



**Glenn Hegar** Texas Comptroller of Public Accounts

# The Texas Community Reinvestment Update 2013



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# Community Reinvestment in Texas 2013 Update

## Executive Summary

The 1997 Texas Legislature's House Bill 1414 created the Community Reinvestment Work Group to work with the financial community to develop statewide community reinvestment strategies. Title V, Chapter 395 of the Texas Finance Code defines the composition of the Community Reinvestment Work Group, its operations and duties. Community reinvestment strategies include financial literacy education, investment pools and other vehicles used to leverage private capital from banks, insurance companies and other entities for community projects.

The Community Reinvestment Work Group includes representatives from the Texas Comptroller of Public Accounts (Comptroller), the Department of Banking (DOB), Department of Economic Development and Tourism (EDT), Texas Department of Agriculture (TDA), Texas Department of Insurance (TDI) and the Texas Department of Housing and Community Affairs (TDHCA). The Texas Finance Code requires this group to consult with representatives of the federal Office of the Comptroller of the Currency, the Federal Reserve Board of Governors (FRB), the Office of Thrift Supervision (OTS) and the Federal Deposit Insurance Corporation (FDIC) to identify regulatory changes and initiatives since the 2011 update that affect Texas banks and financial institutions.

The Comptroller's representative identifies work group members from agencies, manages the report team, recommends and supervises the group's research activities, coordinates the work group's meetings and analyzes policy, monitors and evaluates the state's community reinvestment strategies to encourage financial institutions to lend money to low- and moderate-income families and individuals. The work group also evaluates efforts to attract private capital through investments that meet the requirements of the Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et seq.).

Each biennium, the Community Reinvestment Work Group summarizes its community reinvestment programs and the effectiveness of its strategies. The following state agencies contributed to the 2013 update:

- Texas Comptroller of Public Accounts
- Texas Department of Agriculture (State Office of Rural Affairs)
- Texas Department of Banking
- Texas Department of Housing and Community Affairs
- Texas General Land Office (Disaster Recovery)
- Texas Department of Insurance
- Governor's Economic Development and Tourism Division

The work group met in 2013 to discuss the effectiveness of its current programs, strategies and initiatives and develop new strategies for 2013 and 2014. The Comptroller's representative assigned and collected agency updates from work group members. Community reinvestment research from advocacy groups, banks, research organizations and federal regulatory agencies including the FDIC, the Federal Financial Institutions



Community Reinvestment Work Group meeting in progress.

Examination Council (FFIEC), the Office of Thrift Supervision (OTS) and the Federal Reserve Bank of Dallas was analyzed and summarized.

This update provides an overview of the Community Reinvestment Act (CRA); describes changes to CRA regulations that became effective since 2012; highlights national and state financial services regulatory changes resulting from the recession; examines recent data and studies on foreclosures and the subprime lending crisis; and describes small business, small farm and community development lending in Texas. Also discussed are state agencies' community reinvestment strategies and examples of Texas community reinvestment initiatives, including financial literacy surveys and related workshops held across the state.

## 2013 Legislation

### 83rd Legislature: House and Senate Bills

Recent consumer protection legislation mandates the inclusion of financial literacy courses in Texas' high school graduation requirements; extends the Texas Department of Housing and Community Affairs for 12 years; and supports other statewide community investment initiatives.

**HB 4** creates a state water implementation fund to assist the Texas Water Development Board (TWDB) in funding of certain water-related projects. Amendment 17 of the bill requires the Comptroller to recommend to TWDB a set-aside of a certain amount to provide financing for the economically distressed areas program account if the fund's investment income exceeds a certain amount. If it accepts the recommendation, TWDB is authorized to direct the Texas Treasury Safekeeping Trust Company (TTSTC) to apply the money to fund the economically distressed areas program account.

**HB 429** revises the definition of "rural" and deleted a separate definition of rural for TDHCA programs. The bill also grandfathers existing 515 projects to allow them to continue applying under the USDA set-aside for tax credits regardless of location.

**HB 584** amends the Property Code to ensure that, if a county maintains a website, it must post a notice of sale filed with the county clerk under Subsection (b)(2) on a Web page publicly available for viewing without charge or registration. The act took effect Sept. 1, 2013.

**HB 1664** amends the Finance Code to require information about certain persons outside of an entity under investigation, such as former employees. The bill allows the banking commissioner to investigate persons exterior to a bank or trust company under examination.

**HB 1772** requires written notice to tenants and to the municipality in which an apartment complex is located when a gas or utility service disconnection is pending.

**HB 1888** amends the Government Code by extending the at-risk set-aside for low-income housing tax credits awarded to at-risk developments, including public housing authority properties. An at-risk development is one that has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment or equity incentive.

**HB 2201** provides that, not later than September 1, 2014, the State Board of Education shall ensure that at least six advanced career and technology education or technology

*HB 34 expanded instructional requirements for personal financial literacy.*

applications courses plus a personal financial literacy course are approved to satisfy a fourth credit in mathematics required for high school graduation.

**HB 2662** requires each school district offering K-12 to provide a personal financial literacy curriculum starting in the 2013-14 school year, including instruction on methods of paying for college and other postsecondary education and training, using State Board of Education (SBOE)-approved instruction materials.

**HB 2749** amends current law relating to the promulgation by the Texas Supreme Court of standard forms for use in expedited foreclosure proceedings.

**HB 3068** protects consumers by prohibiting merchants from adding surcharges for buyers who use debit or stored value cards in the purchase of goods or services, except for government entities that accept such cards.

**HB 3361** extends the Texas Department of Housing and Community Affairs for 12 years. Under the bill, the Private Activity Bond tax credit program provides a new “local support” application threshold requirement.

### Senate Bills

A number of Senate bills were enacted to assist Texas homebuyers, manage disaster recovery funds, require personal finance education, protect consumers and support community investment.

**SB 1** covers a wide range of state government programs and functions. The bill specifies which state agencies should receive and manage disaster recovery funds. It also requires a quarterly report to the Governor’s Office, Legislative Budget Board, House Appropriations Committee, Senate Finance Committee and members of the Legislature representing counties eligible for Community Development Block Grant (CBG) Disaster funding, including details of receipts and expenditures of disaster funds received by the General Land Office.

**SB 286** consolidates loan programs at the Texas State Affordable Housing Corporation.

**SB 630** establishes the tenant’s right to a copy of his or her lease.

**SB 1589** amends the Family Code to include personal finance education for children in foster care, including obtaining and interpreting credit scores; avoiding predatory lending practices; using basic banking and accounting skills; and using debit and credit cards responsibly, among other practices.

**SB 1590** requires the Texas Higher Education Board to require general academic teaching institutions to offer personal financial literacy training and provide students with certain knowledge and skills for becoming self-supporting adults equipped to make critical decisions. Training topics include budgeting, credit cards, spending, saving, loan consolidation and repayments. It also requires that curriculum and instructional materials developed by the Texas Education Agency, the Office of Consumer Credit Commissioner and the State Securities Board include information about the use of insurance as a means of protecting against financial risk.



State Capitol, Austin, Texas

## Community Reinvestment Work Group Research

According to the Community Reinvestment Work Group:

### Employment

- The U.S. gained jobs in the private sector each month of 2013.
- Private-sector employment in Texas increased by 3.1 percent in 2013, adding 283,000 jobs.<sup>1</sup>
- Texas' unemployment rate fell to 6 percent in December 2013 from 6.5 percent in March 2013,<sup>2</sup> well below the national average of 6.7 percent.<sup>3</sup>
- The state's private sector employment rose by 3.3 percent in 2013, ahead of the national average rise of 2.1 percent.
- In 2012, Community Reinvestment Act lending institutions in Texas extended nearly 403,700 loans of less than \$100,000 each, for a total of \$5.2 billion.<sup>4</sup>

### Small Businesses and Small Business Lending

- According to the Office of Small Business Advocacy, small businesses employ half of all U.S. private-sector employees and represent 99.7 percent of all employer firms, 63 percent of net new private-sector jobs, 48.5 percent of private-sector employment, 46 percent of private-sector output, 37 percent of high-tech employment and 98 percent of firms that export goods.<sup>5</sup>
- According to a mid-2013 Small Business Administration (SBA) survey, small businesses' borrowing capital totaled about \$1 trillion in 2013, including \$422 billion in credit from finance companies.<sup>6</sup>
- Small businesses create more than half of nonfarm GDP annually.<sup>7</sup>
- More than 50 percent of small businesses are home-based and at least 2 percent are franchises.<sup>8</sup>
- According to a Wells Fargo Small Business Index Study, the average small business owner uses around \$10,000 as startup capital.
- About a third of new nonemployer firms and 12 percent of employer firms do not use startup capital.
- Startup capital for high-tech firms averages \$80,000 in combined debt and equity each year, according to a Kaufmann Firm survey.<sup>9</sup>

*Texas' unemployment rate fell to 6 percent in December 2013 from 6.5 percent in March 2013, well below the national average of 6.7 percent.*

### Home Foreclosures and Subprime Mortgage Activity

- RealtyTrac notes that the U.S. saw a 1.04 percent foreclosure rate in 2013, or about one foreclosure filing for every 96 housing units, down from 1.39 percent in 2012 and a high of 2.23 percent in 2010.
- Texas had the shortest average time to foreclose in the fourth quarter of 2013, at 175 days.
- Bank repossessions fell in 2013 in 39 states including Texas, where repossessions were down by 56 percent.<sup>10</sup>
- SBA's flagship lending program supported about 46,000 small businesses in fiscal 2013, through \$17.9 billion in loans that can be used for most business expenses such as working capital. SBA also provided about 4,000 loans for \$625 million through its Small Loan Advantage (SLA) program and 7,700 loans for more than \$11.7 billion through 504 loans, which offer long-term, fixed-rate financing for the acquisition of major fixed assets and real estate by small businesses.<sup>11</sup>

- The Small Business Jobs Act of 2010 encourages small-business job creation and economic recovery through more than \$12 billion in lending support. The act expanded financial options for small businesses, increased 504 loan sizes and microloan limits and strengthened parity across federal contracting programs by allowing contracting program officers to choose among businesses participating in HUB Zone and 8(a) programs as well as those owned by service-disabled veterans and women.<sup>12</sup>
- Between 2010 and 2014, the federal government supported small businesses through a combination of tax relief and tax cuts, expanded access to capital, tax credits and deductions for Americans hiring the unemployed and starting new businesses. Other investments included American Recovery Act contracts with small businesses; broadband infrastructure expansion grants in rural areas; and expansion of the State Small Business Credit Initiative (SSBCI). The SSBCI helps participating states use federal funding to strengthen state programs that support loans to small businesses and small manufacturers. The U.S. Treasury's Office of the Inspector General examined five investments in Texas' SSBCI allocation, totaling \$6.3 million, financed by the Texas Small Business Venture Capital Program and determined the program was in full compliance with all SSBCI requirements<sup>13</sup> and its success was "attributable to its use of a checklist to evaluate compliance with program requirements prior to the completion of each transaction."
- For the fiscal year ending Sept. 30, 2013, the SBA reached its third highest year of lending to small business owners by provided \$29.6 billion through more than 54,100 loans to start and grow businesses. SBA loan approvals in fiscal 2012 totaled about \$30.3 billion (53,800 loans) in fiscal 2012 and \$30.5 billion (61,700 loans) in fiscal 2011.<sup>14</sup>

### Dodd-Frank Wall Street Reform and Consumer Protection Act

- Congress strengthened access to conventional credit through the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.<sup>15</sup>
- This act established the Consumer Finance Protection Bureau (CFPB) to promote financial education; make markets for consumer financial products and services work more efficiently; broaden choices among the credit cards offered to consumers; and enforce federal monitoring and enforcement of consumer markets and financial laws.<sup>16</sup>

### Financial Literacy

- The 2014 Financial Literacy Survey of more than 2,000 adults, by the National Foundation for Credit Counseling and the Harris Poll, found that one in three do not save any of their household annual income; the same share carries credit card debt from month to month. About one in five adults surveyed graded themselves an A or B for knowledge of personal finance.<sup>17</sup>
- In 2013, a study by EverFi and Higher One, organizations supporting financial literacy programs, analyzed the impact of high school financial literacy education on attitudes, behavior and knowledge among 65,000 college students. The results showed freshmen college students who had previously taken a high school financial literacy course were significantly more likely than their peers to avoid debt, stay within their credit limits and pay credit card bills on time.<sup>18</sup>
- Estimates from the Council of Economic Education show that 17 states require high school students to take personal finance instruction courses. The Jump\$tart Coalition, comprising 150 financial institutions, consumer advocates and federal agencies, identified only four states — Missouri, Tennessee, Utah and Virginia — that require high school students to complete a personal finance class to graduate.<sup>19</sup>



Congress strengthened access to conventional credit through the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

## State Agency Community Reinvestment Programs and Strategies

- TDHCA administers nearly \$700 million annually in affordable housing, community assistance and disaster recovery programs. Almost 99 percent of households served by TDHCA housing programs in fiscal 2011 and 2012 had incomes at or below 50 percent of their area medians.<sup>20</sup>
- The Texas Comptroller’s office partners with the Governor’s Economic Development and Tourism Office on a Linked Deposit Program and with approved depository lenders for loans to child care centers, minority- and women-owned businesses, nonprofit organizations and small businesses located in state-designated enterprise zones.
- The Texas Department of Agriculture (TDA) provides assistance to rural communities and hospitals in Texas to attract and retain businesses, expand and improve public infrastructure and secure quality health care. TDA also provides financial assistance to agricultural producers, especially young farmers and ranchers, to expand their production capabilities.
- The General Land Office assumed responsibility for all disaster recovery funding administration in Texas in July 2011 and now manages disaster recovery grant funds through the U.S. Department of Housing and Urban Development (HUD) for the State of Texas. GLO coordinated the cleanup of the Texas coast after hurricanes Dolly and Ike.
- TDI prepares a biennial report on investments made in Texas by life and health insurance companies with \$10 million or more in Texas premiums. TDI’s 2014 Community Investment Report identified 238 companies that met these criteria, accounting for more than 97 percent of the total life and annuity premiums collected in Texas in calendar 2013. Together, these companies made \$68 billion in Texas investments, with 94 percent of the reported investments directed to political subdivision/public utility bonds, commercial and farm mortgages, corporate bonds and real estate.



