

## Testimony in Support of Maryland HB 254: Predatory Loan Prevention (True Lender Act)

### House Economic Matters Committee

January 23, 2024

*I am currently unemployed and experiencing XXXX hardship. I have a loan through Netcredit in the amount of {\$1300.00}. I originally took out this loan in 2020 and have made of {\$4000.00} in payments. I contacted Netcredit via email and phone in XXXX and XXXX to discuss my account details. After speaking with XXXX different people, including to a XXXX, they were unable to tell me the total amount of payments Ive made towards my outstanding balance. I know that I have paid well over the amount of the original balance. I would like for the remaining balance to be waived and my account to be closed permanently.*

- *Maryland borrower, complaint about a loan via Enova to the Consumer Financial Protection Bureau<sup>1</sup>*

Chair Wilson and Members of The Committee,

My name is Whitney Barkley-Denney, and I am the Deputy Director for State Campaigns for the Center for Responsible Lending. The Center for Responsible Lending (CRL) is a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest community development financial institutions. For thirty years, Self Help has focused on creating asset-building opportunities for low-income, rural, women-headed families, and families of color, primarily through financing safe, affordable home loans and small business loans.

### **Rent-A-Bank Lending in Maryland**

I am submitting this testimony in support of HB 254, the True Lender Act. This bill would address the practice out-of-state banks partnering with non-bank lenders to offer Marylanders loans that far exceed the state's statutory interest rates. This practice, euphemistically known as "bank partnerships", is more aptly called "Rent A Bank". Rent-A-Bank arrangements exploit a federal law that allows banks to export the legal interest rates of their home state into states with interest rate limits. As a result, a handful of state-chartered banks in Kentucky, Utah, and Delaware have partnered with non-bank lenders in order to make loans to consumers in states where they would otherwise be banned.

Despite Maryland's 30% APR cap on loans up to \$2,000, several Rent-A-Bank lenders have been active in the Chesapeake Bay State.<sup>2</sup> These lenders include Enova, which trapped the borrower quoted above in a loan they repaid three times over with no relief, as well as Easy Pay and American First Finance. While Enova, which offers loans of up to 188%, and Elevate, whose products have APRs of 100% or more, are no longer lending in the state, American First Finance

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<sup>1</sup> CFPB Complaints Database #6585753

<sup>2</sup> National Consumer Law Center, "High-Cost Rent-A-Bank Watch List", (2022)

is active.<sup>3</sup> American First traps borrowers through brick-and-mortar locations across Maryland, where they offer loans for car repairs, appliance, furniture, mattresses, and even pets at rates more than five times those allowable under Maryland law.<sup>4</sup>

In September of 2022, one of American First Finance's Maryland borrowers made the following complaint to the Consumer Financial Protection Bureau:

I purchased a refrigerator from XXXX XXXX on XX/XX/2022 and was offered what I thought was a line of credit or payment plan for the total close to {\$1500.00}. I set everything up to make reasonable, semi-monthly payments. On XX/XX/2022 I received a transaction receipt that showed my remaining balance to be over {\$4000.00}! When I logged into my American First account it showed NO copy of the original agreement. I have tirelessly combed through my emails as well. Upon further investigation, it seems this is a COMMON predatory lending practice with this company. I am disgusted. I attempted emailing, calling and using the chat now feature on the website on XX/XX/2022. Moments later the website showed a message that it was down for scheduled maintenance.<sup>5</sup>

The complaint from the Enova borrower and the one from this borrower are remarkably similar. Both borrowers were attempting to be responsible with their loans, checking their balances for payment and pay off amounts. Both were on the hook for paying back three times what they borrowed. And both were offered these loans despite living in a state where the rates they are paying are blatantly illegal.

Under Maryland law, these borrowers should have paid back their loans with around \$500 in interest. Instead, they are repaying many times that.

### **True Lender Pulls Back the Curtain on Evasions**

In Rent-A-Bank arrangements, the non-bank lenders are the true core of the partnership, creating the product, setting rates, designing the marketing, approving applications, and servicing the loan. The bank merely funds the approved amount, transmitting the funds to the borrower and putting their name on the loan documents. The loan is then almost immediately sold to the non-bank lender.

HB 254 pulls back the curtain on these schemes, analyzing the entirety of these bank arrangements in order to determine who is conceiving of, directing, and benefiting from these predatory products. The bill will give Maryland's enforcement agencies a clear-criteria for assessing the "true lender" behind a loan product.

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<sup>3</sup> American First Finance website, accessed 1/19/2024

<sup>4</sup> American First website: accessed 1/18/2024

<sup>5</sup> CFPB Complaints Database #5968128

## **The True Lender Act Will Help Stop Rent-A-Bank Lending in Maryland**

Maryland has a long history of passing and enforcing strong consumer protection laws, but high-cost lenders and the banks that partner with them are nimble predators, constantly innovating their products and structure to try and evade state law. After California passed a 36% rate cap on some loan products in 2019, Elevate Credit had this to say in an earnings call:

“[W]e expect to be able to continue to serve California consumers via bank sponsors that are not subject to the same proposed state level rate limitations.”<sup>6</sup>

HB 254 will codify the true lender doctrine in order to make these evasions less possible and force lenders to comply with state law.

In the last several years, New Mexico, Illinois, Minnesota, Maine, and Connecticut have all passed similar bills. Maryland should follow in their footsteps and ensure that their strong lending and consumer protection laws are effective in stopping all predatory loans, regardless of how they reach Maryland’s most vulnerable borrowers.

Thank you for your attention to this important issue.

Sincerely,

Whitney Barkley-Denney  
Deputy Director of State Campaigns  
Center for Responsible Lending

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<sup>6</sup> Elevate Credit Inc. earnings call, pages 5–6, 10; July 29, 2019, SeekingAlpha.com