Testimony of Josh Silver, Senior Fellow, NCRC regarding the Community Benefit Plan Act of 2024 before the Economic Matters Committee of the Maryland House of Delegates, February 27, 2024

Good afternoon. Thank you for the honor today of testifying before the Economic Matters Committee regarding the Community Benefit Plan Act of 2024. I am Josh Silver, Senior Fellow at the National Community Reinvestment Coalition (NCRC) and a longtime resident of Maryland.

Lending institutions profoundly impact the ability of communities to thrive because of their decisions to lend and invest in them. When financial institutions engage in redlining, community residents cannot acquire loans and their communities descend into housing abandonment and decay and increases in poverty and unemployment. Conversely, when lending institutions reinvest in communities, housing stock improves, employment increases, and neighborhoods become vibrant and stable.

Governor Moore and other public officials have recently lamented stagnation in the state's economy and a budget squeeze due to declines in tax revenue. This bill would help revitalize the state's economy by increasing lending for expansions of homeownership, small business ownership, and community development in overlooked neighborhoods across urban and rural areas of the state. It is a cost-effective means of priming the economic pump; it would not entail significant budget expenses; it asks the private sector to increase doing what it knows best how to do – find profitable and safe and sound ways to bolster lending and reinvestment.

A Community Benefit Plan in Return for the Privilege of Doing Business

To prevent future instances of discrimination and to increase reinvestment, the Community Benefit Plan Act of 2024 would impose an obligation upon lending institutions to demonstrate public benefits in return for the privileges of receiving licenses to lend or approval for their applications to merge or open new branches.

This bill would build upon a concept in federal banking law that in return for the privilege of merging or expanding its business, financial institutions have an obligation to demonstrate how they will meet the convenience and needs of communities.[1] If a financial institution does not meet the terms of its covenant with the public, the bill would impose penalties including denial of license renewals and fines. If the institution wanted to conduct business in the future, it would have to submit a remedial plan with concrete steps of how it would fulfill its promise of public benefits. A law of this nature must have certain and serious penalties if it is to be effective in holding financial institutions to their promises.

The Community Benefit Plan Act would require mortgage companies making 50 or more single family home loans to develop a community benefit plan (CBP), subject to public review and

[1] FDIC webpage section regarding the Federal Deposit Insurance Act, specifically Section 18(c)(5)(B) via https://www.fdic.gov/regulations/laws/rules/1000-2000.html

input, as part of their application for licenses or renewal of licenses. A CBP would include measurable goals over three years for lending and community development investments and services such as philanthropic grants or supporting or delivering housing counseling. State-chartered banks and credit unions seeking to merge would also be required to develop CBPs. A bank or credit union opening a new branch would be required to describe how the branch would benefit modest income communities and other undeserved and distressed communities.

The threshold of 50 single family loans would cover about 140 mortgage companies making loans in Maryland according to NCRC. These lenders made more than 74,000 loans in Maryland during 2022 or about 49% of all loans in the state. By focusing on independent mortgage companies, the Community Benefit Plan Act would cover about half the state's lending. Combined with the federal CRA that covers all banks, including state-chartered banks, the Act would ensure that most lending activity would need to benefit all communities, including underserved ones.

Evidence of success

A predecessor of CPBs was Community Reinvestment Act (CRA) agreements negotiated between community-based organizations and banks that were seeking to merge with other lending institutions. Research demonstrated that CRA agreements increased lending, investment, and services to modest income neighborhoods and communities of color. Using a database of about 200 agreements obtained from NCRC, economists Raphael Bostic and Breck Robinson calculated that CRA agreements meaningfully increased home lending during the 1993 through 2001 period. The average increase in CRA-eligible lending was 65 percent measured by the number of loans. Agreements that included mortgage counseling also boosted mortgage lending, as verified by the regression analysis. Some agreements contained provisions for a review committee of bank and community group representatives. Review committees that met more frequently resulted in increases in loans.