Members of the Community Reinvestment Work Group.

Since many companies cannot link their investments to an individual state, these amounts are not comprehensive. This is particularly true of pooled investments. Residential mortgages frequently are purchased through pooled investments, so comprehensive data are not available for this category. Due to the complexities involved in linking some corporate bond investments to specific states, reporting for that category is optional. Texas investments made by property and casualty insurance companies also are excluded from the totals above because they are not subject to the statute requiring these reports. Details about these investments can be found in TDI’s December 2014 *Community Investment Report*.

Texas law does not require insurers to identify investments by geographic location except for certain targeted economically disadvantaged areas. Instead, insurers usually report investments at the zip code level. Generally, however, disadvantaged areas are identified by broader geographic levels, such as city, county, state or national area. Life and health insurers voluntarily reported investments of about \$1.1 billion to economically disadvantaged areas in 2013.<sup>21</sup>

# The Community Reinvestment Act

Congress created the CRA (12 U.S.C. 2901), also known as Title VIII of the Housing and Community Development Act, in 1977 to encourage commercial banks and savings and loans to help meet the credit needs of all segments of the communities they serve. CRA applies to all federally insured depository institutions, national banks, thrifts and state-chartered commercial and savings banks.

## CRA Goals and Community Development

The CRA has helped affordable housing and community development advocates monitor the lending performance of financial institutions and improve homeownership opportunities for underserved populations. One of its primary goals is to improve access to credit for businesses and individuals in low- and moderate-income communities.

Financial institutions comply with the CRA's requirements by making loans to support:

- affordable housing construction and rehabilitation;
- community development activities of local, state and tribal governments, including financing for geographic areas recovering from natural disasters and for distressed or underserved rural counties;
- community development corporations, community financial institutions and minority- and woman-owned financial institutions;
- community services for low- and moderate-income individuals, including credit and homebuyer counseling, school savings programs, technical assistance for economic revitalization programs and other activities;
- construction of community facilities in low- and moderate-income areas;
- environmental cleanup activities and the redevelopment of industrial sites in low- and moderate-income communities; and
- multifamily rental property financing designed for low- and moderate-income persons.



## History of CRA Rules

CRA regulatory amendments have broadened the public's access to CRA examination schedules, dollar amounts of community development lending activity, geographic distribution of bank investments, borrower profiles and the number of bank branches in low- and moderate-income areas. These changes also have expanded the options for investment that count as credit toward a financial institution's CRA compliance rating.

## Bank Industry Consolidation, Mortgage Market Growth and Challenges Facing Community Banks

This section summarizes key community banking facts and recent changes and challenges facing community banks and other financial institutions. During the past 35 years, the nation's network of community banks has been reduced due to factors including competition with financially innovative large banks, financial services industry consolidation, lower cost advantages and higher regulatory compliance costs for smaller banks seeking capital.

A “community bank” transacts business in a limited geographical area and has locally based decision-makers. Through home and small business loans, community banks supply credit to small businesses which fuels jobs and local economic growth.

Community banks generally offer a wide range of services, including:

- agricultural and small-business lending;
- “anytime, anywhere” electronic transactions and mobile banking;
- automated teller machines;
- competitive checking, investment products and savings rates;
- competitive consumer-loan mortgages; and
- credit and debit cards with competitive features and rates.

*Between 1985 and 2013, financial institutions with between \$100 million and \$10 billion, mostly community banks, grew in number and total assets.*

Lending mostly to small businesses, some 7,000 U.S. community banks, including commercial banks, stock and mutual savings associations and thrifts, provide half of all U.S. jobs. Community banks and credit unions make the small loans for cars and houses needed by small-business employees, supporting local employment and economic stability.<sup>22</sup>

Compared to large-bank competitors, community banks generally operate with superior knowledge of local economic conditions when lending to small businesses. This is known as “relationship-based” lending.

According to the Independent Community Bankers of America, community bank assets represent 96.6 percent of all bank assets in the U.S. Community banks generally have \$1 billion or less in assets and offer a higher level of personalized customer service, yet often charge lower fees for checking accounts and other depository services.<sup>23</sup>

The federal Office of Thrift Supervision (OTS) expanded the category of “small savings associations” in August 2004 to include those with less than \$1 billion in assets, regardless of holding company affiliation.<sup>24</sup>

Bank consolidation reduced the number of U.S. bank and thrift charters between 1979 and 2010 by 11,000 institutions or 58 percent. The number of lenders seeking to increase cash flow climbed in the 1990s. To originate new loans, lenders sold primary mortgages to obtain funds. Financial institutions issued more home mortgage loans when the secondary mortgage market grew, and banks began using credit-scoring software to determine prospective borrowers' ability to repay debts and loans. Meanwhile, consumers began using the Internet to pay bills and research loans.

Today, community banks represent 98 percent of all U.S. banks by number and 30 percent measured by assets held.<sup>25</sup> According to a 2014 FDIC study, community banks are resilient; ongoing consolidation has had less of an impact on the community-banking sector than previously believed, and warnings of further decline forecast for this sector have been overstated. Between 1985 and 2013, financial institutions with between \$100 million and

\$10 billion, mostly community banks, grew in number and total assets. The number of banks with assets between \$1 billion and \$10 billion rose by 5 percent, while the count for those with \$100 million to \$1 billion climbed by 27 percent.

FDIC also found that the greatest net change occurred for the very largest and smallest banks; the number of institutions with less than \$100 million in assets fell by 85 percent, while the number of institutions with more than \$10 billion in assets grew about threefold and their assets rose by a factor of 10. During the financial crisis of 2008, community bank failures grew. Generally, though, reforms such as the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) and the Basel III capital standards have helped bank risk managers and supervisors create a more stable banking environment.<sup>26</sup>

## Evaluations of Financial Institutions

Four separate federal agencies — the FDIC, FRB, Office of the Comptroller of the Currency (OCC) and the OTS — evaluate the CRA record of institutions they regulate before approving applications for charters, mergers, acquisitions and branch openings. Federally insured depository institutions, national banks, savings associations and state-chartered commercial and savings banks all must comply with CRA regulations. (See Appendix A for details on the evaluation process and changes to the definition of small banks.)

The FDIC conducts CRA examinations of state-chartered institutions that are not members of the Federal Reserve System. The governors of the Federal Reserve System regulate state-chartered banks that are members, as well as bank holding companies and branches of foreign banks.

The FDIC, OCC and OTS examine depository institutions not supervised by the FRB. FRB considers the CRA record of its member banks before approving applications to open new deposit-taking facilities. CRA regulation 12 CFR 25 requires the OCC to conduct CRA exams of national banks every three years. It also requires OCC to assess a national bank's record of meeting credit needs in the entire community, including low- and moderate-income neighborhoods, before approving any applications for mergers.

Under CRA regulation 12 CFR Part 563e, OTS must assess a savings association's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods. OTS also must consider that record in evaluating a savings association's application for new branches, the relocation of an existing branch, mergers and consolidations and other corporate activities.<sup>27</sup>

## Changes to CRA Rules (2012-2013)

The OCC, Board of Governors of the Federal Reserve System and FDIC amended CRA regulations to adjust the asset-size thresholds used to define “small bank,” “small savings association,” “intermediate small bank” and “intermediate small savings association” as of December 19, 2012 and again on December 19, 2013. Adjustments are calculated based on the change in the average of the Consumer Price Index (CPI) for clerical workers and urban wage earners for the November to November period, rounded to the nearest million without seasonal adjustment. The thresholds are used to define small and “intermediate small” financial institutions for CRA purposes. The next table reflects a five-year history of previous adjustments due to changes in the CPI.<sup>28</sup>



### Regulatory Changes to Asset Thresholds (2010-2013)

Effective Date	Threshold for Small Institutions	Threshold for Intermediate Small Institutions
Jan. 1, 2013	\$1.186 billion	\$296 million
Jan. 1, 2012	\$1.160 billion	\$290 million
Jan. 1, 2011	\$1.122 billion	\$280 million
Jan. 1, 2010	\$1.098 billion	\$274 million

Source: Federal Financial Institutions Examination Council.

The Federal Reserve System is responsible for supervising savings and loan holding companies and non-depository subsidiaries. The Office of Thrift Supervision regulates savings associations.<sup>29</sup>

CRA rules require a bank to receive a “satisfactory” on the community development and lending tests before it can obtain approval for new branches or affiliates. The community development test analyzes four areas of bank activity:

- affordable housing;
- community services;
- economic development and revitalization; and
- stabilization activities.

*The Federal Reserve System is responsible for supervising savings and loan holding companies and non-depository subsidiaries. The Office of Thrift Supervision regulates savings associations.*

The affordable housing and community services evaluations apply to a bank’s lending to low- or moderate-income individuals. The economic development evaluation applies to a bank’s lending to small businesses and farms, while the revitalization or stabilization test evaluates bank services provided to low-or moderate-income census tracts and underserved rural areas. OCC’s community development definition includes activities that stabilize designated disaster areas and “underserved and distressed” rural areas. It also includes educational, health or social services and community or tribal-based childcare targeted to low- and moderate-income individuals.<sup>30</sup>

Under the CRA, regulatory examiners evaluate large banks once every two years to grade their lending, investments and services in low- and moderate-income neighborhoods. Large bank examinations are based on lending, investment and service performance and must disclose data on mortgage lending in non-metropolitan areas, community development activities and loans to small businesses. An unsatisfactory or weak CRA record can result in the denial of a financial institution’s request to expand.

Examiners may customize federal regulatory tests to examine limited-purpose and wholesale banks that specialize in large commercial deposits and provide credit cards but do not make home loans or accept small deposits. Customized tests focus on the number of community development loans and investments, including low-income housing tax credits or investments in small businesses that a bank has made in its service area.

The four federal regulatory agencies publish lists each quarter of CRA examination schedules for regulated banks and savings institutions. Regulators maintain the lists on their agency websites and provide them to the public.

## The U.S. Financial Services Industry and the CRA

Since the 1977 passage of the CRA, the financial industry has changed in a number of ways, including banking deregulation, consolidation of large and small banks, shifting market forces, technological advances in banking and mortgage lending practices and the Dodd-Frank financial reforms of 2010.

The U.S. financial services industry has both benefited and suffered from the impact of a complex mix of competition among banks and other financial institutions, the growth in check-cashing and credit-card services, mobile banking applications and the marketing of insurance products and sales of securities across state lines. Without traditional banking oversight, mortgage banking companies grew in number and became more involved in financial and insurance services, making loans without traditional banking regulatory oversight.

## CRA and the Gramm-Leach-Bliley (GLB) Act

In 1999, the Gramm-Leach-Bliley (GLB) Act repealed restrictions found in sections 20 and 32 of the Glass-Steagall Act of 1933 concerning the affiliation of banks and securities firms. Known as the Financial Services Modernization Act of 1999, the GLB Act created new forms of financial institutions called “financial holding companies” as part of section 4 of the Bank Holding Company Act.<sup>31</sup>

Under the GLB act, financial holding companies, insured depository institutions affiliated with financial holding companies and stand-alone insured depository institutions can receive approval for expanded activities or acquisitions only if their latest CRA examination rating is satisfactory or better.

The act created a system for federal and state financial regulatory compliance, requiring the Federal Reserve Board to supervise financial holding companies. For example, the Texas Department of Banking regulates the state’s banks following compliance guidelines issued by the FRB. The act ended legal barriers among the banking, insurance and securities industries, allowing them to combine services and provide various financial products. Under the GLB act, state insurance departments regulate the insurance activities of banks and all financial firms involved in the business of insurance.

The GLB act also reduced the frequency of regulatory examinations for small banks with passing CRA ratings. Small banks with outstanding ratings are evaluated once every five years, and once every four years if they pass with a satisfactory rating. Regulatory agencies may examine small banks more frequently if they believe they have a compelling reason to do so.

Regulatory examiners use the Federal Financial Institutions Examination Council’s revised interagency examination procedures to assess institutions’ compliance with the CRA “sunshine requirements” of the GLB. These requirements apply to the funds of an insured depository institution or any affiliate with an aggregate value of more than \$10,000 in a calendar year. The provisions cover written agreements made in compliance with the CRA that involve funds or other resources of an insured depository institution, including any affiliated institutions, with an aggregate annual value of more than \$10,000. Regulatory examiners also apply the CRA sunshine requirements to financial institutions having loans with an aggregate principal value of more than \$50,000 in a calendar year.

Sunshine requirements apply only to agreements with a nongovernmental entity or person that has had a CRA contact with an insured depository institution or affiliate or a banking agency. This includes agreements entered into by entities or persons that solicit



charitable contributions or other funds without regard to the CRA. Parties to covered agreements must disclose them to the public and the appropriate agency. Each year, all parties must file a report with the appropriate regulatory agency.<sup>32</sup> Once management determines that a financial institution is a party to one or more covered agreements, the regulation requires examiners to investigate and describe its covered agreement disclosure practices.

## Home Mortgage Disclosure Act Data Disclosure

The federal Home Mortgage Disclosure Act (HMDA) of 1975 requires most mortgage lenders in metropolitan areas to collect data on their housing-related lending activity and report them to the Federal Reserve Board, to the attention of the regulatory agency to which they report annually. HMDA reporting makes the data available to the public.

HMDA data requirements apply to home improvement loans, purchases and refinanced home mortgage loans. Under the CRA, agencies that evaluate insured depository institutions must use HMDA data when evaluating regulated institutions' records of meeting community mortgage credit needs.

Initially, HMDA was used to help determine whether financial institutions were serving the housing needs of their communities and to enforce fair lending practices. Combined with the Federal Reserve Board's Regulation C, HMDA requires the majority of depository institutions and certain for-profit, non-depository institutions to collect, report and disclose data concerning home purchase and improvement loans, refinancing and related loan applications.

In 1989, Congress changed HMDA to require lenders to collect data about denied home loan applications and related applicant or borrower information.

In 2002, the Federal Reserve Board amended HMDA Regulation C to require new data fields and price information for certain loans. HMDA requires lenders to indicate whether a loan or application involves a one- to four-family home, a multi-family residence or a manufactured home. The institutions must report the type, purpose and amount of the loan; the property's location; and the applicant's ethnicity, income, race and sex. HMDA data requirements include most home-secured loans except for home equity loans for credit card debt consolidation and medical expense payments. The regulations make reporting of home equity lines of credit (HELOCs) financing optional.

