access services as loans and its licensees as lenders despite Nevada law unequivocally categorizing them otherwise, further showing that the Initiative addresses more than one "subject."

The Initiative's description of effect is also legally deficient because it purports to address only "loans," yet the Initiative includes within its language earned wage access services which are not loans under Nevada law. The Initiative fails to inform voters that by including earned wage access services, it is effectively amending Nevada's recently passed Senate Bill 290, or even abolishing it all together. It instead tells voters it deals with "high-interest loans" despite including transactions that are expressly excluded from that definition in Nevada because factually, earned wage access services do not charge interest, let alone "high-interest." These defects render the Initiative invalid, requiring declaratory and injunctive relief to preclude the Nevada Secretary of State from taking further action upon the Initiative.

II. THE PETITION FOR INITIATIVE

A. Overview of the Initiative.

On or about January 24, 2024, Defendant Kate Feldman filed the Initiative with the Nevada Secretary of State. *See* Ex. 1, Initiative. The Initiative seeks to amend the Nevada Revised Statutes by adding a new Chapter entitled: "Chapter 604D: Preventing Payday and Other Loans

Act," and by amending NRS 99.050 to reference this new proposed chapter.

The Initiative includes the following description of effect:

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Id. at p. 11.

B. The Initiative Proposes to Add "NRS Chapter 604D, Preventing Predatory Payday and Other Loans Act" to the Nevada Revised Statutes

The Initiative's named objective for the proposed Preventing Predatory Payday and Other Loans Act is "combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities." Ex. 1, Initiative at Sec. 2. The Initiative defines the "loans" subject to the proposed Chapter as:

(a) Money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount

1 thereof, whether earned, to be earned, or contingent upon future earnings, that is
2 made in consideration for goods or services, credit, or the payment of money to or
3 for the account of the person earning or receiving, or potentially earning or
4 receiving, the wages, salary, commissions, compensation, other income.

5 *Id.* at Sec. 5.

6 The Initiative also includes within its purview any transaction for deferred deposit
7 loans, high-interest loans, and title loans, all addressed in NRS Chapter 604A; refund anticipation
8 loans, addressed in NRS Chapter 604B; consumer litigation funding transactions addressed in NRS
9 Chapter 604C; installment loans, addressed in NRS Chapter 675; retail installment transactions,
10 addressed in NRS Chapter 97; loans secured by a life insurance or annuity contract, addressed in
11 NRS Chapter 688A; loans made by a bank, savings bank, savings and loan association, or credit
12 union, all addressed in NRS Chapters 662, 672, 673, and 677. *Id.* at Sec. 8. It does so with the
13 caveat that the Initiative's proposed statutes will apply irrespective of what the corresponding
14 statutes say. *Id.* The Initiative then proposes to cap the interest rate associated with these loans
15 and transactions, notwithstanding any other provision of law, to 36%. *Id.* at Sec. 9.

16 **C. SB 290 Establishes Nevada's Framework for Earned Wage Access Services.**

17 During the 2023 Legislative Session, Senate Bill 290 ("SB 290") was signed into
18 law. SB 290 establishes provisions related to earned wage access services. *See* Ex. 2, SB 290.
19 SB 290 defines earned wage access services as "the delivery to a user of money that represents
20 earned but unpaid income." *Id.* at Sec. 7. Earned but unpaid income includes "earned or accrued"
21 income that has "not been paid to the user by the employer at the time a provider delivers the
22 payment of the proceeds to a user." *Id.* at Sec. 4. SB 290 controls who can provide earned wage
23 access services to users by requiring licensure through the Nevada Commissioner of Financial
24 Institutions. *Id.* at Sec. 12.

1 Under SB 290, a provider of earned wage access services must provide to the
2 Commissioner a schedule of fees to be charged to a user of earned wage access services, "which
3 must include, without limitation, a statement identifying at least one option for a user to obtained
4 earned wage access services from the applicant at no cost to the user." *Id.* at Sec. 12(2)(d).
5 Providers of earned wage access services are also prohibited from using a user's credit report or
6 credit score to determine eligibility to earned wage access services. *Id.* at Sec. 31(b). They are
7 further prohibited from charging "a late fee, deferral fee, interest or any other penalty or charge
8 for failure to pay outstanding proceeds, fees, voluntary tips, gratuities or other donations," or
9 reporting a user's failure to pay to a consumer agency or debt collector. *Id.* at Sec. 31(c)-(d).

10 Section 33 of SB 290 further provides that:

11 1. Nothing in this chapter shall be construed to cause:

12 (a) Any earned wage access services provided by a licensee in compliance
with this chapter to be deemed:

13 (1) A loan or other form of credit;

14 (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

15 (3) A money transmission, or to be subject to any of the provisions
of law governing loans or money transmitters;

16 (b) Any licensee in compliance with this chapter to be deemed a creditor,
lender or money transmitter; and

17 (c) Any fee provided to a consumer by a provider in compliance of this
chapter to be deemed an interest or finance charge.

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

19 *Id.* at Sec. 33.

20 **III. ARGUMENT**

21 **A. Legal Standard**

22 NRS 295.061 permits challenges to a proposed initiative when the initiative fails to
23 embrace "but one subject and matters necessarily connected therewith and pertaining thereto." It
24 also permits challenging an initiative whose description of effect fails to comply with the

1 requirements set forth by NRS 295.009(1)(b).

2 **B. The Initiative Violates NRS 295.009's Single-Subject Requirement.**

3 The Initiative embraces multiple subjects within its proposed amendments to
4 Nevada Revised Statutes, in violation of NRS 295.009. An initiative petition embraces one subject
5 "if the parts of the proposed initiative or referendum are functionally related and germane to each
6 other in a way that provides sufficient notice of the general subject of, and of the interests likely
7 to be affected by, the proposed initiative or referendum." NRS 295.009(2). This requirement
8 prohibits petition drafters from circulating confusing petitions that address multiple subjects. *See*
9 *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op. 45, 512 P.3d 309, 314 (2022) ("The single-
10 subject requirement facilitates the initiative process by preventing petition drafters from circulating
11 confusing petitions that address multiple subjects.") The single-subject requirement also prevents
12 voter deception by deterring the "logrolling" of undesired provisions into a desired initiative and
13 helps insulate Nevada's law from sudden and uninformed change. *Id.* ("The single-subject
14 requirement helps both in promoting informed decisions and in preventing the enactment of
15 unpopular provisions by attaching them to more attractive proposals or concealing them in lengthy,
16 complex initiatives (i.e., logrolling)."); *see also Stumpf v. Lau*, 108 Nev. 826, 839 P.2d 120 (1992)
17 (holding an initiative's failure to present a single subject "effectively prevented signers from
18 knowing what they were signing.").

19 To determine whether an initiative complies with the single-subject requirement,
20 courts first determine "the initiative's purpose or subject and then determine if each provision is
21 functionally related and germane to each other and the initiative's purpose or subject." *Helton*,
22 138 Nev., Adv. Op. 45, 512 P.3d at 314. Courts will also consider whether the description of effect
23 articulates an overarching purpose and explains how provisions relate to a single subject. *Id.*

1 Here, the Initiative violates the single-subject requirement because the Initiative (i)
2 addresses a broad range of "loans" already addressed by various other Chapters in Nevada Revised
3 Statutes; and (ii) defines earned wage access in a manner contrary to current Nevada law.

4 **1. The Initiative Proposes to Amend Multiple Existing Statutory Chapters.**

5 The Initiative embraces a multitude of subjects throughout its first 15 sections, all
6 of which are subjects of their own respective Chapters of the Nevada Revised Statutes. For
7 example, the "transactions" which are applicable in the Initiative include: deferred deposit loans,
8 high-interest loans, and title loans, all addressed in NRS Chapter 604A; refund anticipation loans,
9 addressed in NRS Chapter 604B; consumer litigation funding transactions addressed in NRS
10 Chapter 604C; installment loans, addressed in NRS Chapter 675; retail installment transactions,
11 addressed in NRS Chapter 97; loans secured by a life insurance or annuity contract, addressed in
12 NRS Chapter 688A; loans made by a bank, savings bank, savings and loan association, or credit
13 union, all addressed in NRS Chapters 662, 672, 673, and 677. It does so with the caveat that the
14 Initiative's proposed statutes will apply *irrespective of* what the corresponding statutes say, in
15 essence abolishing those statutes. It also effectively invalidates NRS 604A.0703, NRS 604A.5029,
16 NRS 604A.5052, and NRS 604A.5057 to the extent they conflict with the Initiative's proposed
17 maximum interest rate permitted. These provisions amount to logrolling because they regulate
18 separate conduct but are lumped together in the same petition, concealing certain provisions with
19 seemingly popular provisions under the moniker of "consumer protection."

