



EBOOK STUDY GROUP

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**Testimony of Kyle K. Courtney, Esq.
on behalf of the
eBook Study Group**

**Before the Committee on Human Services Council
of the District of Columbia**

B26-0490 Library E-book Pricing Fairness Amendment Act of 2025

December 17, 2025

The eBook Study Group submits the following testimony in support of B26-0490, the Library E-book Pricing Fairness Amendment Act of 2025:

Thank you for this opportunity to speak on a topic which has driven much of my work, scholarship, and advocacy over the last decade.

Thank you to the Chair and Members of the Committee for the opportunity to submit testimony on an issue that has shaped much of my professional work, scholarship, and advocacy over the past decade.

My name is Kyle K. Courtney. I am a copyright attorney and a librarian, and I am the Founder and Board Chair of the eBook Study Group, a national nonprofit organization dedicated to ensuring equitable public access to information through fair and sustainable library eBook licensing. In my professional role, I also serve as Director of Copyright and Information Policy at Harvard University. I appear today solely in my capacity as Board Chair of the eBook Study Group.

The eBook Study Group drafted the model legislative framework upon which this bill is based. Earlier this year, a substantially similar approach was enacted into law in Connecticut with overwhelming bipartisan support. Versions of this framework are now advancing in multiple jurisdictions across the country. The District of Columbia's bill is firmly situated within this growing national effort to modernize library policy through established principles of consumer protection, contract law, and public procurement so that libraries can continue to function effectively in a digital environment.

At the outset, it is important to be precise about the nature of the problem this bill addresses. Libraries do not own most of the eBooks they provide to the public. Unlike print books, which

libraries purchase once and may lend repeatedly over time, eBooks are almost always rented or leased under restrictive licenses. Libraries do not buy eBooks. They are compelled to rent them. In that sense, this hearing is less about sales and more about the terms of a long-term landlord-tenant relationship in which one party holds overwhelming market power.

D.C. libraries face the same challenges that have been documented nationwide and described in the bill's introduction. Publishers increasingly rely on licensing terms that require libraries to repeatedly re-license the same digital titles at premium prices. Licenses routinely expire after a fixed period or a limited number of loans, forcing libraries to re-rent the same content over and over again simply to maintain access. These practices strain library budgets, reduce the diversity of available collections, and lengthen wait times for patrons who depend on digital access. Libraries are effectively penalized for fulfilling their public mission, often paying many times more than the average consumer to provide access to the same materials.

The convenience of digital access should not come at the expense of the library mission. This bill represents a measured and legally sound response to that imbalance.

It is also essential to be clear about what this bill is not. This is not a copyright bill. I say this as a copyright lawyer, as a scholar, and as a co-drafter of the American Law Institute's Restatement of the Law of Copyright, a project I worked on for nearly a decade alongside experts from across the country. This legislation does not compel publishers to license their works. It does not require distribution. It does not interfere with copyright ownership or exclusive rights.

Instead, the bill regulates the terms of contracts once a publisher has voluntarily chosen to license eBooks to the District of Columbia Public Library. It ensures that those contracts do not contain terms that eviscerate the library mission by placing private commercial objectives above public access. Increasingly, publishers have used licensing not merely to set prices, but to displace the traditional role of libraries altogether by dictating how, when, and whether communities may access digital books. This bill restores the proper balance by reaffirming that libraries, not vendors, are responsible for carrying out the public service mission entrusted to them.

The bill accomplishes this by prohibiting a library from entering into or renewing contracts that include certain restrictive provisions, as set forth in Section 16(d) of the bill. These provisions include restrictions on interlibrary loan, limitations on how many licenses a library may acquire, requirements that libraries pay prices far exceeding those charged to the public, prohibitions on preservation copies, and mandates that libraries accept only expiring licenses without any option for perpetual or pay-per-use access. States across the country have identified these same contractual practices as fundamentally incompatible with a library's responsibility to provide long-term, equitable access to information.

The District's legislation also includes a particularly thoughtful and prudent feature. The bill will take effect only once ten other states, representing a combined population of at least fifty million people, have enacted substantially similar laws. This trigger mechanism significantly reduces legal risk and ensures that the District is acting as part of a coordinated national response rather than in isolation. Publishers have repeatedly warned jurisdictions that they may withdraw from

local markets if a single state or locality acts alone. This provision directly addresses that concern while preserving the District's leadership role.

This legislation also aligns squarely with the District's long-standing authority over consumer protection, contracts, and procurement. It avoids the legal pitfalls that led to the invalidation of Maryland's earlier eBook statute, which was struck down because it required publishers to offer licenses. The D.C. bill does no such thing. It regulates terms, not mandates distribution, and is therefore consistent with both federal copyright law and established constitutional principles.

It is also important to address a frequent claim raised by opponents of similar legislation, namely that such laws would reduce publisher revenue or harm authors. That claim is simply not borne out by reality. Libraries will continue to acquire eBooks exclusively from publishers and their vendors. They will continue to spend one hundred percent of their designated collections budgets. Nothing in this bill reduces library spending or diverts funds away from rightsholders.

What the bill changes is how effectively those dollars are used.

Under current licensing models, a library may spend tens of thousands of dollars repeatedly re-acquiring the same small set of titles as licenses expire. Under this legislation, those same funds could instead be used to acquire a far broader range of works, expanding readership, increasing discovery, and strengthening the overall literary ecosystem. Publishers are still paid. Authors still benefit. The difference is that public funds purchase access rather than waste.

Every dollar continues to flow through the commercial marketplace. The outcome is more reading, more circulation, and more discovery, which benefits authors, publishers, and the public alike. Libraries are not asking for discounts. They are asking for fair contracts that allow taxpayer funds to support enduring public access rather than perpetual re-licensing.

In the digital age, access to electronic books and audiobooks is no longer optional. It is central to literacy, education, workforce development, disability access, and civic participation. For many District residents, the public library is the primary gateway to that access. The question before the Council is whether public access to digital knowledge will be governed by the mission of the public library or by private licensing practices that were never designed to serve the public good. The Library E-book Pricing Fairness Amendment Act of 2025 answers that question clearly and responsibly. It strengthens the District of Columbia Public Library's ability to serve residents, steward public funds, and uphold its mission in a digital world.

Thank you for your consideration of this testimony and for your leadership on this important issue. I am available to answer any questions or provide additional information as needed.

Respectfully submitted,

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