- During the 1990s, community development groups successfully pursued HMDA reforms intended to increase the amount of disclosed information required on loans. These reforms included the Financial Institutions Reform, Recovery and Enforcement Act of 1989, with added data disclosure requirements and FRB revisions of Regulation C in 2002 that require lenders to disclose data on loans covered by the Home Ownership and Equity Protection Act including data on home loans, lien status, loan pricing and whether an application or loan involves a manufactured home.
- Between 2007 and 2014, the FRB increased the asset-size exemption for banks, consumer finance companies, credit unions, mortgage companies with offices in metropolitan areas and savings and loan associations.
- Effective Oct. 1, 2009, the FRB amended HMDA Regulation C by revising rules for reporting price information on high-priced loans. The revised rule requires lenders to report the spread between a loan's APR and a survey-based estimate on APRs currently offered on comparable prime mortgage loans when the spread equals or exceeds 1.5 percentage points for a first loan, or 3.5 percentage points for a subordinate-lien loan. Labeling the loan as adjustable or fixed was added to the rate

*Between 2007 and 2014, the FRB increased the asset-size exemption for banks, consumer finance companies, credit unions, mortgage companies with offices in metropolitan areas and savings and loan associations.*

spread calculation and price information compliance reporting became mandatory for loan applications and loans that closed on or after Jan. 1, 2010, regardless of application dates.

- In July and August 2010, the Office of Thrift Supervision, FRB, FDIC and OCC held public hearings aimed at modernizing the CRA regulations. On December 20, 2010, rule changes were published in the Federal Register, Vol. 75, No. 243 that modified CRA rules to encourage financial institutions to help stabilize communities ravaged by foreclosures.
- In January 2011, rules broadened the CRA's definition of community development to include activities supporting the objectives of the \$7 billion Neighborhood Stabilization Program (NSP) under the U.S. Department of Housing and Urban Development. The 2011 rule changes provide for financial institutions to receive favorable CRA consideration for "loans, investments, and services, among other financial products, that support, enable or facilitate projects or activities consistent with the NSP's five eligible-uses criteria. Supporting loans, investments and services must provide benefits for low-, moderate- and middle-income people or geographies located in NSP target HUD-designated areas of greatest need. Examples of eligible investments, loans and services include the donation of foreclosed, bank-owned properties; technical assistance and financing for purchase and rehabilitation of foreclosed properties and redevelopment of demolished properties."

Two key provisions broadened the CRA's community development definition, moving it away from the previous emphasis on activities that benefit low- and moderate-income communities. First, CRA consideration now must include loans, investments and services that benefit middle-income people and geographies. Secondly the rule now extends CRA consideration to loans, investment and services made outside of a financial institution's assessment area, when the institution has sufficiently met community development needs inside its area. Regulators previously expanded the definition of community development in 2006 to promote investments in the Gulf Coast areas affected by hurricanes Katrina and Rita.<sup>33</sup>

## The Dodd-Frank Wall Street Reform and Consumer Protection Act, the CRA and Equal Credit Opportunity Acts

The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted on July 21, 2010, includes a 2,300-page overhaul of high-risk, complex financial practices in the housing market, transparency enhancements and corrections to financial services industry sector weaknesses. Key provisions would affect state banking, bank holding companies, mortgage lenders, credit rating agencies and financial regulatory institutions. Requirements for qualified community reinvestment projects are one example of the impact the Dodd-Frank Act brings to bank compliance with the CRA. The law reaffirms the dual banking system, acknowledges the role of state regulators, encourages state federal cooperation and reinforces the system of checks and balances between state and federal regulators to limit centralization of regulatory authority in Washington, D.C.<sup>34</sup>

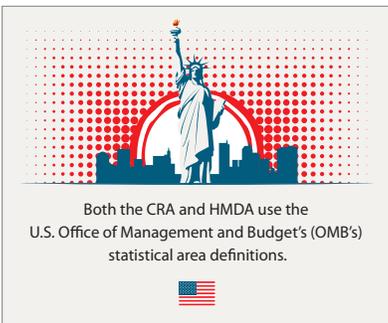
Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act. This action created a set of requirements, similar to HMDA, for small business credit applications. The section mandates that all financial institutions must ask businesses applying for small business credit, whether or not they are women- or minority-owned, to maintain a record of the information separate from the application, and to report application content to the Bureau of Consumer Financial Protection, including business location, action taken, amount of credit provided and related details. The bureau must make the information available to the public upon request.<sup>35</sup>



Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act. This action created a set of requirements, similar to HMDA, for small business credit applications.

### Summarized Dodd Frank Act Protections & Restrictions

A single federal agency is responsible for ensuring consumer protection in financial services transactions with banks, mortgage companies, payday lenders and credit card companies, making each accountable.
Financial services firms will be prohibited from growing large enough to put the entire financial system at risk of collapse.
The act places restrictions on extra fees that businesses charge for debit-card “swipe fees” that exceed transaction processing costs.
The act increases protections for consumers against unfair credit card practices, including credit-card interest rate increases.
Free annual credit scores are to be made available so consumers can monitor their finances, scores and reported payment histories.
The act prohibits taxpayer-funded bailouts authorized by the federal government. Companies must liquidate when they become insolvent.
The act increases shareholder input on CEO compensation and requires that company compensation boards be fully independent of CEO influence. It also stipulates that investment brokers must act in the best interests of their customers, not their financial self-interest.



### Metropolitan Statistical Area Boundaries and HMDA

Both the CRA and HMDA use the U.S. Office of Management and Budget’s (OMB’s) statistical area definitions. In 2003 and 2004, these definitions changed, affecting HMDA loan data collection and reporting by financial institutions located within OMB’s revised statistical areas.

OMB’s revised definitions created 49 new metropolitan statistical areas, changed the boundaries of many other MSAs and established new types of statistical areas including metropolitan divisions (MetroDivs or MDs). New OMB statistical areas also include combined statistical areas and micropolitan statistical areas. OMB eliminated the terms “Consolidated MSA” (CMSA) and “Primary MSA” (PMSA). Only MDs and MSAs are recognized for CRA and HMDA reporting purposes. Micropolitan areas and “nonclassified” areas are considered “nonmetropolitan” for all purposes under HMDA and CRA.

- As of Jan. 1, 2004, FFIEC required affected financial institutions to collect HMDA and CRA data using the OMB’s new definitions. Collected data must include the property location using an MSA or MD code if the property is located in an MD.
- CRA and HMDA reporting institutions began using OMB’s new geographic designations in collecting loan data in 2004.
- For loan applications in metropolitan areas, a property’s MSA or MD must be reported, rather than the metropolitan areas (MAs) required in 2003. When lenders report on an MSA that has been subdivided into MDs, they must report for both the MD and MSA when the properties have not been subdivided.
- CRA and HMDA reporting institutions began reporting property locations using MSA or MD codes on January 1, 2004, when the property is located in a MD.

## Federal Economic Stabilization Funding and the CRA in the U.S. and Texas

Congress enacted the American Recovery and Reinvestment Act of 2009 (ARRA) on Feb. 13, 2009. Commonly called the federal “stimulus” legislation, the ARRA provided \$53.6 billion to the states via its State Fiscal Stabilization Fund under Title XIV. The Texas Department of Housing and Community Affairs and former Office of Rural Community Affairs received millions of stimulus dollars for community reinvestment from the ARRA. TDHCA disbursed these funds for credit repair, home rental assistance and housing search activities, case management and other expenses. ARRA funds helped strengthen local Texas economies by supporting affordable housing construction, energy development and weatherization projects that stimulated jobs and supported job retention efforts.

### Status of the CRA

Since the CRA became law in 1977, the financial services business has changed in response to changes in technology, government regulations and the ways in which small business loans and mortgage financing are delivered.

The Glass-Steagall Act restricted the activities of commercial banks to certain kinds of business, compared to the greater freedom given to broker/dealers, investment banks and thrifts. During more than 30 years, the act has been modified and a financial supermarket has evolved that permits a single institution to make loans, underwrite debt and sell stocks and bonds. Direct deposit, digital and Internet banking, mobile applications and other technological advances continue to reshape the financial industry.

Supporters claim that the CRA promotes responsible lending and lines of credit in low- and moderate-income communities, where economic activity often is needed due to relatively low property values, low numbers of comparable property appraisals and reduced liquidity. Critics suggest that the CRA encourages banks to make unprofitable, risky loans while increasing regulatory and data reporting requirements for regulated financial institutions.

When the CRA became law in 1977, banks and savings and loan institutions wrote most home purchase loans. The next two decades saw increased homeownership, as CRA regulations helped provide more home loans and related credit for low- and moderate-income persons through CRA-regulated institutions. From CRA’s passage to the 2007-2008 financial crisis, bank activity in low-income communities grew.

CRA supporters point to nearly 30 years of success, including more than \$6 trillion in investments in low- and moderate-income communities throughout the U.S.

Following the 2005 Gulf Coast hurricane disasters, CRA supporters took aim at rule changes to stimulate economic activity through community development lending in all areas, not only urban centers. The OTS changed its definition of community development used for savings associations to match that of the FRB, OCC and FDIC August 2005 final rule for banks. The OTS’ April 12, 2006 ruling prompted savings associations to increase community development loans and services and qualified investments in nonmetropolitan middle-income areas and areas affected by disasters.

During the economic collapse of 2007-2008, academics, community development specialists, the FRB and financial services industry analysts took the financial services industry to task for the worldwide recession. Contributing factors involved banking industry consolidation, technological innovations available to large banks, faulty mortgage derivative investment products and previously unregulated home mortgage lending industries.

*Direct deposit, digital and Internet banking, mobile applications and other technological advances continue to reshape the financial industry.*

Supporters studying the CRA's impact identified ways to modernize the law and apply it to non-bank financial institutions. Some actions would broaden capital and credit access for minorities in low- and moderate-income areas. A sample of suggested CRA policy changes include:

- creating rigorous transparency requirements to expose illegal and predatory lending practices, and penalties for discriminatory lending practices through lowered CRA ratings;
- ensuring that CRA exams identify lending, investments and services to minority borrowers and communities;
- evaluating small banks as frequently as large banks;
- extending the CRA to non-depository institutions, credit unions, mortgage companies, insurance firms, investment banks and securities firms; and
- revising CRA assessment areas and including non-depository bank affiliates in CRA exams; and
- refining CRA examination criteria to include separate evaluations of purchases, loan originations, prime and high-cost lending.<sup>36</sup>

# The CRA and Lending for Small Businesses, Small Farms and Community Development in the U.S. and Texas

This section examines the recent status of small business, small farm and community development lending in the U.S. and Texas. The Comptroller’s office reviewed data collected by the Federal Financial Institutions Council, the U.S. Department of Labor and the U.S. Small Business Administration. SBA’s Office of Advocacy defines “small business” as an independent business with fewer than 500 employees. According to SBA, the U.S. had about more than 28 million small businesses in 2013.<sup>37</sup> Small businesses with fewer than 500 employees:

- employed 50 percent of the working population or about 120 million individuals;<sup>38</sup>
- represented about 99.7 percent of all U.S. employers;
- generated more than half of all U.S. nonfarm private output and produced 46 percent of private-sector output;
- contributed more than 50 percent of nonfarm private gross domestic product;
- paid 43 percent of total U.S. private payroll;
- include startups in information technology, manufacturing, retail and services;
- accounted for at least 14.3 million (63 percent) of 22.9 million net new jobs created between 1993 and mid-2013 and led job creation between mid-2009 and mid-2013 accounting for 60 percent of net new jobs during this period;<sup>39</sup> and
- generated between 60 and 80 percent of net new jobs annually in the U.S. and comprised 98 percent of firms exporting goods in the last decade.

Small businesses fill niche markets, fueling innovation and help increase competition. SBA’s research has found a direct correlation between the number of new small businesses and growth in gross state product, state personal income and total state employment.<sup>40</sup>

Since the Great Recession, however, lending to small businesses has fallen. After adjusting for inflation, the value of fourth-quarter 2012 small commercial and industrial loans, “a common proxy for small business loans,”<sup>41</sup> totaled less than 78.4 percent of levels reached in 2007. Contributing factors include added regulations prompting banks to increase lending standards and reduce the number of creditworthy small business borrowers; banking industry consolidation that reduced the number of banks lending to small businesses for more profitable sectors of the credit market; and lower small business demand for bank loans.<sup>42</sup>

## Across the U.S.

Each year, FFIEC collects loan data reported by CRA-regulated entities with assets of \$250 million or more, as well as institutions of any size if owned by a holding company with assets of \$1.109 billion or more. This includes small business, small farm and community development loan data. The maximum small-business loan size reported is \$1 million; the maximum small-farm loan size reported is \$500,000.

A total of 830 lenders reported CRA data on small business, small farm and community development lending in 2012, down 3.4 percent from 859 in 2011.<sup>43</sup> This information



Small businesses with fewer than 500 employees generated between 60 and 80 percent of net new jobs annually in the U.S. and comprised 98 percent of firms exporting goods in the last decade.

came from 640 commercial banks and 190 savings institutions. By number of 2012 loan originations, about 93 percent of the small business loans and 80 percent of the small farm loans were for amounts of less than \$100,000.<sup>44</sup> An estimated \$179.6 billion was loaned through 13.5 million business loans; \$11.8 billion was loaned through 147,000 small farm loans.

More than 300 of the 830 institutions reporting 2012 data opted to be evaluated as “large” institutions or reported voluntarily.<sup>45</sup> Bank failures, mergers and acquisitions among reporters in previous years, as well as fewer voluntary reporters, contributed to a smaller number of reporting lenders in 2012 compared to 2011.

**2012 CRA Data**  
**Loans to Small Businesses and Small Farms in the U.S.**  
**With Revenues of \$1 Million or Less**  
 (Lenders Reporting to the FFIEC = 830)

Description	Small Businesses	Small Farms
Total Dollars Loaned	\$ 206 billion	\$ 12.6 billion
Total Number of Loans	5,900,000	177,000
Percentage of Loans to Businesses with Less than \$1 Million in Revenues (based on number of loans)	44%	58%
Percentage of Loans Under \$100,000	93%	80%

Source: Federal Financial Institutions Examinations Council.

The 2012 CRA data indicate that 44 percent of reported small business loans and 58 percent of small farm loans were made to businesses with revenues of \$1 million or less.

