

Testimony on HB 1393
Bill Kalanek
Senate Industry & Business Committee

Good morning Chairman Barta and members of the Senate Industry & Business Committee. I'm here today on behalf of the ND Pawnbrokers Association and Catalis LLC to support HB 1393 which establishes a regulatory framework for what has become known as Earned Wage Access. Earned Wage Access is an online financial tool that allows individuals to access their earned but unpaid wages prior to their regular payday. You may view it similarly to a payday loan. The services offer financial flexibility for many workers but the lack of clear regulation has created inconsistencies in operational transparency and a lack of proper consumer protections.

A study from the California Department of Financial Protection and Innovation (DFPI) found that borrowers using EWA services took out an average of nine advances per quarter, totaling 36 advances per year. In some cases, borrowers took as many as 25 advances per quarter, illustrating heavy reliance on these products. Furthermore, 29% of borrowers admitted to taking out multiple advances from different providers simultaneously. With no coordination across platforms, this unregulated behavior increases the risk of financial overextension.

Twenty-five years ago the ND Pawnbrokers Association sought to regulate themselves as the traditional payday loan industry expanded. Those businesses are referred to as deferred presentment service providers in the century code. Those private businesses ceased operations until adequate regulation and tracking of loans was established before resuming business at a significant loss to their own bottom lines. The regulation, established through the Department of Financial Institutions has since served to protect both the businesses and those who utilize "Deferred Presentment" as a means of financial help.

The pawnbrokers I represent are asking these online providers be subject to the same regulation the traditional payday loan industry is subject to in this state. I ask that you consider adopting an amendment that levels the playing field for local business owners who live and work in the state by making direct to consumer EWA loans subject to the same reporting requirements by adding an online database requirement to the bill. This provision would not only prevent an individual from taking out multiple advances and risking financial jeopardy but would serve to protect the industry from itself. Make no mistake the online Payday Loan industry did not bring this legislation forward voluntarily like my client did so many years ago.

The online payday loan industry referred to in the bill as "Earned Wage Access" service providers are nothing more than payday loans by another name yet they have gone unregulated for over 10 years and have made hundreds of thousands of loans in the state. One provider indicated they estimate a quarter of a million EWA advances were made to North Dakotans last year alone.

HB 1393 will:

- Help prevent consumers from becoming overextended on Earned Wage Access advances.
- Require Direct to Consumer Earned Wage Access providers to submit information on every transaction to a statewide database, similar to the database that has been in North Dakota for payday loans for over 20 years.

- Create a database that uses transaction information to ensure compliance with state law. To meet legal requirements, the database must track a borrower's status at a specific point in time, allowing providers to determine whether they are eligible to offer another Earned Wage Access advance.
- Establish licensed providers who have access to the database making unlicensed activity easier to identify and enforce
- Empower regulators to protect consumers from overextending themselves.
- Be a Self-funding program. Provides for the use of fees, on each database transaction, to pay for the database system.

This legislation will track direct to consumer EWA transactions in real time, preventing borrowers from taking out more than the allowed number of advances, even if they use multiple platforms. Additionally, it would allow regulators to monitor consumer protection and promote a safe and healthy marketplace.

Additionally, this legislation will also provide this legislative body, as well as the Department of Financial Institutions with valuable data on borrower behavior and industry practices, enabling them to make more informed decisions around consumer protections. By addressing the issue of overextension and reducing the need for frequent borrowing, states can help ensure that EWA remains a tool for financial relief, not a source of ongoing debt.

I encourage the committee to consider amending as stated by the sponsor, and with that I'd encourage you to give an amended HB 1393 a Do Pass recommendation.