

COMPARISON TABLE
(KEY PROVISIONS OF EWA LAW ENACTED IN NEVADA AND PROPOSED IN NEW YORK)

COMPARISON TABLE
(KEY PROVISIONS OF EWA LAW ENACTED IN NEVADA AND PROPOSED IN NEW YORK)

PROVISION	NEVADA (SB 290, 2023; ENACTED BILL)	PROPOSED NEW YORK A 5053
Key Definitions	Direct-to-consumer earned wage access services, employer-integrated earned wage access services, earned wage access services, employer, fee, earned but unpaid income, provider, proceeds, outstanding proceeds, user	Earned income access provider, earned income access transaction, earned but unpaid income, obligor, fees, non-recourse, earned income access rate cap, proceeds, consumer
Type of Oversight	Licensure (Commissioner of Financial Institutions)	Licensure (Superintendent of Financial Services)
Type of Recourse	Non-recourse; repayment of fees, tips, gratuities, and donations may not be compelled through lawsuit, third party debt collector, or third party debt buyer.	Non-recourse; a provider lacks any legal cause of action or remedy against a consumer relating to an earned income access transaction and may not engage in debt collection activity or retain the services of another to engage in debt collection activity on its behalf.
Disclosures Required (Timing)	Before entering into a contract with a user	Before a consumer enters into an earned income access transaction, before implementing an amendment to the contract or terms of service of an earned income access transaction, no less frequently than quarterly in any quarter in which proceeds are provided to a consumer, and as specified in rules established by the Superintendent
Disclosures Required (Content)	Consumers' rights under the contract; all fees associated with the product	All fees associated with the earned income access transaction, the cost of the transaction, and the cost of the transaction expressed as an APR (before a consumer enters into an earned income access transaction); the terms of any amendment to the earned income access contract or terms of service (before proceeding with an earned income access transaction to which such amendments would apply); consumers' costs associated with earned income transactions (as specified in rules established by

COMPARISON TABLE
(KEY PROVISIONS OF EWA LAW ENACTED IN NEVADA AND PROPOSED IN NEW YORK)

PROVISION	NEVADA (SB 290, 2023; ENACTED BILL)	PROPOSED NEW YORK A 5053
		the Superintendent); an itemization of transactions and costs, the total amount the consumer has paid in fees, information on how to report complaints to the provider and the Department of Financial Services, definitions of terms, and an explanation of the costs of the services provided (at least quarterly during any quarter in which the provider provides proceeds to the consumer, as specified in rules established by the Superintendent).
Additional Disclosures if Tips are Solicited or Accepted	Users must be given a conspicuous option to select zero as an amount for a tip or gratuity; providers must conspicuously disclose that a tip/gratuity/donation does not benefit any specific person	Consumers must be told that payment of additional voluntary amounts is not required to receive proceeds; providers may not suggest voluntary payment amounts to consumers or require consumers to take affirmative action to opt out of paying additional voluntary amounts; and voluntary payment amounts may not, when added to the total cost of a transaction, cause total fees plus voluntary amounts paid to exceed the earned income access rate cap established by the Superintendent through regulation.
Consumer Protections When Repayment is Sought from a Consumer’s Depository Institution Account Via Electronic Funds Transfer	Provider must comply with the federal EFTA; must reimburse a user for any overdraft or NSF fees incurred by the user as a result of a provider seeking to debit the user’s account on a date before or in an incorrect amount from the date or amount disclosed to the user	Providers must comply with National Automated Clearing House Association rules and rules established by the Superintendent.
Policies and Procedures to Address Consumer Questions and Complaints	Required	Not required
Use of Credit Reports and Credit Scores	Prohibited to determine eligibility for the product; providers prohibited from	Prohibited to determine eligibility for the product but may be used to verify a consumer’s

COMPARISON TABLE
(KEY PROVISIONS OF EWA LAW ENACTED IN NEVADA AND PROPOSED IN NEW YORK)

PROVISION	NEVADA (SB 290, 2023; ENACTED BILL)	PROPOSED NEW YORK A 5053
	reporting payment or nonpayment by a user to consumer reporting agencies	source of income; providers prohibited from reporting payment or nonpayment by a consumer to consumer reporting agencies
Cancellation by Consumer Authorized	Yes, at any time, with no penalty	Not specified
Rollovers of Proceeds	Not specified	Proceeds may not be rolled over, used to repay prior earned income access transactions, or structured in any way to create a continuing obligation by a consumer to a provider
Restrictions of Payment of Proceeds	Not specified	Consumers must receive proceeds no less than one business day prior to the next regularly scheduled pay date on which an obligor is scheduled to pay earned wages or income to the consumer
Monetization allowed	Free option required, allows tips, subscription fees, and expediting fees	Yes; subject to a cap established by the Superintendent by regulation
Interest Charges Allowed	No	Yes; subject to a cap established by the Superintendent by regulation
Late Fees Allowed	No	No
Annual Report Required	Yes (annual data required)	Yes (annual data required)
Surety Bond Required	Yes (\$35,000)	No
Characterization of the Product	Proceeds not a loan or other form of credit, licensees not creditors, lenders, or money transmitters; EWA is not money transmission, fees/tips/gratuities/donations not interest or finance charges, EWA provided in accordance with the bill not a violation of the laws governing the sale or assignment of earned but unpaid income	Not specified
Examinations Authorized by Regulator	Yes, as necessary; authorized but not required to be conducted once annually	Yes, as necessary

COMPARISON TABLE
(KEY PROVISIONS OF EWA LAW ENACTED IN NEVADA AND PROPOSED IN NEW YORK)

PROVISION	NEVADA (SB 290, 2023; ENACTED BILL)	PROPOSED NEW YORK A 5053
Independent Financial Audits Required	Yes; CPA to be chosen by the Commissioner; must be submitted annually with annual report	No
Penalties for Noncompliance	Suspension or revocation of license, denial of license renewal, desist and refrain order, injunction issued by court upon request by the Commissioner or AG, administrative fine of up to \$50,000 for failure to be licensed	Suspension or revocation of license, denial of license renewal, misdemeanor (fine up to \$500 or imprisonment up to six months or both)
Waiver of Class Action	Not specified	Provider may not require a consumer to waive the right to class action to engage in an earned income access transaction