FFIEC estimated that 35 percent of small business loans made in 2012 were to small firms, compared to 60 percent in 1999. Tightened credit, changes in bank data collection methods and renewals with higher credit limits during the financial crisis may have suppressed lending to small businesses in recent years. Small business loans made by banks also may go unreported, since a number of banks no longer collect revenue-size data from business loan customers.

FFIEC found that most reporting institutions in 2012 experienced an increase in small business lending due to credit card-related activities.

Of the total number of small business loans reported under the CRA in 2012, 87 percent were concentrated in metropolitan areas, while 64 percent of the small farm loans, as measured by the number and dollar amount, were made in rural areas.<sup>46</sup>

When measured by the number of loans outstanding, CRA reporters comprised an estimated 87 percent of small business loans and 38 percent of small farm loans by all commercial banks and savings institutions in 2012. Large institutions issued the majority of these loans. Institutions with assets of \$1.16 billion or more as of Dec. 31, 2011 originated almost 99 percent of small business loans and more than 88 percent of small farm loans reported under the CRA, based on the number of loans.<sup>47</sup>

*Of the total number of small business loans reported under the CRA in 2012, 87 percent were concentrated in metropolitan areas, while 64 percent of the small farm loans, as measured by the number and dollar amount, were made in rural areas.*

## In Texas

According to the SBA Office of Advocacy, small businesses are the single largest source of new employment growth in Texas, providing thousands of new jobs for minorities and women. Nationally, small businesses create two out of every three new jobs.<sup>48</sup> Small businesses include small employers with up to 499 employees; “large” employers with 500 or more employees, up to a maximum that varies by type of business; and non-employers are businesses that operate without employees. As of 2011, the SBA Office of Advocacy estimated that Texas had 2.2 million small businesses, including 391,000 small employers, 5,400 large employers and 1.84 million nonemployers.

## Financing Small Business in the U.S. and Texas

Recent research published by SBA documents the continued trend of large institutions dominating the commercial, industrial and small business lending markets. Angel investment funds provide the largest source for seed and startup capital. According to the National Small Business Association’s (NSBA’s) 2013 Mid-Year Economic Report, a survey of more than 1,100 small-business owners, the number of small businesses obtaining loans from large banks has fallen compared to earlier surveys, while the number of small businesses securing community bank loans, credit union loans and credit card financing has stayed nearly constant.<sup>49</sup>

Small businesses borrow to purchase inventory and build financial assets. Types of debt include owner debt, government loans and money from family and friends. Other business debt may involve vendor financing, loans from a company to a customer that allow the customer to buy products from it. Depending on the purpose, small firms and entrepreneurs finance business operations through debt and equity. Leasing companies also provide loans that finance equipment for small business. Leasing allows small companies avoid tying up cash in equipment, making funds available for marketing, working capital or seasonal cash flow needs. Leasing also allows small businesses to fully expense lease payments as a rental providing valuable tax deductions.<sup>50</sup> Other types of small company borrowing include crowd funding, the selling of small amounts of equity to many investors.<sup>51</sup> Small businesses also may obtain hybrid capital in the form of securities such as trust-preferred securities.<sup>52</sup>

In 2013, small business borrowing totaled an estimated \$1 trillion annually in the U.S., with \$585 billion in outstanding small business bank loans and another \$422 billion in credit from finance companies. Typically, most small Texas businesses acquire capital through commercial bank loans, with the remainder securing financial support from small, local commercial lenders and other methods. Small-business startups may launch with the equity of individuals, nonprofit organizations and/or venture capital funding. According to the Small Business Administration, startups rely equally on the owners’ cash, bank credit and savings from relatives. The average small business owner applies about \$10,000 in startup capital.<sup>53</sup> A Kauffman Firm survey found that most high-tech firms’ startup capital, including debt and equity, averages about \$80,000.<sup>54</sup>

Established businesses finance operations through bank credit and owner investment. Small businesses, according to a National Small Business Association report, rely on credit cards as a third financing option after bank loans and saved earnings.<sup>55</sup>

## Credit Unions and Small Business Lending

Credit unions provided extra business lending in the financial crisis, partly in response to tightened bank lending standards. Research released by the Federal Reserve Board in September 2012, indicates that between 2007 and 2011, commercial bank loans to businesses fell by 11.1 percent while credit unions increased their loans to businesses by 54.5 percent.<sup>56</sup>



In 2013, small business borrowing totaled an estimated \$1 trillion annually in the U.S.

## Community Development Lending Across the U.S. and Texas

CRA guidelines encourage community development loans to provide support primarily for affordable housing for low- or moderate-income persons and for community services for these populations, including activities that foster economic development through small-business or small-farm loans. Community development corporations and related financial institutions use the loans to revitalize low- and moderate-income communities.

### Definition of Community Development: Benefits for Rural Areas

The federal banking and thrift regulatory agencies revised CRA regulations after the devastation left by hurricanes Katrina and Rita in 2005. Banks can now offer their CRA assessment areas more options for investments, services and loans. Revitalization or stabilization activities must help distressed or underserved nonmetropolitan, middle-income areas based on poverty rates, loss of employment and population density.

The Office of the Comptroller of the Currency defines middle-income geography as a Census-defined tract in which individual income is at least 80 percent and less than 120 percent of the area median income. The changes allow national banks to receive CRA credit for investments in communities affected by either of the two hurricanes, whether they are in their assessment areas or not. Examples of investment options include:

- affordable housing for low- and moderate-income persons;
- bank activities in rural areas that help stabilize or stimulate federally designated disaster areas;
- community services for low- or moderate-income persons;
- disaster recovery, including new house construction and house and manufactured housing repairs, to attract new businesses and residents and support existing ones;
- financing for new septic lines for low- and middle-income individuals; and
- loans for small-business or small-farm activities that stimulate designated disaster areas or defined non-metropolitan, middle-income areas that are underserved or distressed.

This applies to geographic areas in which median family income is at least 80 percent and less than 120 percent of the area median income.<sup>57</sup>

### Texas Community Development Block Grant Program (CDBG)

The 2011 Texas Legislature abolished the Texas Department of Rural Affairs (TDRA) and transferred the majority of its responsibilities to the Office of Rural Affairs at the Texas Department of Agriculture (TDA). The transfer was completed on Oct. 1, 2011. TDA's Office of Rural Affairs includes the Texas Community Development Block Grant Program (TxCDBG) unit and the Texas State Office of Rural Health.

The TxCDBG administered by TDA focuses on providing basic human needs and sanitary infrastructure to rural communities. Local needs eligible for financial assistance include clean drinking water, sanitary sewer systems, disaster relief and urgently needed projects including housing, drainage and flood control, navigable streets, economic development, community centers and other related activities.

*The federal banking and thrift regulatory agencies revised CRA regulations after the devastation left by hurricanes Katrina and Rita in 2005. Banks can now offer their CRA assessment areas more options for investments, services and loans.*

All proposed activities must meet one of the following three HUD National Program Objectives. They must principally benefit low- and moderate-income persons; aid in the elimination of slums; or meet other community development needs of particular urgency that represent an immediate health or safety threat to community residents.

The *TxCDBG Program* is the nation’s largest. HUD awarded the program \$59,537,991 for program year 2012 and \$62,566,661 for 2013.<sup>58</sup> The program serves 1,015 HUD-designated nonentitlement cities and 244 HUD-designated non-entitlement counties or rural communities. Non-entitlement cities are those with populations of fewer than 50,000; non-entitlement counties are those with fewer than 200,000 persons in their non-entitlement cities and unincorporated county areas. The *TxCDBG Program* provides services to more than 483,000 Texans annually.

The program’s primary objective is to develop viable communities by providing decent housing, suitable living environments and economic opportunities. More information can be found on TDA’s website. The following table identifies the amounts and purposes of funds TxCDBG administers.

**Texas Community Development Block Grant Program**  
**2013 CDBG Funding Summary**

Fund	Amount
Community Development Fund	\$38,609,886
Texas Capital Fund	\$9,078,423
Colonia Planning and Construction Fund	\$4,254,533
Colonia Economically Distressed Areas Program (EDAP) Fund	\$2,000,000
Colonia Self-Help Centers Fund	\$1,564,167
Disaster Relief/Urgent Need Fund	\$2,565,233
Planning and Capacity Building Fund	\$565,340
Small Towns Environment Program	\$1,952,079

Source: Texas Department of Agriculture.

**Texas CDBG Program Funds**

The *Community Development Fund* is the largest in the TxCDBG program. Every biennium, eligible cities and counties may apply through a regional competition for Community Development Fund assistance. Eligible activities include infrastructure projects such as drainage, sewer and water system improvements, housing rehabilitation and improvements to bridges and streets. Each of the 24 state planning regions receives an annual allocation based on its population, poverty and unemployment levels.<sup>59</sup>

The *Texas Capital Fund (TCF)* is used for projects that will create or retain permanent employment opportunities, primarily for low to moderate-income persons.<sup>60</sup>

The *Planning and Capacity Building Fund* provides assistance for planning activities that assess local needs. It also supports the development of strategies to address local needs or build or improve local capacity, as well as other necessary planning elements (including telecommunications and broadband needs).<sup>61</sup>

While TDA’s Office of Rural Affairs focuses most of its efforts on rural communities, several of its funds are directed specifically to the colonias, economically depressed, unincorporated residential areas along the Texas-Mexico border. About 400,000 Texans



The *TxCDBG (HUD) Program* is the nation’s largest, providing services to more than 483,000 Texans annually.

live in colonias that lack potable water, sewage systems, electricity, paved roads and sanitary housing.<sup>62</sup> Funds directed to county applicants for projects in these areas include the Colonia Construction Fund, Colonia Economically Distressed Areas Program Fund, Colonia Self-Help Centers Fund and Colonia Planning Fund.

The *Colonia Construction Fund* targets assistance to colonias located within 150 miles of the Texas-Mexico border. The fund is used primarily to construct safe, sanitary and cost-effective water and sewer facilities for colonias that lack basic infrastructure.<sup>63</sup>

The *Colonia Economically Distressed Areas Program Fund* is used to provide assistance to colonia areas connecting to a water and sewer system improvement project funded by the Texas Water Development Board's Economically Distressed Areas Program (EDAP). TxCDBG funds provide water or sewer connections/yard lines to water and sewer systems funded through EDAP.<sup>64</sup>

The *Colonia Self-Help Centers Legislative Set-Aside* is part of TDA's TxCDBG program, but is administered by TDHCA through an interagency agreement. The set-aside funds colonia self-help centers that provide assistance to low-income individuals and families in financing, refinancing, building, improving or maintaining safe, suitable homes in a designated colonia service area, in a county designated as economically distressed under the EDAP and eligible to receive EDAP funds. The colonias served by these centers must be located within 150 miles of the Texas-Mexico border.<sup>65</sup>



The *Colonia Planning Fund* provides financial assistance to eligible counties located within 150 miles of the Texas-Mexico border. Similar to the Planning and Capacity Building Fund, this fund also provides assistance for planning activities that assess local needs, develop strategies to address them and build or improve local capacity.<sup>66</sup>

The *Disaster Relief/Urgent Need Fund* provides assistance for eligible applicants to address situations of recent origin that were unanticipated and beyond their control. For disaster relief assistance, this means the application for assistance must be provided within 12 months from the date of a presidential or gubernatorial disaster declaration. For urgent-need assistance, the situation must have occurred or been discovered no more than 30 days prior to the date of a written request to TDA.<sup>67</sup> The applicant must demonstrate that local funds or funds from federal sources or another state source are not available to address the problem. The TxCDBG program often coordinates distribution of these funds with other state agencies.

The *Small Towns Environment Program (STEP)* provides funds to eligible applicants for water and sewer infrastructure improvements, utilizing self-help methods. The community must provide local volunteer labor and material resources such as equipment to demonstrate a 40 percent saving off the retail construction price of the project.<sup>68</sup>

### Texas State Office of Rural Health

TDA's Texas State Office of Rural Health serves 150 rural hospitals and benefits nearly 4 million rural Texans. The office's mission is to facilitate and coordinate the use of available resources to help rural Texans enhance their quality of life, achieve sustained economic growth and strengthen local healthcare systems and infrastructure. It works with local, state and federal partners to develop, support and coordinate programs and services improving access to health services in rural areas of the state. It also facilitates and guides efforts in rural health policy design, service planning, resource allocation and program implementation.<sup>69</sup>

### Jobs for Texas

TDA's Jobs for Texas (J4T) is an innovative program designed to increase small business' access to capital and enable private entrepreneurs to make market-driven decisions

TDA's Texas State Office of Rural Health serves 150 rural hospitals and benefits nearly 4 million rural Texans.

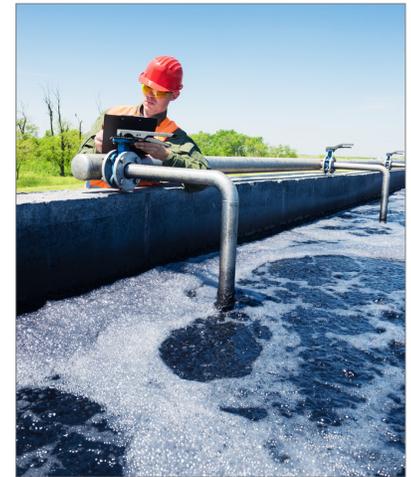
to grow jobs. The J4T program won a \$46.5 million award from the U.S. Department of the Treasury as part of the State Small Business Credit Initiative.

J4T is a venture capital investment program. Texas businesses and investors can use the program to increase the amount of funds available to qualifying small businesses, as defined by SSBCI. These funds will enhance economic development and private investment in Texas by helping small businesses grow and create jobs.

Investment proceeds can be used for any business purpose including startup costs, working capital, business procurement, franchise fees, equipment and inventory.