20 The amount of existing statutory law addressing the various types of "loans" and
21 financial service offerings referenced in the Initiative underscores the breadth of the Initiative and
22 illustrates that it does not contain a single subject. Nevada law does not treat all of the transactions
23 the Initiative tries to capture as a single subject. Nevertheless, the Initiative defines "high-interest
24 loans" to include transactions that Nevada Law has distinguished from that very definition. See

1 NRS 604A.0703 (Excluding from the definition of “high-interest loan” deferred deposit loans,
2 refund anticipation loans, and title loans.) Still, the Initiative lumps together this variety of subject
3 matter governed by multiple other statutes without articulating the connecting factor between the
4 statutes¹.

5 This shortcoming is highlighted by the terms the Initiative uses but does not define
6 such as “predatory,” “payday lender,” and “disguised loan.” Nevada’s current Payday Lender Best
7 Practices Act is limited to deferred deposit loan services, high-interest loan services, and title loan
8 services. NRS 604A.515. Thus, it is unclear how the additional categories referenced by the
9 Initiative functionally relate to its stated objective of addressing high-interest lending practices.
10 All of this together effectively prevents signers and voters from making an informed decision on
11 the Initiative and its various effects on Nevada’s current laws.

12 2. The Initiative Defines and Treats Earned Wage Access in a Manner 13 Contrary to Current Nevada Law.

14 The Initiative seeks to include earned wage access services within its framework;
15 however, Nevada law specifies that earned wage access services are not loans. Thus, its inclusion
16 amounts to an embracing and addressing of multiple subjects under the assertion of protecting
17 against high-interest lending practices. Contrary to the purpose of the Initiative of setting a
18

19 ¹ The First Judicial District Court’s decision in *Donna Washington, et al. vs. Francisco V. Aguilar,*
20 *et al.*, Case No. 23 OC 00115 1B is telling. In that case, the Court struck down a proposed initiative
21 to amend the Nevada Constitution citing, among other things, violation of the single-subject
22 requirement. There, the petitioner sought to address “reproductive health” with references to
23 various Nevada statutes on subjects such as birth control, post-partum and pre-natal care, tubal
24 ligation, vasectomies, and infertility care, all subjects of their own respective chapters of the
Nevada Revised Statutes. *Id.* at p. 7, ¶ 12. The Court determined the proposed amendment violated
the single-subject requirement because “[t]he legislature could not reduce ‘reproductive health’
into a single statute, let alone a single chapter, and therefore had to compartmentalize this broad
swath of conduct into multiple statutes contained in various parts of the Nevada Revised Statutes.
The Petition addresses all of this conduct in several paragraphs without an articulable framework.”

1 maximum interest rate to predatory loans, earned wage access service providers are prohibited
2 from charging interest on outstanding proceeds and are instead required to offer users a no cost
3 option to obtain earned wage access services. Ex. 2, SB 290 at Secs. 12 and 31. In fact, Section
4 33 of SB 290 expressly states that earned wage access services provided by a licensee shall not be
5 construed as a loan or other form of credit and earned wage access service licensees shall not be
6 deemed a creditor, lender or money transmitter. *Id.* at Sec. 33. It further clarifies that in the event
7 of a conflict between SB 290 and any other chapter of Nevada Revised Statute, SB 290 controls.
8 *Id.* In contrast, the Initiative directly includes earned wage access services within its definition of
9 “loan.” Ex. 1, Initiative at Sec. 5(1)(a) and (c). And while not defined, it also applies to any “payday
10 lender” or “other person” that “markets, offers, brokers, arranges, facilitates, makes or services a
11 loan,” as defined by the Initiative. *Id.* at Sec. 7(1). In other words, it would define and treat an
12 earned wage access service licensee as a lender in contravention of SB 290.

13 SB 290 further differentiates earned wage access services from those services under
14 NRS Chapter 604A, including Nevada’s Payday Lender Best Practices Act. *Id.* at Sec. 34.5. It
15 also distinguishes earned wage access services from installment loans (NRS Chapter 675). *Id.* at
16 Sec. 35.5. Yet, both of these chapters are included as transactions subject to the Initiative. The
17 Initiative fails to explain how earned wage access services are functionally related to its stated
18 objective of preventing predatory *lending* when Nevada does not recognize them as loans at all,
19 and in fact expressly rejects that classification.

20 While the Initiative attempts to clear this hurdle by carving out an exception to
21 earned wage access services prior to January 1, 2030, the exception only applies to section 9 of
22 the Initiative—the maximum interest rate permitted (36%). It does not exempt earned wage access
23 services from the remainder of the Initiative, including the definition of loan and the applicability
24 of the chapter as a whole. The Initiative does not attempt to address the inclusion of earned wage

1 access services under its stated objective of preventing predatory lending, amounting to logrolling
2 an amendment to SB 290, if not a full on referendum of SB 290, under the guise of a consumer
3 protection initiative.

4 **C. The Initiative's Description of Effect Violates NRS 295.009.**

5 The Initiative also violates Nevada law in its description of effect. NRS
6 295.009(1)(b) provides that the initiative petition must set forth in no more than 200 words "a
7 description of effect of the initiative." "A description of effect must be a straightforward, succinct,
8 and nonargumentative summary of what the initiative is designed to achieve and how it intends to
9 reach those goals." *Helton*, 138 Nev., Adv. Op. 45, 512 P.3d at 316. The description of effect
10 cannot be either deceptive or misleading. *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129
11 Nev. 35, 37, 293 P.3d 874, 876 (2013). A description of effect must also sufficiently "explain the
12 ramifications of the proposed amendment" to allow voters to make an informed decision. *Nev.*
13 *Judges Ass'n v. Lau*, 112 Nev. 51, 59, 910 P.2d 26 898, 903 (1996). While a description of effect
14 does not need to explain every possible effect, it must, at a minimum, accurately describe the main
15 consequences of the initiative. *See, e.g., Las Vegas Taxpayer Accountability Comm.*, 125 Nev. at
16 184, 208 4 P.3d at 441 (finding description of effect materially misleading where it "materially
17 fails to accurately identify the consequences of the referendum's passage.")

18 Here, the description of effect is legally deficient because it fails to explain the
19 ramifications of the proposed amendments to Nevada law such that Nevada voters would be able
20 to make an informed decision. For example, the description specifies it addresses lending practices
21 and consumer loans, outlining that it would apply to "consumer loans; deferred-deposit
22 transactions; title loans; and other *loan types dependent on future earnings and income*," (emphasis
23 added). The description of effect does not portray what the Initiative proposes, as the Initiative
24 includes, within its broad definition of loan, earnings, "whether earned, to be earned, or contingent

1 upon future earnings." The Initiative does not limit its grasp to only future earnings. Not only
2 that, as set forth above, the Nevada legislature just passed a bill explaining that earned wage access
3 services *are not loans*, nor are earned wage access service licensees lenders. SB 290 does not even
4 permit earned wage access services to charge interest on outstanding balances. Nevertheless,
5 earned wage access services are included and would be impacted under the Initiative's self-
6 proclaimed address of "high-interest lending practices by establishing maximum interest rates
7 charged to consumers." The description of effect therefore fails to inform voters the Initiative
8 would in effect revoke SB 290. It does not allow voters to make an informed decision as it pertains
9 to earned wage access services and their inclusion in the Initiative.

10 In addition, the description of effect outlines that the Initiative will affect "high-
11 interest lending." Yet, high-interest loans are defined by Nevada statute at 604A.0703 and
12 expressly exclude deferred deposit loans, refund anticipation loans, and title loans. The Initiative,
13 in contrast, includes many other lending practices not defined or acknowledged as "high-interest,"
14 including deferred deposit loans, refund anticipation loans, and title loans. Ex. 1, Initiative at Sec.
15 8. The result is misleading voters into an assumption that the Initiative is intended to address only
16 high-interest loans.

17 Because it does not include these important details, the Initiative's description of
18 effect fails to sufficiently identify what the law proposes and how it intends to achieve that
19 proposal. These omissions render the petition's description of effect legally deficient under Nevada
20 law.

21 IV. CONCLUSION

22 The Initiative is legally deficient; not only does the Initiative address a multitude
23 of subjects, in violation of Nevada's single-subject requirement, it also presents a description of
24 effect which fails to fully portray material effects which would result by adopting the Initiative.

1 As a result and as set forth more fully above, the Nevada Secretary of State should be enjoined
2 from taking further action upon it.

3 **AFFIRMATION**

4 Pursuant to NRS 239B.030, the undersigned affirms this document does not contain
5 the personal information or social security number of any person.

6 KAEMPFER CROWELL

7 

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EXHIBIT INDEX

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EXHIBIT 1

EXHIBIT 1



Pursuant to NRS 295.015, before a petition for initiative or referendum may be presented to registered voters for signatures, the person who intends to circulate the petition must provide the following information:

NAME OF PERSON FILING THE PETITION

Kate Feldman

NAME(S) OF PERSON(S) AUTHORIZED TO WITHDRAW OR AMEND THE PETITION (provide up to three)

1. Kate Feldman

2.

