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**EMPIRE JUSTICE CENTER TESTIMONY
NEW YORK STATE BANKING DEPARTMENT
HEARING ON BANKING DEVELOPMENT DISTRICTS**

PRESENTED BY:
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BUFFALO, NEW YORK
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Good afternoon. My name is Kevin Purcell and I am an attorney at the Rochester office of the Empire Justice Center. Empire Justice is a non-profit legal services organization in New York with offices in Albany, Rochester, White Plains and in Central Islip on Long Island. Empire Justice provides support and training to legal services offices statewide, undertakes policy research and analysis, and engages in legislative and administrative advocacy. We also represent low-income individuals, as well as other classes of New Yorkers, in a range of poverty law areas including consumer law.

The Empire Justice Center strongly supports the expansion of New York's Banking Development District program, established by New York State Banking Law, section 96-d. It is vital that we continue to support the growth of BDD branches throughout New York State, especially in light of the fragility of the banking sector, so traditionally underserved neighborhoods have access to basic mainstream financial services.

Left to their own devices, banks favor expansion into areas that have a strong potential for the accumulation of large deposits, usually wealthy neighborhoods and commercial zones. Absent government direction and incentives, lower-income neighborhoods are neglected by these institutions; this contributes to the expansion of "bottom-feeding" fringe financial institutions, such as payday lenders and check cashers, in underdeveloped neighborhoods. The residents of New York's low- and

moderate-income areas need to build assets as opposed to paying thousands of dollars in junk fees over their lifetimes. A study released by The Brookings Institute in January of 2008 found that consumers pay \$8.5 billion in fees for basic high cost financial services such as check cashing and pay day loans. These consumers access \$100 billion in financial services from alternative providers. According to this report a consumer over the course of a 40-year career could convert the fees into \$360,000 in assets by using traditional checking accounts instead of alternative providers.¹

So what effect can local banking branches have on reducing poverty in underserved New York neighborhoods? Consider the example of Mr. M, who works as a dishwasher earning minimum wage in a local restaurant where he has been employed for the past four years. He lives on the Northwest side of Rochester, rides the bus to work and uses the local check cashing agency to cash his paychecks. Mr. M has been evicted from three apartments in the past year because he must pay his rent in cash, which requires more than 2 ½ weeks of his pay, and because he lacks access to low cost credit, financial emergencies can result in eviction.

There are no local bank branches in the area. If Mr. M did have a checking account, he would need to take the bus any time he needed cash, or pay a fee to use the local non-bank ATM machine, at which point he would be required to withdraw a minimum of twenty dollars. ATM fees are currently at \$2.00 to \$3.00 per transaction and would quickly deplete the small amount of funds leftover after the rent is paid. If Mr. M simply needed bus fare to travel to work and back, he would be required to take out a full twenty dollars at the ATM, pay a \$2.00 to \$3.00 ATM fee plus any additional fee charged by the bank for using a foreign ATM machine. All in all, the \$4.00 he needs to catch the bus to get to work costs him \$6.00 to \$7.00 after considering the fees paid to access his funds.

If the goal is to help bank the under-banked; the primary constraint in these lower income neighborhoods is branch access. People like Mr. M who barely survive paycheck to paycheck cannot afford to pay bus fare and/or fees every time they need to access their funds.

Given the pivotal role banks have in modern economic life, it is only logical for the government and communities to work in tandem with the financial sector, and bring mainstream financial services to traditionally neglected areas, afflicted by poverty and dominated by usurious fringe financial services. For this reason, Empire Justice supports the expansion of the BDD programs in the following ways:

1. *Future Banking Development Districts should be allowed to overlap existing districts.* We believe that concentrated poverty requires concentrated development, and competition amongst banks is a cornerstone for such development.

¹ http://www.brookings.edu/reports/2008/01_banking_fellowes.aspx

2. *Banks purchasing existing BDD branches should be entitled to assume the benefits enjoyed by the previous bank owner.* There is no need to remove these incentives, especially in light of the weak U.S economy, the fragility of the banking sector and amidst general restructuring of the financial services industry. Public assistance, of course, comes at the cost of public responsibility. Newly acquired banking development district branches should be held to the same product conditions as their predecessors.
3. *There should be a financial literacy component required for BDD branches.* Financial literacy is fundamental to breaking the cycle of debt for many low-income families suffering from derogatory credit and high interest financing. This financial literacy component would teach consumers about the advantages of mainstream banking institutions versus nontraditional financial institutions, foster growth in savings and improve creditworthiness.

Financial service professionals in the fringe market are trained to 'sell' their products to the uninformed buyer. The best defense we can give these buyers is knowledge of the market. For this reason financial literacy is an integral step in convincing consumers to choose mainstream banking services over 'bottom-feeding' payday lenders and check cashers.