## Disaster Recovery Administration in Texas

- Since July 1, 2011, GLO has acted as lead state agency in managing disaster recovery grants through the U.S. Department of Housing and Urban Development (HUD). GLO also coordinated coastal cleanup following hurricanes Ike and Dolly. Disaster recovery efforts from Dolly and Ike assisted more than 11 million Texans in 62 counties.
- GLO continues administering two grants related to the 2011 wildfire disaster declarations. HUD directed 80 percent of its initial allocation of \$31,319,686 for use in Bastrop County, which used the money as matching funds for other federal recovery projects and fire station assistance. The 2011 wildfires destroyed more than 3,000 homes and burned at least 34,000 acres in Bastrop County. GLO assisted about 30 homeowners who qualified for housing programs. Since then, HUD has provided an additional \$5,061,000 for other projects. With a portion of the total funding provided, GLO awarded infrastructure grants to counties that participated in the competitive application process for Fire Protection and Infrastructure assistance.
- GLO's Disaster Recovery (DR) program has completed about 3,600 single-family homes, a number comprising about 47 percent of the households the agency anticipates assisting. About 45 percent (2,200) of the infrastructure projects across the disaster-affected regions are complete. GLO disbursed more than \$300 million in fiscal 2013, serving as a pass-through to local governments for recovery projects ranging from small generators to a \$65 million wastewater treatment plant.
- GLO continues to develop future disaster recovery plans, including a study to research the benefits of data sharing across state agencies with a role in disaster recovery activities. GLO's Cloud Feasibility Study proposes a centralized digital data warehouse to assist Texas citizens and local governments immediately following a disaster. If funded, the Cloud could maintain historical data, identify areas of need, locate applicants, streamline project implementation and minimize fraud, waste and abuse.
- GLO's Disaster Recovery staff also works with various stakeholders and groups on a Coastal Resiliency Study to investigate best practices and solutions for protecting the coast against the impacts of extreme weather and climate change. On June 14, 2014, the White House announced the "National Disaster Resilience Competition," a competition focusing on disaster rebuilding initiatives. The Resiliency Competition will award funding for project proposals. GLO's Disaster Recovery program will be Texas' entry. Visit GLO's website at [www.glo.texas.gov](http://www.glo.texas.gov) for more disaster recovery information or call the agency at (844) 893-TXDR.



GLO disbursed more than \$300 million in fiscal 2013, serving as a pass-through to local governments for recovery projects ranging from small generators to a \$65 million wastewater treatment plant.



# Community Reinvestment and State Agency Programs

## Banking

The federal Community Reinvestment Act of 1997 provides the framework for financial institutions to jointly promote banking services to all members of the community. The act encourages efforts to meet the credit needs of all community members, including residents of low- and moderate-income (LMI) neighborhoods.

Banks can earn CRA credit in a variety of ways, through lending, investments or low cost products/services designed to meet community needs. For example, a bank can qualify for CRA credit by offering qualifying programs or products including low-cost bank accounts or free government check for LMI consumers. Other examples include making qualified home mortgages and small-business loans and providing financial literacy programs to the community.

In recent years, banks have begun allowing customers to conduct banking transactions online or through a mobile device such as a smartphone or tablet. Such technological advances can arguably be seen as a benefit to customers and banks in terms of their potential to lower costs, reduce fees, provide options for retail delivery and improve access to financial services, especially for those in LMI markets. Over time, some previously underserved markets have become better served due to these initiatives.

Another way in which banks can earn CRA credit is by operating in LMI areas. As an incentive, and pursuant to 7 TAC §15, the Texas Department of Banking waives corporate fees for applicants that plan to serve LMI areas. Although de novo state-charter banking activity has been virtually nonexistent in the last few years, merger and acquisition applications have persisted.

Since January 2010, eight financial institutions have converted to a state bank charter. Between January 2010 and November 2013, Texas gained more than 200 state-chartered bank branch locations, lifting the total to 2,249 locations. Improvements to Texas state law regarding branching combined with the state's economy, central geographic location and strong demographics have made Texas an attractive banking market. With added banking opportunities, institutions are more likely to expand into LMI areas.

The Texas DOB assesses how well banks are meeting the needs of their communities through funding of affordable housing projects, loans to LMI businesses and individuals and projects compliant with the CRA. As part of the examination process, the agency follows up on CRA performance of the state banks it oversees and the findings of CRA examinations conducted by federal regulators.



Between January 2010 and November 2013, Texas gained more than 200 state-chartered bank branch locations, lifting the total to 2,249 locations.

### Texas and Financial Literacy

The Corporation for Enterprise Development (CFED) is a national nonprofit organization intended to advance policies and programs that help LMI households build and preserve assets. CFED published The 2013 Asset & Opportunity Scorecard, which continues to be the most comprehensive tool available to measure Americans’ financial security at the state level. The following statistics were gathered for Texas. The data include all 50 states and the District of Columbia, with a ranking of first being the most desirable. Texas ranked:

- 49th in consumer subprime credit
- 50th in unbanked households
- 51st in non-elderly population (under 65) without health insurance
- 51st in population 25 years or older who do not have at least a high school degree or GED

The Texas Department of Banking actively promotes financial education. Its financial education mission statement is:

*Bankers helping Texans in making informed decisions about budget, credit, asset-building, savings and debt management through financial education.*

To encourage financial education by state-chartered banks, the Texas Finance Commission adopted a 2008 rule regarding in-school banking programs called COMET (Center of Monetary Education for Texans). The rule matches an FDIC rule with the exception that in-school banks are referred to as COMETs.

DOB participates in several financial literacy initiatives across Texas to bring financial education champions and their communities closer together. These include:

- Alliance for Economic Inclusion (FDIC sponsored)
- “Bank On” Programs in Texas
- Financial Fitness Greater Austin
- Houston Money Week
- Texas Financial Education Endowment
- Texas Financial Literacy in Public Schools and the Community

DOB also works with banking trade associations on financial literacy initiatives. Its Annual Financial Literacy Summit, co-hosted by the Independent Bankers Association of Texas Education Foundation and the Texas Bankers Foundation, offers attendees the opportunity to learn about the critical challenges, opportunities and best practices in promoting financial education to all Texans. The DOB commissioner and the agency’s financial education coordinator participate annually.

As a service to state-chartered banks, DOB’s financial education coordinator conducts one-on-one visits with banks seeking to learn best practices and ways to increase their community involvement through financial education. These talks include the specific needs of bank CEOs and presidents as well as possible solutions that can assist them in targeting a particular segment of the community. The bank also receives a financial education “tool kit” containing the most up-to-date financial literacy materials published by the FDIC, the Federal Reserve and Junior Achievement.



DOB also hosts quarterly financial education events including meetings, teleconferences and webinars dedicated to encouraging community reinvestment. Their goal is to provide innovative ideas, best practices and examples of successful financial education programs. Each session targets financial institutions, government agencies, nonprofit organizations, teachers, individuals and community leaders who have an interest in providing consumer education and improving financial literacy in their communities. Teleconferences and web-based training have resulted in increased participation for banking professionals located out of state and in rural and remote areas of Texas. Topics presented in the past include “Building Wealth App,” “Fraud and Identity Theft for Seniors” and “Strategies to Meet Bank CRA Requirements through Junior Achievement.”

DOB’s financial literacy coordinator provides tools and program startup materials for educational programs. The department also provides consumer assistance through its website, which contains instructions on how to file a complaint as well as a toll-free number and email address for the consumer assistance area. Financial literacy and other consumer topics are also addressed in periodic agency publications. For information on financial education issues in Texas visit the Texas Department of Banking’s website at [www.dob.texas.gov](http://www.dob.texas.gov).

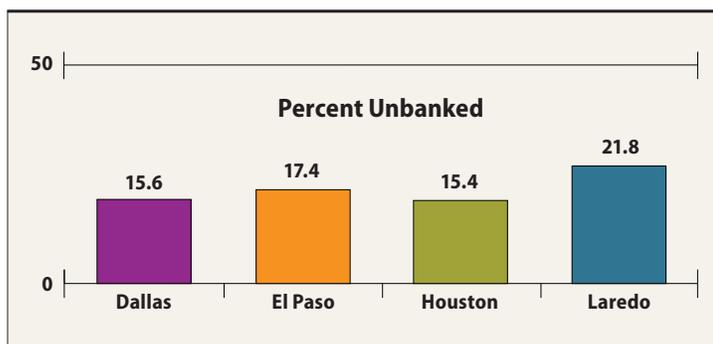
## Unbanked Cities in Texas Compared to the U.S.

The unbanked tend not to use traditional financial products or services such as checking or savings accounts. According to the Corporation for Enterprise Development, nearly half of all U.S. households have little or no savings, placing them on the “edge of collapse” in the event of an income-depleting emergency, health crisis or job loss.<sup>70</sup> In 2013, according to the 2013 FDIC National Survey of Unbanked and Underbanked Households, almost 9.6 million (7.7 percent) of U.S. households were “unbanked” meaning they did not have an account at an insured financial institution. Another 24.8 million households (20.0 percent) were “underbanked.” The underbanked also may use alternate financial services such as check-cashing businesses, payday loans, pawnshops and rent-to-own agreements. Unbanked rates declined in Texas to 10.4 percent in 2013, down from 12.8 percent in 2011.

The geographic distribution of unbanked and underbanked households varies by region. Most unbanked places in the U.S. are in rural areas and small towns. In 2013, the Midwest had the lowest percentage of unbanked (6.4 percent) and underbanked (16.9 percent) households while the Southern region had the highest unbanked (9.2 percent) and underbanked (23.5 percent) households. Texas ranks fifth among the top five unbanked states, with three of the top unbanked large cities and the top unbanked mid-sized city.<sup>71</sup>

*Texas is fifth among the top five unbanked states, with three of the top unbanked large cities and the top unbanked mid-sized city.*

### Unbanked Cities in Texas



Source: Corporation for Enterprise Development.

Texas has 36 of the top 100 most unbanked cities with more than 250 households, followed by Mississippi (17), Arizona (10), Louisiana (6), Alabama (5) and New Mexico (5). Among counties with 100,000 or more households, Texas has five of the most unbanked — Hidalgo, Cameron, El Paso, Dallas and Harris counties.

## Economic Development

Texas invests in its future by offering competitive incentives to companies that create jobs and drive innovation in the state. The Texas Governor's Office of Economic Development and Tourism (EDT) and its Bank Division administer economic development projects that benefit private companies and the communities in which they choose to relocate or expand. These programs include the Texas Enterprise Fund, Texas Emerging Technology Fund, Texas Product/Business Fund, Texas Industry Development Loan Program, Texas Enterprise Zone Program, Texas Leverage Fund and Texas Industrial Revenue Bonds.

### Texas Enterprise Fund

The Texas Enterprise Fund (TEF) is the nation's largest "deal-closing" fund of its kind. The fund provides cash grants for projects that propose significant job creation and capital investment. The fund is used only as a final incentive tool when a single Texas site is competing with a viable out-of-state option. Use of the TEF is considered only to help close deals that already have significant local support.

Award amounts are determined using an analytical model applied to each TEF applicant. This model determines whether Texas will see a full return on its investment within the period of a project contract due to the resulting increase in sales tax revenues. Variations in award amounts are influenced by the number of jobs to be created, the expected timeframe for hiring and the average wages to be paid. In the past, awards have ranged from \$194,000 to \$50 million.

### Texas Emerging Technology Fund

The Texas Emerging Technology Fund (TETF) is a cash grant program designed to help Texas create jobs and grow its economy over the long term by expediting the development and commercialization of new technologies and attracting and creating jobs in technology fields. The program works through partnerships among the state, higher education institutions and private industry to focus greater attention on the research, development and commercialization of emerging technologies.

### Texas Product/Business Fund

The Texas Product/Business Fund is a revolving loan fund financed through original bond issues. Its primary objective is to aid in the development, production and commercialization of new or improved products and to foster and stimulate small business in the state. Preference for funding is given to the state's defined industry clusters: nanotechnology, biotechnology, biomedicine, renewable energy, agriculture and aerospace. Job creation and retention within Texas are also funding priorities.

The Texas Product/Business Fund is an asset-based lending program with flexible loan terms and competitive interest rates. The loans can be secured by property, plant and equipment (PP&E) and amortized over the life of the asset. Loan proceeds can be used for a broad range of capital and operating expenditures. The Texas Economic Development Bank administers the Texas Product/Business Fund at the direction of the governor's nine-member appointed board of directors.

*Texas invests in its future by offering competitive incentives to companies that create jobs and drive innovation in the state.*

## Texas Leverage Fund

Introduced in 1992, the Texas Leverage Fund (TLF) provides an additional financing source for communities that have adopted an economic development 4A or 4B sales tax. Communities may leverage future sales tax revenues to support job retention or creation. Loan proceeds must be used to pay eligible costs of projects, as defined by the Development Corporation Act of 1979 as amended. Under the act, examples of eligible projects include land, buildings, machinery and equipment for manufacturing and industrial operations as well as sports, athletic, entertainment and public park purposes and events.

Available for interim, long-term or gap financing, TLF loans provide flexible terms to match communities' unique needs, with maturities of five, 10 or 15 years available. Generally, economic development corporations (EDCs) are eligible to borrow four to five times their annual economic development 4A or 4B sales tax revenues, up to \$5 million. TLF loans are low cost, providing capital to communities at the floating prime rate published in the Wall Street Journal. Future sales tax revenues serve as collateral for loan repayment with required debt service coverage ratios specified in the Texas Leverage Fund Program Guidelines. Pledged tax collections not needed for actual debt service are available for other projects.

## Industrial Revenue Bond Program

The Texas Industrial Revenue Bond Program (IRB) is designed to provide tax-exempt or taxable financing for eligible industrial or manufacturing projects as defined in the Development Corporation Act of 1979.<sup>72</sup> This act allows cities, counties and conservation and reclamation districts to form nonprofit industrial development corporations (IDCs) or authorities on their behalf. The purpose is to provide bonds for projects within their jurisdictions; the IDC acts as a conduit through which funds are channeled. Generally, bond debt service is paid by the business under the terms of a lease, sale or loan agreement, and does not constitute a debt or obligation of the governmental unit, the IDC or the state.

The IDC issuing the bonds must pass a declaration of official intent resolution (tax-exempt only) and a bond resolution approving the project; set the bond amount; and make findings required by state law. In addition, the governmental unit of the IDC must pass a resolution that approves the corporate resolution and the project. All terms of the bond sale are negotiated among the appropriate parties, with documents prepared by legal counsel.

## Enterprise Zone Program

The Texas Enterprise Zone Program (EZP) is an economic development sales tax incentive partnering the state and local governments to support local employment and business investment. The EZP is performance-based and allows qualified businesses to receive refunds of state sales and use taxes ranging from \$2,500 to \$7,500 per job created and/or retained during a five-year period, up to a maximum of \$3.75 million. The amount of the refund is related to the capital investment and jobs at the qualified business site.

