American Fintech Council Testimony

TO: The House Committee on Economic Matters
FROM: Hon. Phil Goldfeder, CEO, American Fintech Council
DATE: January 23, 2024
SUBJECT: House Bill 254

Position: Oppose.

Testimony:
Thank you Chair Wilson, Vice-Chair Crosby, and members of the House Committee on Economic Matters for providing me the opportunity to testify before you in opposition to House Bill 254 (HB 254). My name is Phil Goldfeder, I am a former state legislator from New York and now continue in my public service as the CEO of the American Fintech Council (AFC).

Both as CEO of AFC and as a state legislator, I believe in developing sound public policy that ensures responsible actors can operate for the benefit of consumers, and discourages irresponsible actors from operating in an industry. During my time in the New York State Assembly, I crafted legislation to hold insurance companies accountable and make sure the families in my district were treated fairly in their time of greatest need. I was able to do this because I deeply understood the nuances of the industry and what was needed to ensure the irresponsible actors and practices were curtailed.

While I respect the bill's sponsors intent to find creative ways to curtail unwanted practices, as written, HB 254 devises regulatory tests for what constitutes the "true lender" of a loan that are inconsistent with established statutory, legal, and practical precedence, and create a confusing assessment of which entity, the bank or a fintech company, constitutes the true lender of a loan.

In practice, painting with this broad regulatory brush will only serve to stymie responsible actors in the space. The use of the tests established in HB 254 to determine the true lender of the loan will limit the ability for responsible banks and fintechs to operate in Maryland and, in turn, limit the availability of access to responsible credit for thousands of Marylanders currently have access to loans offered through a responsible bank-fintech partnership. Meanwhile, high-cost lenders will seek loopholes in order to continue offering their predatory products to the consumers previously served by the responsible lenders that make up AFC's membership.

As I noted, I strongly believe in developing sound public policy, and based on my experience, I believe there is a viable path to doing so on the true lender issue. The Illinois Predatory Loan Prevention Act, which sought to accomplish many of the same goals as HB 254, established an exemption to its true lender tests for loans originated at 36% interest and below. As noted in a recent study by the Woodstock Institute, an Illinois-based consumer group,[1] this path stopped predatory lenders from operating in their state while also allowing responsible lenders the opportunity to continue serving Illinoisans who needed help the most. I believe that this is the right path for Maryland as well, especially as the federal funds rate continues to rise.

In closing, I thank you again for the opportunity to raise my concerns regarding HB 254. To ensure that Marylanders are able to receive responsible and innovative financial services, I request that this body carefully consider it seeks to determine the true lender of a loan.

[1] According to the Woodstock Institute's study, "After the PLPA, payday lenders, auto title lenders, and high-cost installment lenders closed while more affordable installment lenders expanded their business in Illinois. Since the PLPA, there are 172 new lender licenses/ branches." See, Woodstock Institute, "Illinois's Predatory Loan Prevention Act: The Impacts of the State's 36% Rate Cap, The PLPA is Working!" [Research Flyer], (Jan. 2024) *available at* *https://woodstockinst.org/wp-content/uploads/2024/01/Woodstock_PLPA_ResearchReport_Flyer_FINAL.pdf*. *Full report available at* *https://woodstockinst.org/wp-content/uploads/2024/01/Woodstock_PLPA_ResearchReport_FN.pdf*.