In a more recent study, Casey examined the likelihood of loan approvals before and after agreements from 2007 through 2014 in St. Louis Missouri, using agreements obtained from the St. Louis Metropolitan CRA Association. Regression results indicated that loan approvals increased after the implementation of the agreements.[2]

CBPs are similar in concept to CRA agreements in that they involve a financial institution developing a plan for increasing lending and reinvestment in collaboration with community-

[2] Raphael W. Bostic and Breck L. Robinson, "What Makes CRA Agreements Work? A Study of Lender Responses to CRA Agreements," Paper prepared for the Federal Reserve System's third biennial research conference titled "Sustainable Community Development: What Works, What Doesn't and Why," February 2003. https://www.federalreserve.gov/communityaffairs/national/CA_Conf_SusCommDev/pdf/bosticraphael.pdf and Colleen Casey, Joseph Farhat, Gregory Cartwright, "Community Reinvestment Act and Local Governance Contexts: Advancing the Future of Community Reinvestment?" Cityscape: A Journal of Policy Development and Research, Volume 19 Number 2 (Washington, D.C: U.S. Department of Housing and Urban Development, Office of Policy Development and Research 2017), 146, https://www.jstor.org/stable/26328333

based organizations and other interested stakeholders. It is likely that a few years after implementation of the Community Benefits Plan Act of 2024, a rigorous study would find that the law increased safe and sound lending.

Lending Disparities Must be Addressed

Increases in responsible lending are needed in Maryland to address persistent and stubborn racial and income disparities in lending. In the state as a whole, lenders made 20% of their single-family loans to African Americans from 2018 through 2020 while 29% of the population was African American. Baltimore City experienced a wider gap: 33% of the loans went to African Americans whereas they constituted 62% of the population. In the case of Hispanics, lenders made 4% of their loans to Hispanics but 9% of the population was Hispanic in the state. Finally, the portion of home purchase loans issued in low- and moderate-income (LMI) census tracts in Maryland was nine percentage points less than the percentage of families in these tracts.[3]

When considering home purchase lending to underserved borrowers and neighborhoods, large volume lending institutions performed unevenly. The Community Benefit Plan Act will help narrow lending disparities because it will improve the performance of lagging institutions that will now be required to submit CBPs. In a study conducted last year, NCRC found that the percentage of loans ranges from a top lender making 68% of its home purchase loans to LMI borrowers to lenders at the bottom issuing 13% and 25% of their loans to LMI borrowers in Maryland. The study revealed similar gaps between top and bottom performing lenders in the percentage of their loans they offered to communities of color in the City of Baltimore.[4]

The Community Benefit Act also requires lending and investments in CBPs to be safe and sound. Redressing disparities in access to loans is not sufficient if traditionally underserved communities disproportionately receive high-cost and abusive loans. Community needs are not being met by a type of lending that destroys neighborhoods through increases in foreclosures. Unlike banks that must meet needs in a safe and sound manner as required by the Community Reinvestment Act (CRA), independent mortgage companies are not subjected to a comparable standard in either federal or Maryland state law. Maryland should be a pioneer in leveling the playing field and imposing a uniform standard of safety and soundness across all state-chartered institutions so that the state does not fall prey ever again to unregulated lenders like Countrywide or Ameriquest in the run up to the financial crisis of 2008.

Additional Valuable Provisions of the Community Benefit Act of 2024

The Community Benefit Act of 2024 contains the following provisions that will further ensure responsible lending and investments in Maryland's communities:

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[3] Josh Silver, *A Maryland CRA Law Would Marshall Considerable Resources For Increasing Racial Equity And Reinvestment*, June 13, 2023, https://ncrc.org/a-maryland-cra-law-would-marshall-considerable-resources-for-increasing-racial-equity-and-reinvestment/

[4] Ibid.

- Further ensures safety and soundness by empowering the Commissioner of Financial Regulation to impose penalties for abusive and deceptive lending in violation of state and federal law.
- Requires the Commissioner to contract for a disparity study once every three years that would identify underserved counties, census tracts, and populations, including people and communities of color.
- Larger volume lenders would be required to establish either lending programs or offer community development financing in counties, tracts, and to populations identified as underserved in the disparity study. This provision is aimed at ensuring that underserved urban and rural areas in the State are served equitably by financial institutions.
- The establishment of a community benefit review committee composed of representatives of civil rights, faith based, and nonprofit organizations that would review CBPs and recommend improvements to CBP goal setting and the Commissioner's enforcement of the CBP requirement.
- The establishment of a community reinvestment fund that would channel fees paid by institutions that are not complying with the CBP requirement to community development activities in the state.

Conclusion

The Community Benefit Plan Act of 2024 would establish solemn and reciprocal responsibilities for financial institutions seeking to do business in Maryland. The history of redlining necessitates a framework of trust through verification – a maxim employed by former President Ronald Reagan.[5] In other words, financial institutions will gain trust with the public if they earnestly execute CBPs based on public input and verifiable results. Since financial institutions use the public's wealth to acquire deposits and capital with which to make loans, a CBP is a reasonable and valuable quid pro quo for the privilege of doing business in Maryland.

[5] Wikipedia, Trust, but verify, https://en.wikipedia.org/wiki/Trust,_but_verify