

**Testimony of Marian Messing  
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**Before the Committee of the Whole  
Council of the District of Columbia**

**Public Hearing Regarding:**

**Bill 23-0122  
“Cashless Retailers Prohibition Act”**

**February 13, 2020**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits the following testimony in support of the Cashless Retailers Prohibition Act, B23-0122.

**The Bill Promotes an Inclusive Economy**

This bill would ensure that all District residents can access products and services provided by all District retailers. Paying for a product or service with a debit or credit card requires a bank account. But the most recent data published by the Federal Deposit Insurance Corporation suggest that **nearly 30% of District residents primarily use cash or use only cash** rather than a debit or credit card.

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<sup>1</sup> The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 88 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work comprises individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid is available on our website, [www.LegalAidDC.org](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

More specifically, 8.0% of District households are “unbanked,”<sup>2</sup> which means that no household member has a checking or savings account at a federally insured depository institution.<sup>3</sup> An additional 21.2% of District households are “underbanked,”<sup>4</sup> which means that the household has a checking or savings account at a federally insured depository institution, but in the past 12 months, the household used products or services from a non-federally insured alternative financial services provider such as a check-cashing outlet, payday lender, pawnshop, money order provider, or rent-to-own store.<sup>5</sup>

Moreover, only 62.6% of District households are “fully banked,”<sup>6</sup> which means that the household has a bank account and used no alternative financial services in the past 12 months.<sup>7</sup> This is one of the lowest rates in the country: only Georgia, Louisiana, Mississippi, Nevada, and Texas have lower rates of fully banked households.<sup>8</sup>

The data also reveal sharp disparities in access to banking services based on race. District households headed by a black owner or renter<sup>9</sup> are 32 times as likely as households headed by a white owner or renter to be unbanked (16.0% versus 0.5%) and more than twice as likely to be underbanked (29.3% versus 12.6%).<sup>10</sup> Meanwhile, District households headed by a white owner

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<sup>2</sup> *Unbanked and Underbanked for District of Columbia, 2017 by Selected Household Characteristics*, FEDERAL DEPOSIT INSURANCE CORP. 1 (Oct. 2018), [https://economicinclusion.gov/surveys/2017household/documents/tabular-results/2017\\_banking\\_status\\_District\\_of\\_Columbia.pdf](https://economicinclusion.gov/surveys/2017household/documents/tabular-results/2017_banking_status_District_of_Columbia.pdf) (last visited Feb. 9, 2020).

<sup>3</sup> *2017 FDIC National Survey of Unbanked and Underbanked Households*, FEDERAL DEPOSIT INSURANCE CORP. 1, 13 (Oct. 2018), [https://economicinclusion.gov/downloads/2017\\_FDIC\\_Unbanked\\_HH\\_Survey\\_Report.pdf](https://economicinclusion.gov/downloads/2017_FDIC_Unbanked_HH_Survey_Report.pdf) (last visited Feb. 9, 2020).

<sup>4</sup> *Unbanked and Underbanked for District of Columbia*, *supra* note 2, at 1.

<sup>5</sup> *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 3, at 1, 8 n.11.

<sup>6</sup> *Unbanked and Underbanked for District of Columbia*, *supra* note 2, at 1.

<sup>7</sup> *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 3, at 1.

<sup>8</sup> *2017 FDIC National Survey of Unbanked and Underbanked Households: Appendix Tables*, FEDERAL DEPOSIT INSURANCE CORP. 11-12 tbl.A.7 (Oct. 2018), [https://economicinclusion.gov/downloads/2017\\_FDIC\\_Unbanked\\_HH\\_Survey\\_Appendix.pdf](https://economicinclusion.gov/downloads/2017_FDIC_Unbanked_HH_Survey_Appendix.pdf) (last visited Feb. 9, 2020).

<sup>9</sup> The Federal Deposit Insurance Corporation assigned race at the household level based on the race of the owner or renter of the home. *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 3, at 2 n.4.

<sup>10</sup> *Unbanked and Underbanked for District of Columbia*, *supra* note 2, at 1.

or renter are fully banked at nearly twice the rate of households headed by a black owner or renter (80.5% versus 44.2%).<sup>11</sup> (Data on other racial and ethnic groups are unavailable.)

Further, research shows that immigrants use banking services at a much lower rate than U.S.-born consumers.<sup>12</sup> This inequality is due both to barriers that affect low-income people in general and to barriers that affect immigrants in particular, such as confusion on the part of both bank employees and prospective customers about identification documents required to open a bank account,<sup>13</sup> fear that banks will share customer information with immigration authorities, and limited English proficiency.<sup>14</sup> With nearly 95,000 immigrants comprising 14% of the District's population,<sup>15</sup> it is likely that a substantial proportion of District residents are unable to access banking services due to these types of barriers.