4. *The initial two year subsidy received by the newly established BDD branches should be extended.* Again, it is vital that we continue to provide incentives to banks so that they choose to remain in low-income neighborhoods, especially during a restructuring of the banking industry. BDD branches should be considered long-term investments, and it is important that we prevent banks from pulling out of these investments in a down market.

For a long time, community advocates in Rochester have understood the financially devastating effect of the high cost and predatory nature of fringe financial products. There are numerous efforts going on in Rochester to address the needs of the under/un-banked. We believe that an expansion of the BDDs will not only serve this population well, but specifically in Rochester, the expansion will help supplement efforts that do not exist in other upstate communities.

Advocates familiar with the local community have identified a number of products that could be offered by mainstream financial institutions but are either not offered at all or not offered enough. These products include: free checking and savings accounts; low cost money orders; second chance bank accounts for people on Chex systems; remote account opening; rent-to-own store alternatives; and small dollar loans as alternatives to pay day loans. By expanding the BDD, we believe banks would be more willing to be creative in the products they offer and begin marketing products that would better serve this population as they transition from using the fringe financial institutions to the mainstream banking institutions. In addition to products, local advocates have also noted system changes that could be made to make it more attractive to low-income workers to enter the financial mainstream. For example, processing credits before debits and processing lower check amounts before higher check amounts would make it easier for individuals to manage their

money without fear of incurring overdraft fees unknowingly.

The Empire Justice Center has taken a leadership role in two large coalition based efforts in Rochester that the expansion of the BDDs would significantly enhance: C.A.S.H (Creating Assets, Savings and Hope) and the FDIC's Alliance for Economic Inclusion.

C.A.S.H. is a community coalition of more than 30 organizations working together to improve the financial well-being of low-income workers in Monroe County. C.A.S.H. helps working families get, keep and grow their money by: increasing incomes through greater use of the Earned Income Tax Credit; minimizing unnecessary financial erosion by offering alternatives to predatory financial practices; and maximizing financial assets through financial education, debt management, savings, and home ownership. C.A.S.H. works with 6 local banks and credit unions to open fee-free checking and savings accounts at its free tax preparation (VITA) sites. C.A.S.H. has been successful in opening hundreds of accounts over the past few years. However, this number could be significantly increased with the participation of more local banks and additional products.

The second coalition is the FDIC's Alliance for Economic Inclusion. The Rochester alliance operates as a broad-based coalition with a mission to (1) improve the economic well-being of low- and moderate-income individuals and families, including the unbanked and underserved; and (2) bring those populations into the economic mainstream through innovative low-cost products and services and expanded financial education efforts. This local alliance has determined that our community has several lending institutions that currently offer truly free checking and savings accounts; however it is difficult for individuals who are uncomfortable and unfamiliar with the banking system to navigate the numerous institutions and accounts to find products that will serve their needs. The alliance has decided to embrace two specific goals to address this local issue. The first is to identify checking and savings products within our community that already meet particular criteria appropriate for this population. The second goal is to encourage more local banks to create checking and savings accounts that fit within the criteria. We believe that the expansion of the BDD will create more opportunities and incentives for local banks to create such products. Below are some of the terms that the Alliance has tentatively approved for checking and savings accounts.

Free Checking Account

- Minimum opening balance no more than \$25
- No minimum balance required
- No monthly maintenance fee
- No point of sale fees

Free Savings Account

- Minimum opening balance no more than \$50
- Minimum balance required no more than \$10
- No monthly maintenance fee
- No inactivity fee

We believe that addressing the needs of the under/un-banked requires the cooperation from both the local non-profit agencies and the lending institutions. Unfortunately, despite the good intentions of local banks, they are sometimes limited by outside forces to create products that could truly serve the local population. The expansion of the BDDs will help some of the banks move beyond current hurdles and begin working with local agencies to create products that are more tailored to the needs of the community.

5. *Therefore, our final recommendation for the expansion of Banking Development Districts in New York is to require BDD branches to include in their portfolio straightforward financial products, with terms similar to those above, which prevent fee-based profiteering.* In order for a BDD branch to be successful in a traditionally underserved neighborhood, it should provide financial products that make economic sense for residents to use. Otherwise, it is unlikely users of the neighborhood check casher will move from the fringe financial institution they currently are comfortable using to the mainstream BDD branch.

Successful community bank programs, such as New York's Banking Development District program, require cooperation between the lender, borrower, government and community. We are glad to see that the NYS Banking Department is considering an expansion of the BDD program, making it easier for mainstream banks to open or acquire BDD branches. We also want to make sure that the products and services provided by those branches are appropriate to that community. This will encourage residents to use mainstream financial institutions in moving from poverty to building wealth for themselves and their families.