



American Fintech Council Testimony

TO: North Dakota House Committee on Industry, Business, and Labor

FROM: Phil Goldfeder, CEO, American Fintech Council (AFC)

DATE: January 20, 2025

SUBJECT: House Bill 1393

Position: Oppose.

Testimony:

Thank you Chair Warrey, Vice-Chairs Johnson and Ostlie, and members of the House Committee on Industry, Business, and Labor for providing me the opportunity to testify before you in opposition to House Bill 1393 (HB 1393), as it was introduced. My name is Phil Goldfeder, and I am a former state legislator from the state of New York and now continue in my public service as the CEO of the American Fintech Council (AFC).

AFC is the premier trade association representing the largest financial technology (Fintech) companies, including the biggest providers and largest number of Earned Wage Access (EWA) companies of any other trade association. Our mission is to promote a transparent, inclusive, and customer-centric financial system by supporting responsible innovation in financial services and encouraging sound public policy.

We have serious concerns about HB 1393, and welcome the opportunity to engage this committee in a conversation about best practices for regulating Earned Wage Access in North Dakota. AFC is a standards-based organization, and as such, we created a list of robust standards for EWA providers that is included as an appendix to our testimony. EWA is a safe and reliable alternative to higher priced alternatives and gives consumers the ability to access the money they have already earned on their own terms.

As an emerging industry, we must balance the unique services your constituents are already using with the most appropriate regulatory framework that can make sure they are protected. Combined, our member companies have served more than 20,000 North Dakota workers in 2024 and the result of this bill may eliminate this safe and affordable financial service.

We are aligned with the idea that licensure and regulation for EWA ensures that the industry is populated only by responsible operators. We have successfully worked with legislatures in several states to implement regulations around EWA services. However, the requirements set forth in HB 1393 are unreasonably restrictive and they will impact North Dakotans' access to this useful financial tool.

As a financial service, EWA has specific differences from a loan that make the provisions of HB 1393 ill-suited as a regulatory framework. EWA does not charge interest or late fees and does not conduct collection activity of any kind. While our organization fully supports 36% interest rate caps for loans, capping APR for EWA transactions at 36% is an inappropriate mechanism, given that EWA is not a loan product, and our providers do not charge interest of any kind. EWA would be more appropriately compared to an ATM machine that charges a fee to access one's own cash instantly. Simply put, EWA services are not loans and should not be regulated as such.

EWA is a critical tool serving thousands of your constituents and helping them meet the demands of an economy that is not tied to their employers' arbitrary pay periods. Passage of HB 1393 would remove access from crucial EWA services for these constituents and harm their ability to engage fully in North Dakota's economy.

In closing, I thank you again for the opportunity to raise my concerns regarding HB 1393. My sincere hope is that we can find a path forward to draft pragmatic legislation that will establish the proper guardrails for the industry while allowing all responsible EWA providers to offer their much-needed services across North Dakota.