In sum, given District residents' distressingly low use of federally insured banking services – a problem that disproportionately affects low-income,<sup>16</sup> black, and immigrant households – the recent trend of businesses going cashless shuts tens, if not hundreds, of thousands of District residents out of the retail market. This bill is essential to ensure that *all* District residents can enjoy products and services at *all* District retailers. Passing this bill would enable the District to

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<sup>11</sup> *Id.*

<sup>12</sup> *Financial Access for Immigrants: Lessons from Diverse Perspectives*, FEDERAL RESERVE BANK OF CHICAGO & THE BROOKINGS INSTITUTION 6 (May 2006), [https://www.brookings.edu/wp-content/uploads/2016/06/20060504\\_financialaccess.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/20060504_financialaccess.pdf) (last visited Feb. 9, 2020).

<sup>13</sup> Many banks will accept foreign passports, consular identification, or other identification instead of a Social Security number to open an account. *Financial Education Programs Serving Immigrant Populations*, CONSUMER FINANCIAL PROTECTION BUREAU 14 (July 2016), [https://files.consumerfinance.gov/f/documents/20160714\\_cfpb\\_report\\_fined\\_immigrant\\_May\\_20\\_2016\\_FINAL.pdf](https://files.consumerfinance.gov/f/documents/20160714_cfpb_report_fined_immigrant_May_20_2016_FINAL.pdf) (last visited Feb. 9, 2020); Diana Elliott & Caleb Quakenbush, *What Would Help DC Residents Have Greater Financial Security?*, URBAN INSTITUTE 25 (June 2019), [https://www.urban.org/sites/default/files/publication/100363/what\\_would\\_help\\_dc\\_residents\\_have\\_greater\\_financial\\_security\\_0.pdf](https://www.urban.org/sites/default/files/publication/100363/what_would_help_dc_residents_have_greater_financial_security_0.pdf) (last visited Feb. 10, 2020).

<sup>14</sup> *Financial Education Programs Serving Immigrant Populations*, *supra* note 13, at 11-18.

<sup>15</sup> *Selected Characteristics of the Native and Foreign-Born Populations: 2013-2017 American Community Survey 5-Year Estimates*, U.S. CENSUS BUREAU, [https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17\\_5YR/S0501/0500000US11001](https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17_5YR/S0501/0500000US11001) (last visited Feb. 9, 2020).

<sup>16</sup> Data on banking status among the bottom income strata are unavailable for the District, but nationwide, households earning fewer than \$15,000 per year are unbanked and underbanked at much higher rates than households earning at least \$75,000 per year. *2017 FDIC National Survey of Unbanked and Underbanked Households: Appendix Tables*, *supra* note 8, at 1 tbl.A.1.

join Massachusetts, New Jersey, New York City, Philadelphia, and San Francisco, all of which have banned retailers from refusing to accept cash.<sup>17</sup>

### **Inclusion and Access Should Outweigh Convenience for Retailers**

Retailers that adopt no-cash policies tend to claim that going cashless is more efficient because it reduces time spent counting change and safer because it diminishes the possibility of theft by employees or others.<sup>18</sup> But convenience for retailers should not receive greater protection than the rights of all District residents to access those retailers' products or services. The harm to residents of retailers going cashless is large because no-cash policies in effect discriminate against patrons based on income, wealth, race, and national origin. In contrast, the burden that accepting cash imposes on retailers is small; after all, retailers accepted cash for decades and remained profitable. And because all District retailers will have to comply with the law, no retailer will enjoy a competitive advantage that it might otherwise gain by going cashless.

Ultimately, excluding low-income, black, and immigrant District residents from patronizing businesses for the sake of retailers' own convenience offends basic notions of equality and justice. Passing this bill would demonstrate that the people of the District of Columbia prioritize the core civil right of access to places of public accommodation over corporate profit.

### **Conclusion**

Legal Aid strongly supports the Cashless Retailers Prohibition Act. Thank you for the opportunity to submit written testimony.

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<sup>17</sup> Alina Selyukh, *Cities and States Are Saying No to Cashless Shops*, NATIONAL PUBLIC RADIO (Feb. 6, 2020), <https://t.co/oFvBAiEp6A>.

<sup>18</sup> *Id.*; Ally Schweitzer, *How a 'Cashless' Future Could Leave Many D.C. Residents Shortchanged*, WAMU (Aug. 29, 2018), <https://t.co/a5O1mZrH2k>.