3.

NAME OF THE POLITICAL ACTION COMMITTEE (PAC) ADVOCATING FOR THE PASSAGE OF THE INITIATIVE OR REFERENDUM (if none, leave blank)

Please note, if you are creating a Political Action Committee for the purpose of advocating for the passage of the initiative or referendum, you must complete a separate PAC registration form.

Additionally, a copy of the initiative or referendum, including the description of effect, must be filed with the Secretary of State's office at the time you submit this form.

X

Kate Feldman

Signature of Petition Filer

1-24-2024

Date

Explanation - Matter in *italics* is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. Liberal construction. *The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. Definitions. *As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. Annual percentage rate defined. *The term “Annual percentage rate” or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. Loan defined.

1. For purposes of this chapter, “loan” means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer’s agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a “loan” for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. Network-branded defined. *“Network-branded” means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. Application of chapter. *This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. *Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*
2. *High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*
3. *Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*
4. *Refund anticipation loans, as defined in NRS 604B.060.*
5. *Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.*
7. *Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;*
8. *Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;*
9. *Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and*
10. *Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS*

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.

Section 10. Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;
2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;
3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;
4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;
5. Structuring the transaction in a manner to obscure the fact that it is a loan; or
6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

- 1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;*
- 2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or*
- 3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:*

- (a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;*
- (b) predominantly designs, controls or operates the loan program or transaction;*
- (c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or*
- (d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.*

Section 12. Prohibition against facilitation of payday loans or other transactions in violation of chapter. *No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. Remedies for payday loans or other transactions made in violation of this chapter.

- 1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.*
- 2. An action for violation of this chapter may be brought in any court of competent jurisdiction.*
- 3. Any person who violates this chapter is liable to the borrower for:*
 - (a) Actual and consequential damages;*

- (b) Restitution of any amounts paid;*
- (c) Treble the amount of any excess fee, interest, charge, or payment;*
- (d) Statutory damages, at an amount that the court considers just, of at least \$250 and no more than \$1,000 per violation;*
- (e) Injunctive or declaratory relief;*
- (f) Reasonable attorney's fees and costs; and*
- (g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.*

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. Declaration of intent to opt out of DIDMCA. *In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. Application of chapter to earned wage access services. *Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) "Annual percentage rate" has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) "Consumer credit":

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) “Covered service member”:

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) “Credit” means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) “Dependent” with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) “Dwelling” means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

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DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions (“payday loans”); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

County of _____ (**Only** registered voters of this county may sign below)

Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
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County of _____ (**Only** registered voters of this county may sign below)
 Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions (“payday loans”); title loans; and other loan types dependent on future earnings and income.

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Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
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County of _____ (**Only** registered voters of this county may sign below)
 Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

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County of _____ (**Only** registered voters of this county may sign below)

Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR
(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____

_____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____ by _____

Notary Public or person authorized to administer oath

EXHIBIT 2

EXHIBIT 2

*

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; ~~†††~~

(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 and section 36.4 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 10.2 to 13, inclusive, 14, 15, 16, 17.1, 18 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.



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6 *Attorneys for Plaintiff DailyPay, Inc.*

7 **FIRST JUDICIAL DISTRICT COURT OF NEVADA**
8 **IN AND FOR CARSON CITY**

9 DAILYPAY, INC., a Delaware Corporation

10 Plaintiff,

11 v.

12 The Honorable FRANCISCO V. AGUILAR,
in his official capacity as Secretary of State for
13 the State of Nevada;

14 Defendant.

15 And

16 STOP PREDATORY LENDING NV, a
domestic nonprofit corporation.

17 Intervenor-Defendant.
18
19

Case No. 24-OC-00021B

Dept. No. 2

2024 FEB 14 PM 2:00
FILED
CLERK OF COURT
JUDICIAL DISTRICT
CARSON CITY
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

20 Plaintiff DAILYPAY, INC. ("DailyPay"), by and through its undersigned counsel of the
21 law firm HOLLAND & HART LLP, hereby files this Memorandum of Points and Authorities in
22 support of its Complaint for Declaratory and Injunctive Relief, filed on January 29, 2024, which
23 Complaint challenges the lawfulness of Initiative Petitions S-01-2024 and S-03-2024 (the
24 "Petitions"). This Memorandum of Points and Authorities is based on DailyPay's Complaint, all
25 pleadings and papers on file, and any oral argument that this Court may allow at hearing. Pursuant
26 to FJDCR 3.23(b), this Memorandum of Points and Authorities is limited to ten pages exclusive of
27 exhibits.
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AFFIRMATION

As required under NRS 239B.030(1) and NRS 603A.040, undersigned counsel hereby affirms that the MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF filed herewith does not contain the personal information of any person.

DATED this 14th day of February 2024.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

The Petitions claim to serve one purpose, but in reality do something very different. To a potential voter, the Petitions propose changing the law purportedly to crack down on “predatory,” “high-interest” lending and “other loans” and to penalize “mask[ing]” transactions which are by “nature...loans covered by [the Petitions].” But the Petitions’ description of effect is misleading and does not tell voters that they seek to re-define the term “loan” to include new categories of financial services that, by definition, are not loans under Nevada law. The Petitions would in fact re-define the term “loan” to include earned wage access (“EWA”) services, which allow a worker to access their own earned but unpaid income. If enacted, the Petitions will repeal SB 290’s language providing EWA services are not loans, and EWA service providers and the employers they partner with, are not lenders or subject to Nevada’s lending laws.

The Petitions do not explain that they seek to repeal SB 290’s provisions defining EWA services as non-loan financial services. Nor do the Petitions explain that Nevada businesses who partner with DailyPay—an “employer-integrated” EWA service provider—will be subject to new liability as “predatory lenders”, subject to damages and penalties for “facilitating” or “offering” to their workers access to their own earned but unpaid income. The Petitions would visit these harsh treatments on EWA providers and the employers they partner with to offer access to earned-but-unpaid income, a service authorized under existing law that confirms EWA services are not a loan or credit product. If circulated, the Petitions would deprive tens of thousands of Nevada workers and potential signatories of fair notice that they are being asked to support changing the law to make it more difficult to use or offer a vital financial service.

The Petitions violate the single-subject rule and do not truthfully describe their effects on non-loan financial services from which tens of thousands of Nevada workers have benefited. Thus, the Petitions sidestep statutory safeguards meant to secure a fair process and ensure Nevada voters are informed regarding changes to Nevada law they are asked to support. This Court should order that the Petitions are invalid and must not be circulated for signature.

///

1 **II. Pertinent Factual Background and Procedural History**

2 Senate Bill 290 (SB 290), signed into law on June 13, 2023, authorizes the licensure and
3 regulation of earned wage access (“EWA”) services in Nevada.¹ SB 290 defines “earned wage
4 access services” as “the delivery to a user of money that represents earned but unpaid income.” SB
5 290, Sec. 7(1). EWA services include “both employer-integrated [EWA] services and direct-to-
6 consumer [EWA] services.” SB 290, Sec. 7(2). “Employer-integrated” EWA services are “the
7 delivery to a user of access to earned but unpaid income determined based on employment, income
8 or attendance data obtained directly or indirectly from an employer [or] an employer’s payroll
9 service provider.” SB 290, Sec. 9.1 An “employer-integrated” EWA service provider is a “person
10 who is engaged in the business of offering to provide or providing employer-integrated earned wage
11 access services.” SB 290, Sec. 9(1). DailyPay is an employer-integrated EWA service provider.

12 SB 290 prohibits an EWA service provider from charging interest, reviewing an EWA
13 user’s credit report or credit score to provide EWA services, reporting an EWA user to a credit or
14 debt collection agency, or taking recourse against an EWA user for non-payment. SB 290, Sec.
15 31(1)(a)-(e). Among other background check and license fee requirements, SB 290 requires an
16 EWA service provider, as a condition of licensure, to offer “at least one option for a user to obtained
17 earned wage access services...at no cost to the user.” SB 290, Sec. 12(2)(d). SB 290 is clear:
18 “Nothing in [SB 290] shall be construed to cause...any earned wage access services provided by a
19 licensee in compliance with [SB 290] to be deemed a loan or other form of credit...or a money
20 transmission or to be subject to any of the provisions of law governing loans or money transmitters.”
21 SB 290, Sec. 33(1)(a). SB 290 is equally clear that “nothing in [SB 290] shall be construed to
22 cause...any [EWA] licensee in compliance with [SB 290] to be deemed a creditor, lender, or money
23 transmitter.” SB 290, Sec. 33(1)(b). And “[i]f there is a conflict between the provisions of [SB 290]
24 and any other statute, the provisions of [SB 290] control.” SB 290, Sec. 33(2).