## Housing

The Texas Department of Housing and Community Affairs provides a continuum of housing support programs for low- and moderate-income individuals and households, including homelessness assistance, rent-subsidized apartments and rental assistance, home rehabilitations, weatherization and disaster recovery.<sup>73</sup>

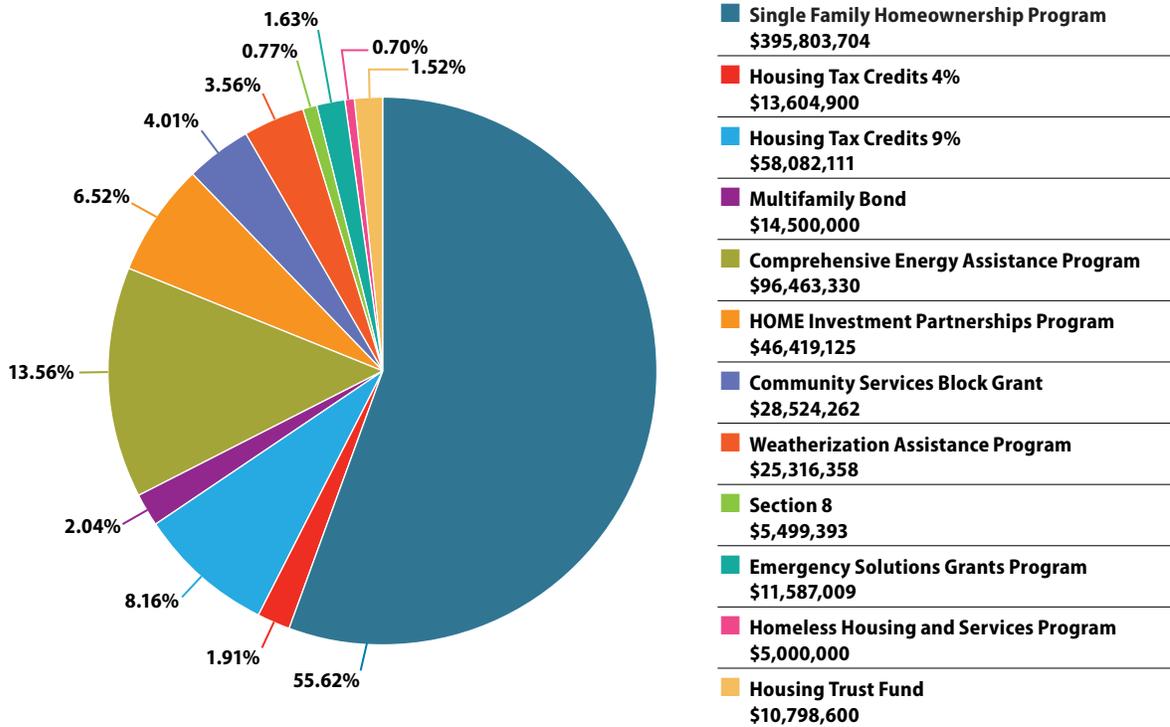


The Texas Enterprise Zone Program (EZP) is an economic development sales tax incentive partnering the state and local governments to support local employment and business investment.

TDHCA administered \$711.6 million in such funding in state fiscal 2013. Federal sources provided approximately 98 percent of this funding and tax credit assistance.<sup>74</sup> With the exception of the Section 8 Housing Choice Voucher Program, TDHCA administers programs and services through a network of organizations across Texas and does not fund individuals directly. More than 99 percent of the households/individuals served by TDHCA housing programs in fiscal 2013 had incomes between 31 and 60 percent of the area median family income.<sup>75</sup>

### Total Funding By Program FY 2013

Total Funds Committed: \$711,598,793



Activity	Funds	Percent
Single Family Homeownership Program	\$395,803,704	55.62%
Housing Tax Credits 4%	\$13,604,900	1.91%
Housing Tax Credits 9%	\$58,082,111	8.16%
Multifamily Bond	\$14,500,000	2.04%
Comprehensive Energy Assistance Program	\$96,463,330	13.56%
HOME Investment Partnerships Program	\$46,419,125	6.52%
Community Services Block Grant	\$28,524,262	4.01%
Weatherization Assistance Program	\$25,316,358	3.56%
Section 8	\$5,499,393	0.77%
Emergency Solutions Grants Program	\$11,587,009	1.63%
Homeless Housing and Services Program	\$5,000,000	0.70%
Housing Trust Fund	\$10,798,600	1.52%
<b>Total</b>	<b>\$711,598,793</b>	<b>100.00%</b>

Source: Texas Department of Housing and Community Affairs.

The TDHCA Housing Support Continuum includes (1) Poverty and Homelessness Prevention, (2) Rental Assistance and Multifamily Development, (3) Homebuyer Education, Assistance and Single-Family Development, (4) Rehabilitation and Weatherization, and (5) Disaster Relief. Foreclosure Mitigation was phased out starting 2014 due to a reduction in stimulus funding through the Housing and Economic Recovery Act (HERA) of 2008 and American Recovery and Reinvestment Act (ARRA) of 2009.

### Homelessness and Poverty-Prevention Services

For Texans who are homeless or are facing the prospect, TDHCA offers several assistance programs, including the *Emergency Solutions Grants Program*, which funds organizations that renovate buildings for use as shelters or that provide homelessness prevention services. Emergency Solutions Grant funds are allocated according to the percentage of poverty population identified in each of TDHCA's 13 uniform state service regions. In fiscal 2013, TDHCA awarded approximately \$11.6 million to serve 47,889 individuals.<sup>76</sup>

The *Homeless Housing and Services Program* assists major urban areas (identified in statute) to provide services to homeless individuals and families. Homeless Housing and Services Program funding covers case management, construction of facilities, direct services, homelessness prevention, housing retention and rental assistance to eight of the state's largest cities with populations of more than 285,500. The 2013 Legislature identified \$10 million in General Revenue funds for the 2014-2015 biennium. TDHCA awards funds through a competitive matching grant process to eight of the state's largest cities with populations larger than 285,500 persons, per the latest U.S. Census figures. In fiscal 2013, TDHCA awarded \$5 million in Homeless Housing and Services Program funds and served 13,721 individuals.

TDHCA's *Comprehensive Energy Assistance Program (CEAP)* funds programs that provide utility assistance to households with incomes at or below 125 percent of federal poverty guidelines. Some low-income households can qualify for grants to repair, replace or retrofit inefficient heating and cooling appliances through the CEAP. More than \$96.5 million in CEAP funding was expended in fiscal 2013, serving 212,497 individuals.

To help lower-income persons retain their housing, TDHCA provides administrative funds through the *Community Services Block Grant Program* to community action agencies (CAAs), which may be units of local government or stand-alone nonprofit entities. CAAs offer services that can be essential to preventing homelessness, such as child care, health and human services, job training, farm worker assistance, nutrition services and emergency assistance. In fiscal 2013, TDHCA expended more than \$28.5 million in *Community Services Block Grant* funds to serve 388,388 individuals.<sup>77</sup>

### Rental Assistance

TDHCA offers a wide range of rental assistance for low-income Texans, including rent payments and subsidized developments that offer reduced rent.

The *Section 8 Housing Choice Voucher Program* provides rental assistance payments on behalf of low-income households whose incomes do not exceed 50 percent of area median federal income guidelines (AMFI). The federal government requires that 75 percent of all new households admitted to the program be at or below 30 percent of the federal AMFI. Qualified households may select their residences through direct negotiations with landlords and TDHCA will pay approved rent subsidies directly to the property owners. In fiscal 2013, TDHCA committed nearly \$5.5 million for the program, serving 946 households.



The *Emergency Solutions Grants Program* funds organizations that renovate buildings. In fiscal 2013, TDHCA awarded approximately \$11.6 million to serve 47,889 individuals.

The *HOME Investment Partnerships (HOME) Program* offers grants and loans to local governments, nonprofit agencies, for-profit entities and public housing agencies that provide safe, decent and affordable housing to low-income families. HOME has a 15 percent set-aside for community housing development organizations and a 5 percent set-aside for people with disabilities. The program also offers Tenant-Based Rental Assistance that subsidizes rent for low-income Texans, and Multifamily Rental Housing Development funds used in development or maintenance of affordable housing. In fiscal 2013, TDHCA committed more than \$19.2 million for rental activities.<sup>78</sup>

TDHCA's *Multifamily Mortgage Revenue Bond Program* is a conduit issuer for the state of Texas, with authority to issue tax-exempt and taxable Multifamily Mortgage Revenue Bonds. The bonds are used to fund loans to for-profit and nonprofit developers for the acquisition and rehabilitation or new construction of affordable rental developments. The Multifamily Bond Program is coupled with the Non-competitive (4 percent) Housing Tax Credit Program when the bonds finance at least 50 percent of the cost of land and buildings in the development. Bond pre-applications are accepted on a monthly basis. In fiscal 2013, more than \$13.6 million was issued to build or rehabilitate 4,014 reduced-rent units.

The *Housing Tax Credit Program* provides a tax credit to developers of low-income rental housing that offsets a portion of their federal tax liability in exchange for production or preservation of affordable rental housing. There are two types of tax credits, Competitive (9 percent) and Non-Competitive (4 percent). For the highly competitive 9 percent tax credit program, applications are scored and ranked within their region or set-aside and in accordance with rules and laws outlined in the Qualified Allocation Plan (QAP). TDHCA committed more than \$58 million in 9 percent housing tax credits to assist 4,971 households in fiscal 2013.<sup>79</sup>

*TDHCA's Homeownership Division offers the My First Texas Home Program and Mortgage Credit Certificate Program, both of which are funded through the sale of mortgage-backed securities.*

### Homebuyer Assistance and Single-Family Development

In 1999, TDHCA created the *Texas Statewide Homebuyer Education Program* to provide information and counseling to prospective homebuyers. The program aims to bring comprehensive homebuyer education to all 254 Texas counties and promote the uniform quality of homebuyer education provided throughout the state. TDHCA, in conjunction with its governing board, decided to transfer the program's day-to-day administration to the Texas State Affordable Housing Corporation (TSAHC) on September 1, 2012. TDHCA continues to provide a portion of the funding for the program and will remain engaged and provide oversight on an ongoing basis.

TDHCA's *Colonia Self Help Center Program* provides homebuyer education as well as outreach and technical assistance to colonia residents. Colonia Self Help Centers provide technical assistance in credit and debt counseling, housing finance, contracting for deed conversions and capital access for mortgages, as well as in grant writing, housing rehabilitation, new construction, surveying and platting, construction skills training, solid waste removal, tool library access for self-help construction and infrastructure construction and access. In 2014, the Colonia Self Help Centers plan to serve 35 colonias.

TDHCA's *Texas Bootstrap Loan Program* provides funds to purchase or refinance real property on which to build new residential housing or improve existing residential housing. At least two-thirds of loans made in each fiscal year must be made to borrowers whose property is in a census tract that has a median household income that is not greater than 75 percent of AMFI. Funding for fiscal 2014 is approximately \$3 million.

TDHCA's *Homeownership Division* offers the *My First Texas Home Program* and *Mortgage Credit Certificate Program*, both of which are funded through the sale of mortgage-backed securities. The *My First Texas Home Program* provides competitive interest rate mortgage

loans and down-payment assistance for qualified individuals and families with gross annual household income not exceeding 115 percent of the AMFI or 140 percent of AMFI in a targeted area. New guidelines require that the home price must not exceed specific maximum purchase price limits. TDHCA expects funding for fiscal 2014 to reach \$300 million. TDHCA reserves 30 percent of program funds for households earning 80 percent or less of the program income limits.<sup>80</sup>

The *Mortgage Credit Certificate (MCC) Program* reduces the federal income taxes, dollar for dollar, of buyers purchasing a residence. The annual tax reduction can cover up to 35 percent of the annual interest paid on a mortgage loan, up to \$2,000. Tax reduction in excess of a borrower's current year tax liability can be carried forward for up to three years. The MCC is available for households whose income does not exceed 115 percent of AMFI. Projected Texas funding for MCCs is \$150 million for fiscal 2014.<sup>81</sup>

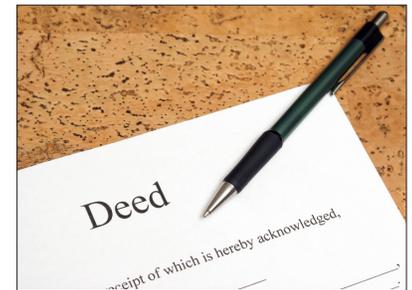
To assist low-income households with down payments and closing costs, HOME allocates funds through the *Homebuyer Assistance Program*. Funds also may be available to perform accessibility modifications to newly purchased homes, and to address housing issues arising from state- or federally declared disasters. In addition to homebuyer assistance, the HOME Programs' Single Family Development activity provides funding to community housing development organizations that can apply for loans to develop single-family affordable housing for households at or below 80 percent AMFI. These organizations also can apply for homebuyer assistance if they are the owner or developer of the housing project. TDHCA committed more than \$9.7 million for owner financing and down-payment assistance in fiscal 2013.<sup>82</sup>

HOME's *Contract for Deed Conversion Program* provides funds to convert eligible contracts for deed into traditional mortgages. This is achieved by offering assistance to eligible colonia residents for the acquisition, rehabilitation, new construction or reconstruction of properties. All conversions must be used for families that reside in a colonia and earn up to 60 percent AMFI. The Housing Trust Fund's *Contract for Deed Conversion Program Assistance Grants* support nonprofits and units of local government in assisting eligible colonia households to convert their contracts for deeds to warranty deeds. All conversions must be used for families that reside in a colonia and earn up to 60 percent of the AMFI.

## Rehabilitation and Weatherization

The *Housing Trust Fund* provides funds for the rehabilitation of single-family homes, primarily through the *Amy Young Barrier Removal Program*. These grant funds allow for reasonable accommodation or modification for rental tenants, homeowners or household members with disabilities who need assistance to fully use their homes. The program provides one-time grants of up to \$15,000 for home accessibility modifications, and up to an additional \$5,000 in other rehabilitation costs correlated with the barrier removal project. TDHCA spent nearly \$10.8 million on *Housing Trust Fund* single-family home rehabilitation activities in fiscal 2013.

