

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General**



**Statement of Brian L. Schwalb  
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**Before Councilmember Kenyan R. McDuffie, Chairperson**

**On**

**B25-0609, Protecting Affordable Loans Amendment Act of 2023**

**March 13, 2024**

**John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20001**

Good afternoon, Chairperson McDuffie, Councilmembers, staff, and residents of the District. Thank you for the opportunity to testify today in support of B25-0609, the Protecting Affordable Loans Amendment Act of 2023, or “PALs Act.” This Act is needed to better enforce the 24% interest rate cap that the Council wisely put into place to shield consumers from predatory lending practices. In recent years, out-of-state banks have been using creative workarounds known as “rent-a-bank” schemes to evade this cap. While my office has been successful in litigating against these banks, the PALs Act will make it easier for us to stop usurious lenders from preying upon the District’s most vulnerable residents.

The District has a strict 24% interest rate cap that applies to all loans in the District, which the Council put in place for a reason. Consumers desperate to meet living expenses should not be forced to pay exorbitant, usurious interest rates on those borrowed funds. Enacting the interest rate cap put a stop to the traditional payday loan practices that were so harmful to District residents—taking advantage of their need for quick cash and trapping them in cycles of debt. That interest rate cap has not cut residents off from credit. Consumers, including those with emergency needs for cash, continue to have non-predatory options for loans, both with large banks and smaller credit unions.

Notwithstanding the District’s interest rate cap, predatory businesses have continued to come up with creative schemes to try to circumvent District law. One such scheme is known as “rate exportation” or, colloquially, “rent-a-bank.” Under rent-a-bank lending, a financial technology or “fintech” platform partners with an out-of-state bank to import the lending cap that applies in that bank’s home state as opposed to applying the District’s cap. These out-of-state banks tend to be located in states that have no state usury cap. Under rent-a-bank partnerships, even though the bank’s name may be on the loan documents, the actual lender is the fintech partner that is actively targeting District residents to become borrowers.

The Office of the Attorney General (“OAG”) has been working hard to combat these predatory lending schemes in order to protect District residents. For example, our Office has successfully brought cases against three of the biggest rent-a-bank companies that were providing predatory loans in the District: Elevate Credit, Opportunity Financial and EasyPay. These companies were providing loans to thousands of District consumers at annual percentage interest rates that ranged between 100% and 251%.<sup>1</sup> OAG obtained settlements that returned millions of dollars to District consumers and prohibited the companies from lending in the future at rates above a 24% APR. However, there are other companies that are engaging in lending ruses in the District and combatting them requires significant investigatory and professional resources. Absent a clear prohibition on these practices in the law, this high-cost, predatory lending will continue.

Fortunately, there is an easy solution. All that a jurisdiction needs to do to exempt itself from rate exportation is to state clearly in legislation that it is exercising its right to prevent the rate exportation that is allowed under federal law. This is what the PALs Act does. The bill would shut down rate exportation from out-of-state banks to the District, and it will do so in a clear way, across-the-board, avoiding the need for complex, labor-intensive investigation and litigation.

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<sup>1</sup> Elevate was lending at rates up to 251%. Opportunity Financial was lending at rates up to 160%, and EasyPay was lending at an interest rate that averaged 163%.

Critics of the PALs Act may argue that high-cost lending is necessary to provide credit to underserved populations that, in the absence of such lending options, will be shut out from borrowing money or accessing credit to meet their needs. First, that is an attack on the propriety of the District's 24% interest rate cap; it is not a reason to allow other states' legislative judgments to override the Council's reasoned judgment on what the maximum allowable interest rate should be. Second, large banks and credit unions are increasingly stepping in to serve this population at more affordable rates. Third, research<sup>2</sup> shows that rent-a-bank loans had loss rates of 50% compared to a less than 2% charge-off rate for most bank loans, meaning that half of all rent-a-bank borrowers are unable to pay back the loans. In other words, rather than lifting people out of a desperate situation, these loans frequently subject people to spiraling cycles of debt, hounding by debt collectors, lower credit scores, and the need to seek out additional high-cost loans. Pressure from the debt trap caused by high-cost loans can also have *long-term* impacts on consumers' financial and physical well-being.<sup>3</sup>

DC is not alone in recognizing the need to enact legislation like the PALs Act. Iowa and Puerto Rico opted-out of rate exportation more than 30 years ago. Colorado joined them last year,<sup>4</sup> and Connecticut<sup>5</sup>, Maryland<sup>6</sup>, Minnesota<sup>7</sup> and Florida<sup>8</sup> have all recently introduced bills to combat the interest rate evasion that comes from rent-a-bank schemes and rate exportation. The District should continue to demonstrate its leadership in protecting consumers by passing this critically needed, important bill.

In closing, Chairman McDuffie, I'd like to thank you and your staff for working so closely with my office to bring this bill to fruition. When my team identified a way that the law could be tightened – a way to make the laws of the District work more efficiently for the residents we are charged with protecting -- we found a willing partner in your office to make that change a reality. Thank you for your hard work and leadership to protect District consumers and ensure that all banks operating in the District play by the same rules. I urge the Council to pass the PALs Act.

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<sup>2</sup> <https://www.pewtrusts.org/en/research-and-analysis/articles/2022/06/23/rent-a-bank-payday-loans-have-highest-loss-rates-in-banking-system>.

<sup>3</sup> <https://woodstockinst.org/research/reports/plpa-is-working/>, p. 7.

<sup>4</sup> [https://leg.colorado.gov/sites/default/files/2023a\\_1229\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2023a_1229_signed.pdf).

<sup>5</sup> <https://www.cga.ct.gov/2023/ACT/PA/PDF/2023PA-00126-R00SB-01033-PA.PDF>.

<sup>6</sup> <https://mgaleg.maryland.gov/2024RS/bills/hb/hb0254F.pdf>.

<sup>7</sup> [https://www.revisor.mn.gov/bills/text.php?number=sf2744&version=latest&session=ls93&session\\_year=2023&session\\_number=0](https://www.revisor.mn.gov/bills/text.php?number=sf2744&version=latest&session=ls93&session_year=2023&session_number=0).

<sup>8</sup> SB 146 (flsenate.gov) <https://www.flsenate.gov/Session/Bill/2024/146/BillText/Filed/PDF>.