25 The Petitions were filed on January 5, and January 24, 2024, respectively.² As pertinent
26 here, the Petitions propose to enact the “Preventing Predatory Payday and Other Loans Act.” (the
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28 ¹ SB 290, as enrolled, is attached hereto for reference as Exhibit 1.

² Initiative Petition S-01-2024 is attached as Exhibit 2. Initiative Petition S-03-2024 is attached as Exhibit 3.

1 “Proposed Act”).³ The Petitions propose identical language defining the term “loan,” which
2 includes “any sale, assignment, order or agreement for the payment of unpaid wages, salary...or
3 other income....whether earned, to be earned or contingent upon future earnings, that is made in
4 consideration for....the payment of money to or for...the person earning or receiving...the
5 wages...or other income.”⁴ In addition to proposing an annual percentage rate (APR) cap on “any
6 loan or other transaction subject to” the proposed Act, the Petitions also prohibit any “payday
7 lender” or “other person” from engaging in “any device, subterfuge or pretense to evade the [Act’s]
8 requirements,” including “disguising a loan or other transaction as the sale of goods, services or
9 things in action,” “structuring the transaction in a manner to obscure the fact that it is a loan,” or
10 “charging, contracting, or receiving interest, fees, charges or other payments in excess of those
11 permitted, regardless whether the payment purports to be voluntary.”⁵ The Proposed Act renders
12 any “loan or other transaction” that violates the Act void and uncollectible and subjects “any person
13 who violates [the Act]” to civil liability, actual and consequential damages, treble damages,
14 statutory damages of \$250 to \$1,000 per violation, injunctive or declaratory relief, and attorney’s
15 fees and costs.⁶ The Petitions do not define “person” for purposes of these new prohibitions.

16 DailyPay timely filed the instant Complaint challenging the Petitions on January 29, 2024.⁷
17 DailyPay’s Complaint challenges the Petitions’ compliance with the Nevada Constitution’s and
18 NRS Chapter 295’s rules regarding initiative and referendum petitions. As discussed here, the
19 Petitions are unconstitutional, violate NRS Chapter 295, and may not be circulated for signature.

20 **III. Legal Arguments**

21 **A. *The Petitions Violate the Single-Subject Rule.***

22 NRS 295.009(1) requires that an initiative petition must embrace only “one subject and
23 matters necessarily connected therewith and pertaining thereto.” NRS 295.009(2) provides that an
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25 ³ Ex. 2, at 1; Ex. 3, at 1.

26 ⁴ Ex. 2, Ex. 3, at Sec. 5(1)(c) (“Loan defined”).

27 ⁵ *Id.*, Sec. 9 (“Maximum interest rate permitted”) and Sec. 10 (“Prohibited acts to evade application of chapter”).

28 ⁶ *Id.*, Secs. 13(1)—(4) (“Remedies for payday loans or other transactions made in violation of this chapter”).

⁷ On January 31, 2024, Defendant FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State, by and through counsel Nevada Attorney General’s Office, accepted service of the Complaint and Summons. DailyPay provided a courtesy copy of the Complaint to Bradley Schrager, Esq., who agreed to accept service on behalf of his client, prospective Intervenor-Defendant STOP PREDATORY LENDING, NV. On or around February 14, 2024, DailyPay and other parties challenging the Petition(s), stipulated to allow the entity to intervene in this cause of action.

1 initiative petition embraces one subject “if the parts of the proposed initiative or referendum are
2 functionally related and germane to each other in a way that provides sufficient notice of the
3 general subject of, and of the interests likely to be affected by, the proposed initiative or
4 referendum.” (Emphases added). “By limiting petitions to a single subject, NRS 295.009 facilitates
5 the initiative process by preventing petition drafters from circulating confusing petitions that
6 address multiple subjects...single subject requirements serve to prevent voter confusion and
7 promote informed decisions by narrowing the initiative to a single matter and providing
8 information on that single matter to the voter.” *Nevadans for the Protection of Property Rights,*
9 *Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006) (citing *Campbell v. Buckley* 203
10 F.3d 738 (10th Cir. 2000)).

11 The Petitions violate the single subject rule by addressing multiple subjects involving non-
12 loan services, while purporting to apply only to “loans”—and specifically to “predatory” and
13 “high-interest” loans, at that. The proposed Act extends beyond loans and lenders and instead
14 regulates financial services that are not loans, penalizes entities that are not lenders, and even
15 penalizes employers (regardless of business or industry) that partner with EWA service providers.
16 Under existing law, EWA services are not loans or credit and EWA service providers are not
17 lenders. SB 290, Sec. 33(1)(a)-(b). The Petitions would authorize new and expansive penalties on
18 loans and non-loan services alike and would penalize not only “payday lenders” but EWA service
19 providers, and the employers with whom they partner to offer EWA services to workers. On their
20 face, the Petitions do not embrace a single “subject and matters necessarily connected therewith
21 and pertaining thereto,” as NRS 295.009 requires, because they do not provide “sufficient notice
22 of the general subject of, and of the interests likely to be affected by,” the Proposed Act. The
23 Petitions address multiple subjects, affect diverse interests of workers, employers, and service and
24 exceed the clear and express parameters set forth in NRS 295.009.

25 **B. The Petitions’ Description of Effect is Misleading, Argumentative, and Deceptive.**

26 NRS 295.009(1)(b) requires an initiative petition to describe the effects of the petition if
27 approved by voters. The statutorily mandated description of effect “is significant as a tool to help
28 ‘prevent voter confusion and promote informed decision.’” *Las Vegas Taxpayer Accountability*

1 *Cmte. v. City Council of City of Las Vegas*, 125 Nev. 165, 183, 208 P.3d 429, 441 (2009) (quoting
2 *Nevadans for Nev. v. Beers* 122 Nev. 930, 939, 142 P.3d 339, 345 (2006)). The description of
3 effect must be “straightforward, succinct, and nonargumentative.” *Id.* (citing *Herbst Gaming*, 122
4 Nev. 877, 89, 141 P.3d 1224, 1232). It must not be deceptive or misleading. *Educ. Freedom PAC*
5 *v. Reid*, 138 Nev. Adv. Op. 47, 512, P.3d 296, 304 (2022) (citing *Educ. Initiative PAC v. Cmte. to*
6 *Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). This is essential because the
7 description of effect “is what the voters see when deciding to sign a petition, and...[it] must
8 accurately inform petition signers of the nature and effect of that which is proposed.” *No Solar*
9 *Tax PAC v. Citizens for Solar and Energy Fairness*, 132 Nev. 1012, 2016 WL 4182739, at *1
10 (2016) (unpublished disposition) (citations omitted). In evaluating whether a description of effect
11 meets the required standards, a court must “assess whether the description contains a
12 straightforward, succinct, and nonargumentative statement of what the initiative will accomplish
13 and how it will achieve those goals.” *Educ. Initiative PAC*, 129 Nev. at 38, 293 P.3d at 876.

14 The Petitions’ description of effect is silent on the proposed repeal of SB 290’s provisions
15 pertaining to EWA services and service providers—that is, silent both to the Petitions’ seeking to
16 take these actions through the Act, and on the effects on employees and employers who use EWA
17 services. The description of effect’s sole reference that could even arguably relate to EWA services
18 is its opaque and misleading reference to “structuring transactions to mask their nature as loans
19 covered by this measure...”. (Emphasis added).⁸ This reference misleadingly suggests that EWA
20 services, which are not loans, are merely “masked” as loans in disguise, and that the proposed Act
21 will purportedly punish these “masked” and “predatory” transactions. The description of effect’s
22 reference to transactions that are “masked” to purportedly hide their nature as loans misleads voters
23 in suggesting that non-loan transactions, such as EWA services are, by nature, “loans,” failing to
24 explain that existing law provides just the opposite. The description of effect does not tell a
25 potential signatory “what the initiative will accomplish” and “how it will achieve those goals” in
26 a straightforward and transparent manner. *Educ. Initiative PAC*, 129 Nev. at 38, 293 P.3d at 876.

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⁸ Ex. 2, at 19; Ex 3, at 11.

1 Exacerbating this confusion, the description of effect does not accurately describe the
2 proposed Act's scope, which alternately uses key terms without defining them, or defines them
3 through reference to other statutes without providing the full text of those provisions for a potential
4 signatory to review in full context. The proposed Act, Sec. 2, states it is meant to "combat
5 predatory payday lending" but nowhere does the Act define the term "predatory payday pending"
6 nor does the description of effect provide any clarity around these and other undefined terms, such
7 as "high-interest" or what constitutes a "person" subject to the proposed Act's new penalties and
8 liability. *See No Solar Tax PAC v. Citizens for Solar and Energy Fairness*, 132 Nev. 1012, 2016
9 WL 4182739, at *2 (2016) (unpublished) (description of effect was misleading and argumentative
10 in using undefined terms such as "unaffordable" and "cost-prohibitive" that were not used in
11 statutory language).