HOME's *Homeowner Rehabilitation Assistance Program* provides assistance to homeowners for the repair or reconstruction of existing homes used as principal residences. At the completion of the assistance, all properties must meet, as applicable, the Texas Minimum Construction Standards, the International Residential Code (IRC) and local building codes. If a home is reconstructed, the applicant also must ensure compliance with the universal design features in new construction established by §2306.514 of the Texas Government Code. The *HOME Program* committed more than \$17.5 million to this activity in fiscal 2013.



HOME's *Contract for Deed Conversion Program* provides funds to convert eligible contracts for deed into traditional mortgages.

TDHCA's *Weatherization Assistance Program* provides cost-effective weatherization measures to improve the energy efficiency of income-eligible client households. Typical weatherization measures include attic and wall insulation, weather-stripping and air sealing measures, heating and cooling unit repair and/or replacement, replacement of inefficient appliances such as refrigerators and minor repairs to allow energy-efficient measures to be installed. The program also provides energy conservation education to empower clients to continue reducing their energy burden. In fiscal 2013, the program spent \$25 million for nearly 5,100 households.

### Disaster Recovery and Relief

TDHCA offers disaster recovery programs to address the essential needs of persons displaced by natural disasters and speed community recovery. When natural disasters strike, low-income homeowners and renters often are the most severely affected and the last to recover.

TDHCA reserves a portion of the State's annual Community Service Block Grant discretionary funds to provide emergency disaster relief to income-eligible persons who live in communities impacted by a natural or man-made disaster. The Community Service Block Grant emergency disaster relief funds are distributed to eligible entities and are to be used to provide emergency shelter, food, clothing, pharmaceutical supplies, bedding, cleaning supplies, personal hygiene items and the replacement of essential appliances including stoves, refrigerators and water heaters.



Many homeowners look to TDHCA for recovery aid when they have no other assistance or when they need gap financing after receiving federal assistance. TDHCA may use de-obligated HOME funds for disaster relief awards through the Homeowner Rehabilitation Assistance, Homebuyer Assistance and Tenant-Based Rental Assistance programs in communities that do not receive HOME funds directly from the federal government. HOME disaster funds are designed to assist eligible homeowners who are affected by a disaster, especially those with no other means or assistance, or to serve as gap financing after any federal assistance. Assisted homeowners must have an income that is below 80 percent of AMFI.

TDHCA's *Weatherization Assistance Program* provides cost-effective weatherization measures to improve the energy efficiency of income-eligible client households. In fiscal 2013, the program spent \$25 million for nearly 5,100 households.

### TDHCA Programs, Fiscal 2013

Program	Amount Expended or Committed in Fiscal 2013
Emergency Solutions Grant Program	\$11.6 million
Comprehensive Energy Assistance Program	\$96.5 million
Community Service Block Grant Program	\$28.5 million
Homeless Housing and Services Program	\$5 million
Section 8 Housing Choice Voucher Program	\$5.5 million
HOME Investment Partnerships Program (all activities)	\$46.4 million
Multifamily Mortgage Revenue Bond Program (all activities)	\$14.5 million
Housing Tax Credit Program (all activities)	\$71.7 million
Single-Family Bond (all activities)	\$395.8 million
Housing Trust Fund (all activities)	\$10.8 million
<b>Total</b>	<b>\$711.6 million</b>

## Insurance

The Texas Department of Insurance regulates the Texas insurance market, which includes more than 1,900 insurance companies, health maintenance organizations and other insurance risk-bearing carriers. TDI's functions include regulating the financial solvency of insurance companies, regulating policies and rates and providing consumer protection services.

Under state law, TDI prepares a biennial *Community Investment Report*<sup>83</sup> on investments made in Texas by life and health insurance companies with \$10 million or more in Texas premiums. A total of 238 companies met these criteria and accounted for more than 97 percent of the total life and annuity premiums collected in Texas in calendar 2013.

TDI's latest biennial *Community Investment Report*, released in November 2014, identified \$68 billion in Texas investments made by these insurers for 2013. Ninety-four percent of reported investments were in political subdivision/public utility bonds, commercial and farm mortgages, real estate and corporate bonds. The largest amounts by category were commercial and farm mortgages (\$27.4 billion), corporate bonds (\$29.9 billion) and political subdivision/public utility bonds (\$14.8 billion). Out of \$68 billion in investments statewide, Texas life and health insurance companies voluntarily reported more than \$1.5 billion directed to economically advantaged areas. Of reporting insurers providing information on investments in economically disadvantaged areas, commercial and farm mortgages accounted for 74 percent of related investments in such regions, followed by \$188 million in real estate investments.

These amounts, however, are not comprehensive, since many of the reporting companies cannot link their investments to an individual state. This is also the case with pooled investments.<sup>84</sup>

Insurance companies' residential mortgage investments are frequently made through pooled investments; comprehensive data are not available for this category. Due to the difficulty involved in linking some corporate bond investments to specific states, reporting for that category is optional. Furthermore, Texas investments made by property and casualty insurance companies are not included in the above amounts because they are not subject to the statute requiring these reports. Additional information about investments made in 2013 can be found in the 2014 *Community Investment Report*, available on the TDI website at [www.tdi.texas.gov](http://www.tdi.texas.gov).

TDI attempts to ensure that property insurance remains available and affordable since it is a key to homeownership for millions of Texans. Homeowner's insurance is required on properties that carry liens, so a shortage of available insurance can directly affect a person's ability to purchase a property.

These concerns led to the implementation of the state's Fair Access to Insurance Requirements (FAIR) Plan. The Texas FAIR Plan Association (TFPA) is an entity established by Texas Insurance Code §2211 to provide residential property insurance to qualified Texas citizens who cannot obtain coverage from licensed insurance companies. This alternative market is a residual market of last resort and is not intended to compete with the standard property insurance market.

Consumers who have been declined residential property insurance by at least two insurance companies in Texas may apply for coverage. Limited coverage is available for one- and two-family dwellings, townhouse units and condominium units that are owner-occupied, as well as for rental dwellings (one- and two-family) and their contents, and the personal property of tenants living in rental dwellings or apartments. The FAIR

*TDI's latest biennial community investment survey identified \$68 billion in Texas investments by health and life insurers for 2013.*

plan's current insured liability is more than \$21 billion as of March 31, 2014, most of it in Tier 2 coastal communities. The FAIR plan generated \$122.6 million in Texas premiums in 2013.

Another residual market, the Texas Windstorm Insurance Association (TWIA), provides wind and hail coverage in the 14 Texas Tier 1 coastal counties and certain portions of Harris County that have been designated as a catastrophe area. A number of regular insurance companies have ceased writing wind and hail risks in the coastal areas due to concerns about hurricanes. TWIA provided about \$84.9 billion in coverage as of March 31, 2014. TWIA generated \$472.7 million in Texas premiums in 2013.<sup>85</sup>

## Certified Capital Company State Economic Development (CAPCO)

The Comptroller's office and the Texas Treasury Safekeeping Trust Company administer the \$400 million Texas Certified Capital Company (CAPCO) program. The CAPCO Program I and Program II goals have been to provide alternative sources of venture capital to Texas entrepreneurs. Unlike typical venture capital funds, the rules governing the types of businesses and the structures of CAPCO investments are targeted and restricted. The CAPCO program is authorized by Texas Insurance Code §228.001-353. CAPCOs are government-sponsored, private venture capital companies.

Funded by insurance premium tax credits, the CAPCO program supports economic development and generates tax revenues for the state by encouraging business growth and job creation. During 2005, 10 Texas CAPCOs were certified by the CAPCO program administrators to raise \$200 million through the issuance of certified capital tax notes or "qualified debt instruments" to insurance companies. In 2007, a second round of premium tax credits was authorized and nine CAPCOs were certified to raise \$200 million (Program II).

Insurance companies that invest in a CAPCO may claim their investments, dollar for dollar, as a reduction or credit against taxes they owe on the premiums they collect from businesses and individuals. In return for their investments in Program I and Program II, more than 100 participating insurance companies receive premium tax credits equal to 100 percent of the amount of their investments.

A unique feature of Texas' CAPCO statute is the deferral of these premium tax credits. Initially issued in 2005, the credits could not be used until the filing of 2008 premium tax returns due March 1, 2009. Also, the tax credits may not all be used in a single year. The law requires the credits to be taken at an annual rate no greater than 25 percent of the initial certified capital invested; no more than \$50 million in credits may be used in any one year by all investors. For tax years 2008 through 2015, the total \$400 million in tax credits may be used by Texas insurance investors at the rate of \$50 million per year. Any unused credits can be carried forward indefinitely.

Once CAPCO managers have access to investor cash, Texas law requires that they start to deploy the money by investing in qualified Texas businesses. By law, a CAPCO must invest 30 percent of its certified capital within three years of funding and 50 percent by the end of the fifth year. A CAPCO also must invest 25 percent of its certified capital in operations defined as early-stage businesses and 15 percent in businesses with principal operations in strategic investment areas or low-income communities.



CAPCOs may ask the Comptroller's office to determine whether their investments are qualified under the program rules by submitting a "Request for Determination as a Qualified Business" and providing the information it has gathered on the business, including its plan of operations and plans for future expansion. The request may be denied if the Comptroller's office determines that the proposed investment is not consistent with the CAPCO's investment strategy or investment criteria as approved by the Comptroller at certification.

By January 31 of each year, CAPCOs must pay a nonrefundable renewal fee of \$5,000 and submit a report to the Comptroller's office detailing the amount of qualified investments made during the preceding year, the number of jobs retained and created during the preceding year; the industrial sector, size and location of each active business investment; and any other information the Comptroller's office may require. The Comptroller's office then conducts a review of each CAPCO to ensure it complies with program requirements. By Dec. 15 of each even-numbered year, the Comptroller's office publishes a report on CAPCO-related job creation and program data to the governor, lieutenant governor and speaker of the Texas House of Representatives. For details on CAPCO's Certified Capital Received and Reporting Status for Program I and Program II, visit the Texas Comptroller's website at [www.window.state.tx.us/capco/](http://www.window.state.tx.us/capco/) to view the latest CAPCO Report.

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*The Comptroller's office and the Texas Treasury Safekeeping Trust Company administer the Texas Certified Capital Company (CAPCO) program. For tax years 2008 through 2015, the total \$400 million in tax credits may be used by Texas insurance investors at the rate of \$50 million per year.*

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# Community Development Corporations in Texas

Financial institutions comply with CRA requirements by making loans to low- and moderate-income borrowers for homes, home improvement projects and small-business ventures. Banks and savings and loans receive favorable credit toward CRA examination ratings by extending loans to and making investments in community development corporations.

CDCs provide affordable housing loans for low-income borrowers, manage loan funds for housing development and help residents plan and track new investments in safe, sanitary and affordable housing and home reconstruction to meet local building codes in low-income rural areas. They also find and evaluate home financing and deliver financial literacy education, tenant counseling, senior citizen programs and community organizing activities to Texas communities in need.



CDCs provide affordable housing loans and track new investments.

# Community Reinvestment Issues and Initiatives

## Financial Literacy in Texas: Survey Results, Legislation, Private- and Public-Sector Outreach

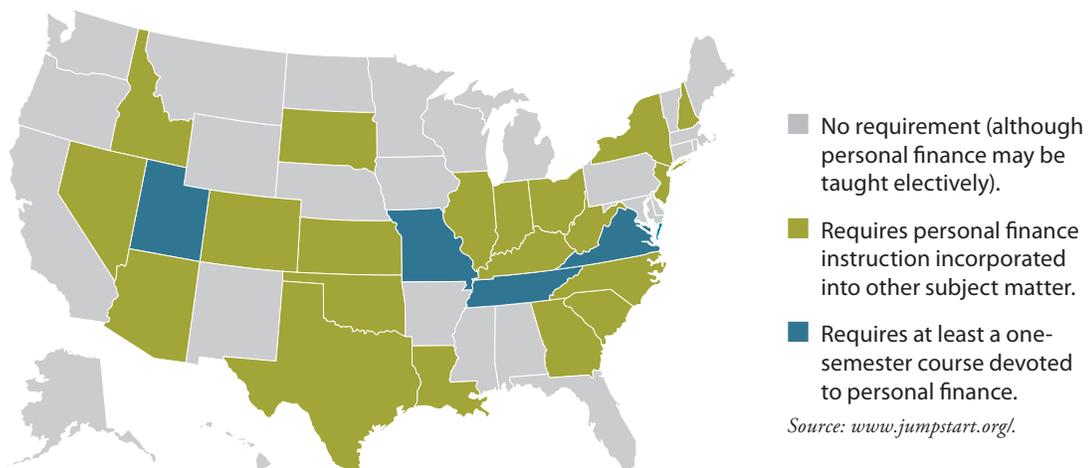
Until recently, financial literacy education was a relatively low public policy priority in the U.S. and particularly in Texas, despite efforts by banks, Junior Achievement programs and some privately funded activities. As of 2013, 13 states required students to pass an economic course with a personal finance component or a personal finance course to graduate. Required testing in basic financial concepts was also a condition of graduation in five states and 46 states include personal finance in curriculum standards. Massachusetts and Vermont started “financial capability trust funds,” with combined private and public funding sources for use in supporting adult financial capability courses and materials, counseling and teacher training.<sup>86</sup> The 2013 Texas Legislature successfully passed several financial education and literacy bills into law including HB 2662, SB 1589, SB 1590 and HB 5.<sup>87</sup>

Many Texas students leave public education and enter the workforce, purchase cars or homes and make investment decisions with little financial knowledge to guide them. This section describes financial education events held in 2013 and scheduled in 2014 across the state, research survey results and creative digital tools targeted at improving Texans’ personal financial management skills. Since the 2011 update, the number of public and private partnerships among banks, financial literacy-focused associations, literacy education nonprofits and state agencies designed to deliver personal financial literacy education has expanded.

Examples of such partnerships include:

- Personal Financial Literacy (PFL) Challenge ONLINE!, a web-based financial education competition for high school and middle school students and their teachers with cash prizes supported by Opportunity Texas, the Council for Economic Education, the Texas Credit Union Foundation and other organizations.

## State Financial Education Requirements



- the promotion of consumer financial capability, personal financial education and literacy through policy proposals, joint presentations and training workshops by the Federal Reserve Bank of Dallas and its San Antonio branch, RAISETexas, the Texas State Affordable Housing Corporation (TSAHC) and NeighborWorks America among other organizations.