12 In addition to misleadingly equating EWA services and EWA service providers with other
13 so-called "predatory loans" and "predatory lenders," the description of effect does not even
14 accurately describe the types of loans to which it will apply. The description of effect states, for
15 example, that its maximum interest rate will apply only to "loan" products, *i.e.*, to "consumer loans,
16 deferred-deposit transactions ('payday loans'); title loans, and other loan types dependent on
17 future earnings and income."⁹ The description of effect thus contradicts (and omits material
18 terms from) the proposed definition of "loan" within Sec. 5, which includes transactions involving
19 both "future earnings and income," as well as transactions involving past earnings, *i.e.*, "the
20 payment of unpaid wages, salary...or other income...whether earned, to be earned, or contingent
21 upon future earnings."¹⁰ The description of effect is patently misleading in telling voters it applies
22 only to loan types that depend on future earnings, while its very own proposed definition of "loan"
23 also encompasses transactions that facilitate access to previously earned wages and accrued
24 earnings, and not merely potential future earnings.

25 This defect is not merely cosmetic. A worker's ability to access income that the worker has
26 already earned, and that can be verified as already earned through data provided by the worker's
27 employer or payroll service provider, is a touchstone feature of employer-integrated EWA

28 ⁹ Ex. 2, at 19; Ex. 3, at 11 (emphases added).

¹⁰ Exs. 2 and 3, Sec. 5(1)(c) (emphasis added).

1 services. These employer-integrated EWA services include those that DailyPay and its employer
2 partners offer to thousands of Nevada workers. Facilitating a worker's access to the worker's
3 already earned income is not lending—nothing is being loaned to the worker, because the worker
4 is accessing what he or she has already, and verifiably, worked for and earned. As one of SB 290's
5 primary sponsors, Senator Nicole Cannizzaro testified, SB 290's definition of "'earned but unpaid
6 income' to mean salary, wages or other compensation that an employee has already earned, but
7 that has not been paid to the employee...is key to distinguishing EWA products from loans and
8 other lending-related financial products and services." Hearing on SB 290, Nev. Sen. Commerce
9 & Labor Cmte. Mins. (April 5, 2023), at 42. The Petitions' description of effect, however,
10 obliterates this key distinction. Instead, the Petitions seek to treat a transaction that facilitates such
11 access to earned wages as a "predatory loan," and would punish a service provider, or the service
12 providers' employer partners, as "predatory" lenders, contradicting existing state law providing
13 that offering access to earned income is not a loan.

14 It is one thing for the Petitions' circulators to propose a change in law to treat EWA services
15 as "loans." It is quite another to propose such a change through an initiative petition, without
16 providing the statutorily mandated explanation and fair notice of the proposed change. Given the
17 Legislature's clear policy determination as reflected in SB 290, if circulators wish to propose a
18 change by initiative that re-defines EWA services as "loans," at the very least they must inform
19 voters of what the Petitions truly intend to accomplish. What's more, if circulators wish to repeal
20 what the Legislature has decreed as to EWA services in SB 290, the proper method to do so is a
21 referendum, not an initiative.¹¹ Either approach must satisfy a minimum standard for informing
22 voters and preventing voter misinformation and confusion which the Petitions fail to satisfy.

23 ***C. The Petitions Withhold the Text of SB 290, which they Seek to Amend and Repeal.***

24 The Petitions refer to, and indeed, seek to repeal certain portions of SB 290 without
25 informing voters of this effect and without including the full text of SB 290 for potential signatories
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27 ¹¹ *Garvin v. Ninth Judicial Dist. Ct. ex rel Cty. of Douglas*, 118 Nev. 749, 753, 758 n.31, 59 P.3d 1180, 1183, 1186
28 n.31 (2002) ("Referendum is the electorate's power to approve or disapprove already-enacted legislation, while
initiative is the electorate's power to directly enact legislation by popular vote," and "the distinction arises from the
different procedures employed for referenda and initiatives. Referenda give the voters the opportunity to approve or
veto legislation already enacted, whereas initiative petitions give voters the opportunity to directly enact legislation").

1 to review. The Nevada Constitution, in two separate provisions, Art. 4, Sec. 17, and Art. 19, Sec.
2 3, patently forbids the exercise of lawmaking power, whether by the Legislature or by direct
3 initiative, that purports to amend existing law without providing the amendment in its entirety, and
4 in full context. Thus, “no law shall be revised or amended by reference to its title only; but, in such
5 case, the act as revised or section as amended, shall be re-enacted and published at length.” NEV.
6 CONST., ART IV., Sec. 17. In the petition context, “each referendum and initiative petition shall
7 include the full text of the measure proposed.” NEV. CONST. ART. XIX, Sec. 3(1). NRS
8 295.0575(6) reflects and reinforces this constitutional mandate, mandating that “each signer had
9 an opportunity before signing to read the full text of the act or resolution on which the initiative or
10 referendum is demanded.” NRS 295.0575(6).

11 The Petitions propose an Act that will expressly apply to the definitions that SB 290
12 codified. The Petitions seek an end-run around providing a copy of the legislation they seek to
13 repeal by proposing a limited prospective application of the proposed Act to EWA services
14 providers, effective Jan. 1, 2030.¹² This prospective application, however, applies only to the
15 Section 9’s maximum interest rate, but does not apply to other provisions which would redefine
16 EWA services as loans and reclassify EWA service providers and their employer partners as
17 lenders, upon the proposed Act’s taking effect.

18 Regardless of the prospective application of the proposed Act, the circulators are still
19 required to include the full text of SB 290, essential provisions of which the Petitions seek to
20 repeal. The circulators’ failure to provide the full text of SB 290 deprives potential signatories of
21 basic information about the Petitions’ effects. Withholding the full text of the legislation within
22 the Petition deprives potential signatories who are also EWA users, or employers that offer EWA
23 services to their workers, that supporting the Petition would adversely affect their interests in using
24 or offering EWA services. The dangerous undermining of the initiative process that the Petitions
25 would effectuate is precisely what NRS 295.0575(6)’s affidavit requirement exists to prevent.
26 “[T]he requirement that each signer be given the opportunity to review a measure’s full
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¹² Exs. 2 and 3, Sec. 15

1 text...ensur[es] that signers know what they are supporting.” *Las Vegas Conv. and Vis. Auth. v.*
2 *Miller*, 124 Nev. 669, 686, 191 P.3d 1138, 1149 (2008).

3 **D. The Petitions Fail to Describe or Account for their Fiscal Impacts.**

4 Finally, the Petitions are unconstitutional because they fail to describe or account for the
5 new expenses that will result from their mandated enforcement and expanded regulatory oversight.
6 The Nevada Constitution “does not permit the proposal of any statute or statutory amendment
7 which...requires the expenditure of money, unless such statute or amendment also imposes a
8 sufficient tax...or otherwise constitutionally provides for raising the necessary revenue.” NEV.
9 CONST., Art. 19, Sec. 6. The “primary purpose” of this constitutional provision is “to ensure that
10 no initiative petition [is] presented to the voters that [does] not contain funding provisions when the
11 initiative would require an appropriation or expenditure” because “it would be destructive for the
12 people to ignore completely the cost of what they are proposing.” *Educ. Freedom PAC*, 138 Nev.
13 Adv. Op. 47, 512 P.3d at 302. SB 290 demonstrates the Petitions’ necessary fiscal effects that will
14 result from expanded regulatory activity. SB 290 exempted EWA service providers from Nevada’s
15 loan and lending laws, yet the State’s fiscal note estimates it would cost more than \$106,250 in FY
16 2024-2025 to regulate 25 new EWA licensees. *See Ex. 4*, FID Fiscal Note 8397 (Mar. 22, 2023).
17 The fiscal note’s \$160,000 price tag accounts for regulating EWA licensees at a level of oversight
18 far more specific than what the Petitions vastly propose for EWA providers and their employer
19 partners. There is no reasonable argument that the Petitions will not result in fiscal impacts, yet the
20 Petitions fail even to identify, much less account for them. The Nevada Constitution forbids such
21 proposals from being circulated for approval.

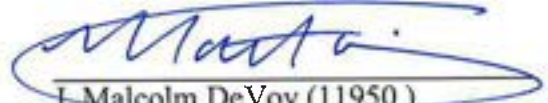
22 **IV. Conclusion**

23 The Petitions violate the rules meant to safeguard the initiative and referendum processes,
24 rules that are meant to ensure that such processes are fair and transparent. If the Petitions seek to
25 repeal all or part of SB 290, the Petitions must accurately inform voters of the intent to do so, and
26 of the effects on EWA services and service providers if the Petitions are approved. The Petitions
27 must provide the full text of the statutes the Petitions seek to repeal, and explain the costs of the
28 measure proposed, so that voters can review the text in context and make an informed decision.

1 In light of the foregoing, Plaintiff respectfully requests that this Court order and declare
2 the Petitions violate the single-subject rule, fail to provide an accurate description of effect to
3 potential signatories, and are otherwise invalid and may not be circulated for signature.

4 Dated this 14TH day of FEBRUARY, 2024

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PLAINTIFF'S EXHIBITS - Appendix 1
Memorandum of Points and Authorities in Support of
Complaint for Declaratory and Injunctive Relief

Exhibit No.	Document Title	# of Pages
1	Senate Bill 290 (82d Leg., Nev. 2023)	28
2	Petition S-01-2024	25
3	Petition S-03-2024	17
4	Fiscal Note to Senate Bill 290 (2023)	4

EXHIBIT 1

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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



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AA0336

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,



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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; ~~for~~

(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 and section 36.4 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 10.2 to 13, inclusive, 14, 15, 16, 17.1, 18 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.

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82nd Session (2023)

AA0363

EXHIBIT 2

State of Nevada
Secretary of State
Francisco V. Aguilar



Notice of Intent
Statewide Initiative or
Referendum Petition
NRS 295.009 and 295.015

Pursuant to NRS 295.015, before a petition for initiative or referendum may be presented to registered voters for signatures, the person who intends to circulate the petition must provide the following information:

NAME OF PERSON FILING THE PETITION

Kate Feldman

NAME(S) OF PERSON(S) AUTHORIZED TO WITHDRAW OR AMEND THE PETITION (provide up to three)

1. Kate Feldman

2.

3.

NAME OF THE POLITICAL ACTION COMMITTEE (PAC) ADVOCATING FOR THE PASSAGE OF THE INITIATIVE OR REFERENDUM (if none, leave blank)

Please note, if you are creating a Political Action Committee for the purpose of advocating for the passage of the initiative or referendum, you must complete a separate PAC registration form.

Additionally, a copy of the initiative or referendum, including the description of effect, must be filed with the Secretary of State's office at the time you submit this form.

X

Kate Feldman

Signature of Petition Filer

1/4/2024

Date

Explanation - Matter in *italics* is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term “Annual percentage rate” or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, “loan” means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer’s agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a “loan” for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. Network-branded defined. *“Network-branded” means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. Application of chapter. *This chapter applies to any payday lender or other person that:*

1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;

2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;

3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;

4. *Acquires a whole or partial interest in a loan or transaction subject to this chapter;*
5. *Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.*
6. *Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.*

Section 8. *Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:*

1. *Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*
2. *High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*
3. *Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.*
4. *Refund anticipation loans, as defined in NRS 604B.060.*
5. *Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.*
7. *Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;*
8. *Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;*
9. *Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and*
10. *Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business*

under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS 672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. *Maximum interest rate permitted.* *For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.*

Section 10. *Prohibited acts to evade application of chapter.* *For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:*

- 1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;*
- 2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;*
- 3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;*
- 4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;*
- 5. Structuring the transaction in a manner to obscure the fact that it is a loan;
or*
- 6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.*

Section 11. *Application of chapter to agents and service providers of exempt entities.* *If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9*

of this chapter, a person shall be subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

- 1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;*
- 2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or*
- 3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:*

(a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;

(b) predominantly designs, controls or operates the loan program or transaction;

(c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or

(d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter.* *No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

- 1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.*
- 2. An action for violation of this chapter may be brought in any court of competent jurisdiction.*
- 3. Any person who violates this chapter is liable to the borrower for:*

- (a) Actual and consequential damages;*
- (b) Restitution of any amounts paid;*
- (c) Treble the amount of any excess fee, interest, charge, or payment;*
- (d) Statutory damages, at an amount that the court considers just, of at least \$250 and no more than \$1,000 per violation;*
- (e) Injunctive or declaratory relief;*
- (f) Reasonable attorney's fees and costs; and*
- (g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.*

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA.* *In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services.* *Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) “Annual percentage rate” has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) “Consumer credit”:

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) “Covered service member”:

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) “Credit” means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) “Dependent” with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), and is, or was at the time of the covered service

member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) “Dwelling” means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

Section 17. NRS 21.105 is hereby amended to read as follows:

~~[4.—If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:~~

~~(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors’ benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;~~

~~(b) Veterans’ benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;~~

~~(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;~~

~~(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;~~

~~(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;~~

~~(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;~~

~~(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;~~

~~(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;~~

~~(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;~~

~~(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;~~

~~(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;~~

~~(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;~~

~~(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and~~

~~(n) Benefits provided pursuant to any other federal law.]~~

1[2]. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor ~~[and the provisions of subsection 1 do not apply.]~~ **\$5,000** ~~[400]~~ or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

2[3]. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 ~~[or 2, as applicable].~~

3[4]. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 ~~[or 2].~~

4[5]. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection ~~[1 or 2]~~ includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

5[6]. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination. ~~[including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money.]~~ If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

6[7]. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Section 18. NRS 21.090 is hereby amended to read as follows:

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, *\$850 of disposable earnings. If the debtor's weekly disposable earnings exceed \$850, 90% of disposable earnings in excess of \$850 shall be exempt from garnishment unless the weekly disposable earnings of the debtor exceed \$1,200, in which case 85% of the disposable earnings in excess of \$850 shall be exempt from garnishment. The amount not subject to garnishment is exempt.*~~82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was \$770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded \$770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the time the earnings are payable, whichever is greater.~~ Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. *Compensation paid or payable for personal services is earnings regardless of whether the judgment debtor is classified as an independent contractor or an employee.*

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all

furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including:

(1) Subject to the provisions of NRS 115.055, the sum of \$605,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$605,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former

spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

- (1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

- (2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;
- (3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;
- (4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and
- (5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

- (1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and
- (2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(ij) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

4. The exemptions set forth in this section and NRS 21.105 shall be automatically adjusted to reflect changes by the percentage change, if any, from January 1st to December 31st of the preceding year in the Consumer Price Index for All Urban Consumers, Annual City Average, for the Western Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, beginning the April 1 following enactment and every 3 years thereafter. The Nevada Department of Business & Industry shall publish the 1-year adjustment for an effective date of April 1st for the following year: Adjustments made pursuant to this paragraph must be rounded up to the next \$10.

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DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers, and shields more of people's savings and earnings from garnishment than under current law.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions ("payday loans"); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

Additionally, the initiative automatically protects \$5,000 of savings in a personal bank account (up from \$400 now), and \$850 of wages in any workweek (up from \$369), as well as a portion of disposable earnings above that amount, from seizure for a debt. Those amounts would be indexed to increase periodically with inflation.

County of _____ (**Only** registered voters of this county may sign below)

Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
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	YOUR SIGNATURE - DATE / /	CITY COUNTY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
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	YOUR SIGNATURE - DATE / /	CITY COUNTY	
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	YOUR SIGNATURE - DATE / /	CITY COUNTY	
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	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by _____.

Notary Public or person authorized to administer oath

EXHIBIT 3

State of Nevada
Secretary of State
Francisco V. Aguilar



Notice of Intent
Statewide Initiative or
Referendum Petition
NRS 295.009 and 295.015

Pursuant to NRS 295.015, before a petition for initiative or referendum may be presented to registered voters for signatures, the person who intends to circulate the petition must provide the following information:

NAME OF PERSON FILING THE PETITION

Kate Feldman

NAME(S) OF PERSON(S) AUTHORIZED TO WITHDRAW OR AMEND THE PETITION (provide up to three)

1. Kate Feldman

2.

3.

NAME OF THE POLITICAL ACTION COMMITTEE (PAC) ADVOCATING FOR THE PASSAGE OF THE INITIATIVE OR REFERENDUM (if none, leave blank)

Please note, if you are creating a Political Action Committee for the purpose of advocating for the passage of the initiative or referendum, you must complete a separate PAC registration form.

Additionally, a copy of the initiative or referendum, including the description of effect, must be filed with the Secretary of State's office at the time you submit this form.

X

Kate Feldman

Signature of Petition Filer

1-24-2024

Date

Explanation - Matter in *italics* is new; matter between brackets [~~omitted material~~] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS

Section 1. The Nevada Revised Statutes are hereby amended by adding thereto a new Chapter, to be designated Chapter 604D: Preventing Predatory Payday and Other Loans Act, to read as follows:

Section 2. *Liberal construction. The provisions of this chapter shall be liberally construed to achieve its purposes, which are combatting predatory payday lending and other high-cost loans; ensuring that out-of-state lenders cannot flout Nevada law by making payday loans, other loans, or transactions subject to this chapter at unlawful rates to Nevada residents; and protecting law-abiding lenders from unfair competition by predatory, out-of-state entities.*

Section 3. *Definitions. As used in this chapter, the words and terms defined in sections 4 to 6, inclusive, of this chapter have the meanings ascribed to them in those sections.*

Section 4. *Annual percentage rate defined. The term “Annual percentage rate” or APR means an annual rate calculated including all amounts, charges, and payments made directly or indirectly, incident to, ancillary to, or as a condition of a loan or other transaction subject to this chapter, whether voluntary, optional or required, including any amount paid to a broker or credit services organization. The APR shall include, but is not limited to, all interest, fees, charges and other payments as set forth in the regulations issued by the United States Secretary of Defense on July 22, 2015 to implement the Military Lending Act, 10 USC sec. 987, except that credit card fees may be excluded only if the card is network-branded and the fees collectively each year do not exceed 15% of the credit line. The annual percentage rate shall be calculated as specified in such regulations.*

Section 5. *Loan defined.*

1. For purposes of this chapter, “loan” means and includes:

(a) Money or credit provided to a consumer in exchange for the consumer’s agreement to a certain set of terms, including, but not limited to, provisions for direct or indirect repayment, interest, fees, charges or other payments, or other conditions;

(b) Any deferred deposit transaction or payday loan, installment loan, line of credit, retail installment sales contract, and motor vehicle retail installment sales contract, and other closed-end or open-end credit; and

(c) Any sale, assignment, order, or agreement for the payment of unpaid wages, salary, commissions, compensation, or other income, or any portion or amount thereof, whether earned, to be earned, or contingent upon future earnings, that is made in consideration for goods or services, credit, or the payment of money to or for the account of the person earning or receiving, or potentially earning or receiving, the wages, salary, commissions, compensation, or other income.

2. Any transaction that satisfies any definition in this section is a “loan” for purposes of this chapter without regard to the means of collection, without regard to whether the payday lender or other lender has legal recourse against the borrower in the event of non-repayment, and without regard to whether the transaction carries required charges or payments.

Section 6. Network-branded defined. *“Network-branded” means branded with and available for use on the Visa, MasterCard, American Express or Discover networks or a similar widely-accepted card network that is accepted upon presentation for purchases of goods and services at multiple, unaffiliated merchants.*

Section 7. Application of chapter. *This chapter applies to any payday lender or other person that:*

- 1. Markets, offers, brokers, arranges, facilitates, makes or services a loan as defined in Section 5 of this chapter or other transaction as defined in Section 8 of this chapter, including a credit service organization that obtains an extension of credit for a borrower;*
- 2. Is a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state, another state, or the United States. However, banks, savings banks, savings and loan associations, and credit unions organized, chartered or holding a certificate of authority to do business under the laws of another state or under the laws of the United States are exempt from this chapter only to the extent this chapter is preempted by federal law;*
- 3. Is an agent of a person subject this chapter or of any affiliate, subsidiary or other entity that is related to, that controls, or that is controlled by a person subject to this chapter;*
- 4. Acquires a whole or partial interest in a loan or transaction subject to this chapter;*

5. Is deemed to be subject to this chapter under section 11 of this chapter or is engaged in a transaction that is in substance a disguised loan or other transaction subject to this chapter or is a device, subterfuge or pretense to evade this chapter.

6. Markets, offers, brokers, arranges, facilitates, makes or services any transaction that is otherwise subject to this chapter and that is offered or made to a person residing in this state, whether the transaction is conducted in person, by telephone, via the Internet, or by any other means.

Section 8. Specific transactions subject to this chapter. Notwithstanding any other provision of law, transactions subject to this chapter shall include, but shall not be limited to, the following:

1. Deferred deposit loans (also known as payday loans), as defined in NRS 604A.050. A deferred deposit loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

2. High-interest loans, as defined in NRS 604A.0703. A high-interest loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

3. Title loans, as defined in NRS 604A.105. A title loan is subject to this chapter notwithstanding NRS 604A.220 or any other provision of law.

4. Refund anticipation loans, as defined in NRS 604B.060.

5. Consumer litigation funding transactions, as defined in NRS 604C.100. A consumer litigation funding transaction is subject to this chapter notwithstanding NRS 604C.220 or any other provision of law.

7. Installment loans, as regulated by Chapter 675 of the Nevada Revised Statutes;

8. Retail installment transactions, as defined in NRS 97.115. A retail installment transaction is subject to this chapter notwithstanding NRS 97.285 or any other provision of law;

9. Loans secured by a life insurance or annuity contract, as regulated by NRS 688A.110; and

10. Loans made by a bank, savings bank, savings and loan association, or credit union organized, chartered or holding a certificate of authority to do business under the laws of this state. This chapter shall apply to loans made by those entities notwithstanding NRS 662.015, NRS 672.370, NRS 672.460, NRS

672.710, NRS 673.225, NRS 673.3272, NRS 677.730 or any other provision of law.

Section 9. Maximum interest rate permitted. For any loan or other transaction subject to this chapter made or renewed on or after the effective date of this chapter, no payday lender or other person shall market, offer, charge, contract for, collect or receive, directly or indirectly, charges or amounts exceeding a 36% annual percentage rate on the unpaid balance of the amount financed. This section shall apply notwithstanding any other provision of the laws of this state, including but not limited to any provision of NRS 604A.0703, NRS 604A.5029, NRS 604A.5052, or NRS 604A.5057 or any other law that refers to or allows an annual percentage rate that exceeds 36%.

Section 10. Prohibited acts to evade application of chapter. For any loan or other transaction subject to this chapter, no payday lender or other person shall engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:

1. Making a loan or other transaction disguised as a personal property sale and leaseback transaction;
2. Disguising proceeds of a loan or other transaction as a cash rebate for the pretextual sale of goods or services;
3. Disguising a loan or other transaction as the sale of goods, services or things in action or disguising charges for a loan or other transaction in the price of goods, services or things in action;
4. Making, contracting for, offering, assisting, or arranging for a borrower to obtain a loan or other transaction with a higher rate or amount of interest, consideration, charge or other payment received incident to the loan than is permitted by Section 9 of this chapter through any method including mail, telephone, internet or any electronic means, regardless of whether the person has a physical location in the state;
5. Structuring the transaction in a manner to obscure the fact that it is a loan; or
6. Charging, contracting for or receiving interest, fees, charges or other payments in excess of those permitted, regardless whether the payment purports to be voluntary.

Section 11. Application of chapter to agents and service providers of exempt entities. If the annual percentage rate of the loan or other transaction exceeds the rate permitted by Section 9 of this chapter, a person shall be subject to the requirements of this chapter notwithstanding

the fact that the person purports to act as an agent or service provider or in another capacity for a person that is exempt from this chapter, if, among other things:

- 1. The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest, risk or reward, in the loan or transaction;*
- 2. The person (a) markets, solicits, brokers, arranges, facilitates or services loans or transactions and (b) holds, or has the right, requirement or first right of refusal to acquire, the loans, transactions, a share of receivables or another direct or indirect interest in the loans or loan program; or*
- 3. The totality of the circumstances indicate that the person is engaging in transactions subject to this chapter and that the transaction is structured to evade the requirements of this chapter. Circumstances that weigh in favor of a person being subject to this chapter include, without limitation, when the person:*
 - (a) indemnifies, insures or protects an exempt entity from costs or risks related to the loan or transaction;*
 - (b) predominantly designs, controls or operates the loan program or transaction;*
 - (c) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of the loan program or transaction; or*
 - (d) purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.*

Section 12. *Prohibition against facilitation of payday loans or other transactions in violation of chapter.* *No person shall solicit, broker, or engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, a loan or transaction that violates this chapter.*

Section 13. *Remedies for payday loans or other transactions made in violation of this chapter.*

- 1. A loan or other transaction made in violation of this chapter shall be void and uncollectible as to any principal, fee, interest, charge or payment.*
- 2. An action for violation of this chapter may be brought in any court of competent jurisdiction.*
- 3. Any person who violates this chapter is liable to the borrower for:*
 - (a) Actual and consequential damages;*

- (b) Restitution of any amounts paid;*
- (c) Treble the amount of any excess fee, interest, charge, or payment;*
- (d) Statutory damages, at an amount that the court considers just, of at least \$250 and no more than \$1,000 per violation;*
- (e) Injunctive or declaratory relief;*
- (f) Reasonable attorney's fees and costs; and*
- (g) Any other legal or equitable relief that the court deems appropriate in addition to any other remedies provided at law.*

4. The remedies provided for in this section are cumulative to any other remedies that apply to a loan or other transaction made in violation of other laws of this State.

Section 14. *Declaration of intent to opt out of DIDMCA.* *In accordance with section 525 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, the voters of the State of Nevada declare that the State of Nevada does not want the amendments to the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1811 et seq.; the federal "National Housing Act", 12 U.S.C. sec. 1701 et seq.; and the "Federal Credit Union Act", 12 U.S.C. sec. 1757, made by sections 521 to 523 of the federal "Depository Institutions Deregulation and Monetary Control Act of 1980", Pub.L. 96-221, prescribing interest rates and preempting state interest rates to apply to loans as defined in Section 5 of this chapter or specific transactions as defined in Section 8 of this chapter. The rates established in this chapter shall apply to payday loans and other loans as defined in Section 5 of this chapter and specific transactions as defined in Section 8 of this chapter.*

Section 15. *Application of chapter to earned wage access services.* *Prior to January 1, 2030, section 9 of this chapter shall not apply to entities licensed under the laws of this State to provide earned wage access services, as defined in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400. Beginning on January 1, 2030, section 9 shall apply to any provider of earned wage access services, regardless of whether the provider is licensed under the laws of this State, including any provider of transactions that satisfy the definition of earned wage access services currently set forth in Senate Bill No. 290 of the 82nd Regular Session of the Nevada Legislature (2023), 2023 Nev. Stat., ch. 400.*

Section 16. NRS 99.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding

of interest if they choose, and for any other charges or fees, *provided, however, that parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes*. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

2. A creditor shall not charge an annual percentage rate that is greater than the lesser of 36 percent or the maximum annual percentage rate authorized under any federal law or regulation with respect to the consumer credit extended to a covered service member or a dependent of a covered service member. Any contract or agreement in violation of this subsection is void and unenforceable.

3. As used in this section:

(a) “Annual percentage rate” has the meaning ascribed to it in the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and the federal regulations adopted pursuant thereto.

(b) “Consumer credit”:

(1) Except as otherwise provided in subparagraph (2), means credit offered or extended to a covered service member or dependent of a covered service member primarily for personal, family or household purposes, and that is:

(I) Subject to a finance charge; or

(II) Payable by a written agreement in more than four installments.

(2) Does not include:

(I) A residential mortgage, which is any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transaction, home equity loan or line of credit or reverse mortgage;

(II) Any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased;

(III) Any credit transaction that is expressly intended to finance the purchase of personal property when the credit is secured by the property being purchased;

(IV) Any credit transaction that is an exempt transaction for the purposes of 12 C.F.R. Part 1026, commonly known as Regulation Z, other than a transaction exempt under 12 C.F.R. § 1026.29, or otherwise is not subject to disclosure requirements under 12 C.F.R. Part 1026, commonly known as Regulation Z; and

(V) Any credit transaction or account for credit for which a creditor determines that a natural person is not a covered borrower by using a method and by complying with the recordkeeping requirement set forth in 32 C.F.R. § 232.5(b).

(c) “Covered service member”:

(1) Except as otherwise provided in subparagraph (2), means a member of the armed forces who is serving on:

(I) Active duty pursuant to title 10, title 14 or title 32 of the United States Code, under a call or order that does not specify a period of 30 days or fewer; or

(II) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. § 101(d)(6).

(2) Does not include a consumer who was a covered service member pursuant to subparagraph (1) at the time he or she became obligated on a consumer credit transaction or established an account for consumer credit but is no longer a covered service member pursuant to subparagraph (1) or a dependent of a person who is a covered service member pursuant to subparagraph (1).

(d) “Credit” means the right granted to a natural person by a person engaged in the business of extending consumer credit, or an assignee of such a person with respect to any consumer credit extended, to defer payment or to incur debt and defer its payment.

(e) “Dependent” with respect to a covered service member means:

(1) The spouse;

(2) A child who:

(I) Has not attained the age of 21;

(II) Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. §

1072(3), and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the covered service member or former covered service member for over one-half of the child's support; or

(III) Is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a covered service member or former covered service member under sub-subparagraph (I) or (II) and is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on the member or former member for over one-half of the child's support;

(3) A parent or parent-in-law who is, or was at the time of the covered service member's or former covered service member's death, in fact dependent on him or her for over one-half of his or her support and residing in his or her household;

(4) An unmarried person who:

(I) Is placed in the legal custody of the covered service member or former covered service member as a result of an order of a court of competent jurisdiction in the United States, or possession of the United States, for a period of at least 12 consecutive months;

(II) Has not attained the age of 21, has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, as defined in 10 U.S.C. § 1072(3), or is incapable of self-support because of a mental or physical incapacity that occurred while the person was considered a dependent of the covered service member or former covered service member pursuant to this paragraph;

(III) Is dependent on the covered service member or former covered service member for over one-half of the person's support;

(IV) Resides with the covered service member or former covered service member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other

circumstances as the administering Secretary, as defined in 10 U.S.C. § 1072(3), may by regulation prescribe; and

(V) Is not a dependent of a covered service member or a former covered service member pursuant to subparagraph (1), (2) or (3).

(f) “Dwelling” means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and manufactured home.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DESCRIPTION OF EFFECT

This measure addresses high-interest lending practices by establishing maximum interest rates charged to consumers.

Currently, most consumer loans have no interest rate cap. The proposed cap would set a maximum interest rate of 36% annually on the unpaid balance of the amount financed, and would apply to consumer loans; deferred-deposit transactions (“payday loans”); title loans; and other loan types dependent on future earnings and income.

The initiative also prohibits evading the interest rate cap by structuring transactions to mask their nature as loans covered by this measure, or partnering with out-of-state lenders to violate the rate cap. The initiative voids transactions that violate the cap, and establishes civil penalties.

County of _____ (**Only** registered voters of this county may sign below)
 Petition District: _____ (**Only** registered voters of this petition district may sign below)

			Office Use
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
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	YOUR SIGNATURE - DATE / /	CITY COUNTY	
19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE - DATE / /	CITY COUNTY	

AFFIDAVIT OF CIRCULATOR

(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____, by _____.

Notary Public or person authorized to administer oath

EXHIBIT 4

EXECUTIVE AGENCY
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: March 23, 2023

Agency Submitting: Department of Business and Industry, Division of Financial Institutions

Items of Revenue or Expense, or Both	Fiscal Year 2022-23	Fiscal Year 2023-24	Fiscal Year 2024-25	Effect on Future Biennia
3718 - Earned Wage Access Providers (Revenue)			\$50,000	\$50,000
3730 - Examination Fees (Revenue)			\$56,250	\$112,500
Total	0	0	\$106,250	\$162,500

Explanation

(Use Additional Sheets of Attachments, if required)

As currently drafted, BDR 52-9 (SB290) creates a new licensing and regulatory program for on-demand pay providers. BDR 52-9 (SB290), if passed, would add approximately 25 new licensees under the Financial Institutions Division's (FID) supervision. FID will be responsible for regulatory development, implementation, examinations, complaint investigations, and all other regulatory matters pertaining thereto.

Name Dale Hansen

Title ASO IV

GOVERNOR'S OFFICE OF FINANCE COMMENTS

The agency's response appears reasonable.

Date Wednesday, March 22, 2023

Name Amy Stephenson

Title Director

NEBS210

State of Nevada - Budget Division
Line Item Detail & Summary
2023-2025 Biennium (FY24-25)

3/22/23 10:30 AM

Section B1: Summary by GL
Budget Account: 3805 B&I - FINANCIAL INSTITUTIONS INVESTIGATIONS

Item No	Description	Actual 2021-2022	Work Program 2022-2023	W01 Year 1 2023-2024	W01 Year 2 2024-2025
REVENUE					
3717	APPLICATION FEES	0	0	0	25,000
TOTAL REVENUES FOR BUDGET ACCOUNT 3805		0	0	0	25,000

NEBS210

State of Nevada - Budget Division
Line Item Detail & Summary
2023-2025 Biennium (FY24-25)

3/22/23 10:30 AM

Section B1: Summary by GL

Budget Account: 3835 B&I - DIVISION OF FINANCIAL INSTITUTIONS

Item No	Description	Actual	Work Program	W04	W04
		2021-2022	2022-2023	Year 1 2023-2024	Year 2 2024-2025
REVENUE					
3718	Earned Wage Access Providers	0	0	0	25,000
3730	EXAMINATION FEES	0	0	0	56,250
TOTAL REVENUES FOR BUDGET ACCOUNT 3835		0	0	0	81,250

Financial Institutions BDR 52-9

	Year 1	Year 2	Biennia
Application (BA 3805)	-	25,000.00	-
Initial License (BA 3835)	-	25,000.00	-
Renewal License (BA 3835)	-	-	50,000.00
Examination (BA 3835)	-	56,250.00	112,500.00
	\$ -	\$ 106,250.00	\$ 162,500.00

TOTALS	Fee	# of Licensees	Total
RGL 3717 Application	\$ 1,000.00	25	\$ 25,000.00
RGL 3718 Initial License	\$ 1,000.00	25	\$ 25,000.00
RGL 3718 Renewal License	\$ 1,000.00	25	\$ 25,000.00
RGL 3730 Examination per hour	\$ 75.00	25	\$ 56,250.00
approx time for examination 30 hours			
		Total	\$ 131,250.00