Visit the Jump\$tart Coalition's U.S. map of State Financial Education Requirements to compare requirements across states.

### **Financial Education in Texas Public Schools**

As of Sept. 1, 2014, the 2011 Texas Legislature's SB 290 and the Math PFL TEKS require the instruction and retention of PFL in K-8 grades. These efforts will begin with testing in the third grade.

The 2013 Texas Legislature also enacted bills that:

- require each school district and every open-enrollment charter school that offers a high school program to provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit and provide instruction in methods of paying for college and postsecondary education and training; and
- created the Texas Financial Education Endowment to support statewide PFL and consumer credit building activities and programs.

### **Financial Education in the Workplace**

The Texas Department of Banking provided online financial education to almost 900 participants in 2010 and 2011. Financial education webinar topics included "In School Banking," "Financial Education in the Workplace," "Bank On" programs, "Financial Education and the Housing Community" and the "Texas Saves Campaign." Webinar participants included financial institutions, government, nonprofit organizations and the general public.

The following table reflects the variety of financial literacy education offered by Texas businesses, state and local government agencies. Click on links to view online schedules, find financial education materials, identify theft prevention tips, read new laws and take adult, youth or child-focused financial quizzes.

Agency/Organization	Course	Audience
Texas Department of Banking <a href="http://www.dob.texas.gov">www.dob.texas.gov</a>	2012/2013 Financial Education Webinars	Bankers, Government and Nonprofit Leaders
American Bankers Association (ABA) Education Foundation <a href="http://www.aba.com/abaef/">www.aba.com/abaef/</a>	“Teach Children to Save,” “Get Smart About Credit”	Adults
Consumer Credit Counseling Services (CCCS) of Greater Dallas <a href="http://www.cccs.net/education/index.asp">www.cccs.net/education/index.asp</a>	Classes & Webinars	Consumers and Educators
Federal Deposit Insurance Corporation (FDIC) <a href="http://www.fdic.gov/consumers/consumer/moneysmart/index.html">www.fdic.gov/consumers/consumer/moneysmart/index.html</a>	“Money Smart for Adults,” Money Smart for Young Adults”	Young Adults
Federal Reserve Bank of Dallas <a href="http://www.dallasfed.org/">www.dallasfed.org/</a>	“Building Wealth”	Consumer
Financial Fitness Greater Austin (FFGA) <a href="http://www.financialfitnessaustin.org/">www.financialfitnessaustin.org/</a>	Ongoing public personal finance education “Financial Fitness Week”	Greater Austin Community Consumers
Junior Achievement <a href="http://www.ja.org/">www.ja.org/</a>	“K-12 Programs”	K-12 Students
Houston Money Week <a href="http://www.houstonmoneyweek.org">www.houstonmoneyweek.org</a>	General financial awareness	Consumers
Texas Education Agency <a href="http://www.tea.state.tx.us">www.tea.state.tx.us</a>	Financial Education in Schools	Educators and Students
SmarterTexas & Texas Council on Economic Education (TCEE) <a href="http://www.smartertexas.org/?page_id=450">www.smartertexas.org/?page_id=450</a>	Financial Education	Consumers, Educators and Students
Synergy Federal Credit Union SFCU (San Antonio, Houston, Port Arthur & Texas City) <a href="http://www.synergyfcu.org/synergy-fcu-education">www.synergyfcu.org/synergy-fcu-education</a>	Financial Education	Consumers
Balance Track <a href="http://www.balancetrack.org/partners/nihfcu/">www.balancetrack.org/partners/nihfcu/</a>	“Balance Track” personal finance education program courtesy of a partnership between SFCU and BALANCE. Online education modules guide users through core aspects of personal financial management	Consumers
A+Federal Credit Union <a href="https://aplusfcu.org/education/teachers-lounge/financial-education-curriculum">https://aplusfcu.org/education/teachers-lounge/financial-education-curriculum</a> <a href="http://aplusfcu.practicalmoneyskills.com/games/trainingcamp/">http://aplusfcu.practicalmoneyskills.com/games/trainingcamp/</a>	Webinars and Online Financial Education Games	Consumers
Texas Credit Union Foundation Partnership with Consumer Credit Counseling Services & Texas Credit Union League <a href="http://www.tcuf.coop/Financial_Education.html">www.tcuf.coop/Financial_Education.html</a>	“Your Money, Your Matters”	Consumers

### Financial Education Curricula

Texas credit unions encourage consumers to develop sound financial management skills from an early age, and some even incorporate financial planning into classrooms. User-friendly financial education programs introduce children of all ages with financial planning concepts applicable in everyday life. These programs are available in Texas for every life stage from 4th grade through college and beyond.

Beyond secondary education, the National Endowment for Financial Education’s (NEFE’s) CashCourse provides students with basic financial information. Many Texas colleges offer CashCourse topics on paying for college and retirement, understanding financial aid and repaying student loans, financing graduate school through scholarships, living at college in the digital age, buying or leasing a car, studying abroad, handling peer pressure, understanding parental situations and paying for fraternities and sororities.

The following Texas colleges offer CashCourse:

- Baylor University
- Houston Community College
- Sam Houston State University
- Texas A&M University
- Texas State University – San Marcos
- Texas Tech University
- The University of Texas at Austin
- The University of Texas at San Antonio
- The University of Houston – Downtown



### Payday, “Predatory” and Subprime Lending

A weakness in the U.S. financial system brought into focus by the 2008 economic crisis is the impact of payday, “predatory” and subprime lending practices on low-income borrowers.

Subprime loan and mortgage rates generally are at least three or four points higher than home loans made in the prime market. Between 2006 and 2010, subprime mortgages were frequently issued as adjustable rate mortgages or ARMS, no or low down payments and teaser rates for an initial period of two to three years of fixed payments followed by variable payments. Homes of many individuals with these mortgages ended up in foreclosure during the housing bust. Despite a recovery in the housing market after the recession, small lenders resumed offering first-time homebuyers and previous homeowners with damaged credit and credit scores below 640 similar high interest rate subprime mortgage loans up eight or 10 percent higher than loans offered to those with higher credit.

Payday and other unsecured and secured loan types.

Traditional “prime” home loans from banks, generally made to borrowers with high credit scores, often offer competitive low-interest rates with a minimum of additional charges and loan fees. Other loans carry higher interest rates and fees and usually are made to households that have relatively poor credit scores or lack credit histories altogether.

Payday lending is the practice of making short-term “payday” loans, generally small cash advances based on a personal check held for future deposit. Often provided by check-cashing outlets, pawnshops, stand-alone companies and online or telephone loan providers, many payday loans only require disclosure of income from a job or government benefits and a driver’s license. Such loans can carry interest rates as high as 400 percent annually and are often promoted as a way to avoid problems with cash flow. In 2013, Texas had more than 3,500 payday lending stores.<sup>88</sup>

Predatory lending refers to loans with excessive fees, hidden loan terms and very high interest rates, as well as little if any verification of the borrower’s ability to repay. Most predatory lenders locate in low-income or disadvantaged communities, close to customers that lack good credit and have few assets and unreliable or very low incomes.

Under the Dodd-Frank Act, the bureau exercises enforcement and supervisory authority over payday lenders. In January 2012, CFPB launched its official payday lending supervisory program, marking the first time payday lenders have been subject to federal compliance examinations.

CFPB proposes to broaden its authority to include indirect, nonbank auto lenders, in an effort to provide more effective oversight of U.S. lenders in the auto loan market.<sup>89</sup> Cash-short Americans incur more than \$3.4 billion in fees annually through high-cost, quick-fix payday loans offered through banks and non-bank lenders such as Ace Cash Express, Cash Advance and My Payday Loan. Annual interest rates on such borrowing average 300 percent, include a short payment period (usually lasting 30 days or until the borrower's next paycheck), demand collateral in the form of a paycheck and direct access to the borrower's bank account.<sup>90</sup>

Credit card debt has become a common money tool for most U.S. households; according to the Center for Responsible Lending, total U.S. credit card debt has climbed by more than \$172 billion since 2000.<sup>91</sup> Recent research shows a growing number of low- and middle-income Americans use credit cards to pay for basic living expenses, medical expenses and the costs of unemployment.

As of 2013, the Pew Charitable Trusts identified Texas as one of 27 states with “permissive” payday lending regulations. Nine states had strict requirements; 15 states had no payday loan storefronts; 38 states had statutes allowing payday lending; eight others lacked legal provisions concerning payday lending or requiring lenders to comply with consumer loan interest rate caps. These eight included Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Vermont and West Virginia. Arkansas had repealed a pre-existing statute while Arizona and North Carolina allowed pre-existing payday lending statutes to sunset.

The Pew Safe Small-Dollar Loans Research Project recently analyzed 33,600 survey interviews regarding online, storefront and other payday borrowing. The research placed states in one of three categories:

- 14 restrictive states, which either do not permit payday lending or have price caps low enough to eliminate payday lending in the state;
- 8 hybrid states, which have at least one of three forms of regulation — rate caps, restrictions on the number of loans per borrower or laws giving borrowers multiple pay periods to repay payday loans; and
- 28 permissive states, including Texas, which are the least regulated, permitting initial fees of 15 percent of borrowed principal or higher. Most permissive states have some payday lending restrictions while still allowing payday loans to become due in full on a borrower's next payday, with APRs ranging from 391 to 521 percent. About 55 percent of all Americans live in permissive states.

The 2013 Texas Legislature did not pass legislation to regulate payday lenders. Austin, Dallas, El Paso, Houston and San Antonio, however, passed city ordinances limiting payday loans. Houston's ordinance restricts payday loans to 20 percent of a borrower's gross monthly income. It also limits loans to a maximum of four installments or three renewals, and requires a reduction in loan principal by 25 percent upon receipt of proceeds from each installment or renewal.<sup>92</sup>



Credit card debt has become a common money tool for most U.S. households; according to the Center for Responsible Lending, total U.S. credit card debt has climbed by more than \$172 billion since 2000.



# Agency Strategies to Promote Community Reinvestment in Texas

Each agency represented in the Community Reinvestment Work Group submitted its strategies for promoting community reinvestment in Texas in 2012 and 2013. These strategies do not necessarily reflect the views of all group members.

## Banking Strategies

### Texas and Financial Literacy

Texas law requires high schools to offer financial education courses. The most widely offered financial education topic is identity theft protection; mortgages are the second most common, followed by online savings and small business loans.

The Corporation for Enterprise Development (CFED) is a national nonprofit organization that empowers LMI households to build and preserve assets by advancing policies and programs that help them achieve the American Dream. CFED published *The 2013 Asset & Opportunity Scorecard for Texas*, which continues to be the most comprehensive tool available for measuring Americans' financial security at the state level. The following statistics were gathered for Texas; a ranking of 1<sup>st</sup> is the most desirable. The data includes all 50 states and the District of Columbia. In 2013, Texas ranked:

- 46<sup>th</sup> in high-cost mortgage loans
- 49<sup>th</sup> in consumer subprime credit
- 50<sup>th</sup> in unbanked households
- 51<sup>st</sup> in non-elderly population (under 65) without health insurance
- 51<sup>st</sup> in population 25 years or older who do not have at least a high school degree or GED

The Texas Department of Banking (DOB) actively promotes financial education. The agency's financial education mission statement is: *Bankers helping Texans in making informed decisions about budget, credit, asset-building, savings and debt management through financial education.*

To encourage financial education among state-chartered banks, the Texas Finance Commission adopted a rule in 2008, regarding in-school banking programs called COMET (Center of Monetary Education for Texans). The rule is identical to the FDIC's rule except that in-school banks are referred to as COMETs.

The agency participates in financial literacy initiatives across the state. Each is designed to bring financial education champions and their communities closer together. These include:

- Alliance for Economic Inclusion (FDIC sponsored)
- Financial Fitness Greater Austin
- Houston Money Week
- Teaching Financial Literacy in Public Schools and the Community
- Texas Financial Education Endowment
- "Bank On" Programs in Texas



Texas Department of Banking

The DOB works with banking trade associations on a variety of ventures and programs related to teaching financial literacy. Of particular interest is the Annual Financial Literacy Summit, which is co-hosted by the Independent Bankers Association of Texas Education Foundation and the Texas Bankers Foundation. This summit offers attendees the opportunity to learn about the practices, critical challenges and opportunities in promoting financial education to all Texans. Banking Commissioner, Charles G. Cooper and the agency’s Financial Education Coordinator participate annually.

As a service to our state-chartered banks, the Financial Education Coordinator conducts one-on-one visits with banks seeking to learn best practices and ways to increase their community involvement through financial education. The specific needs of bank CEOs and Presidents are discussed as well as possible solutions that will assist them in targeting a particular segment of the community. A financial education tool kit is provided to the bank and contains the most updated financial literacy materials published by the FDIC, Federal Reserve Bank and Junior Achievement.

Finally, the DOB hosts quarterly financial education events such as meetings, teleconferences, and webinars dedicated to encouraging community reinvestment. The goal of these events is to provide innovative ideas, best practices and examples of successful financial education programs. Each session targets financial institutions, government agencies, non-profit organizations, teachers, individuals and community leaders who are committed to or are interested in providing consumer education and improving financial literacy in their communities. The teleconferences and web-based training has resulted in increased participation as it allows for bankers located in rural and remote areas as well as out-of-state to easily participate. Topics presented in the past include “Building Wealth App,” “Fraud and Identity Theft for Seniors,” and “Strategies to Meet Bank CRA Requirements through Junior Achievement.” For information on financial education issues in Texas, visit the Texas Banking Department’s website at [www.dob.texas.gov](http://www.dob.texas.gov).



The DOB Financial Education Coordinator conducts one-on-one visits with banks seeking to learn best practices and ways to increase their community involvement through financial education.

The DOB supports financial institutions participating in government-sponsored programs to spur community reinvestment. To encourage state-chartered banks to provide financial education programs and services in Texas schools, the DOB approved the creation of Centers of Monetary Education for Texans through a 2008 amendment to the Texas Administrative Code. The new rule, 7 TAC §15.44, Establishment and Operation of a COMET, allows financial institutions to provide financial education in the community. To take full advantage of this opportunity, a financial institution must give the DOB 30 days written notice of its intent to open a COMET.

Since 2007, the DOB has held quarterly financial education meetings, teleconferences and webinars to encourage community reinvestment. The goal of these events is to provide innovative ideas, best practices and examples of successful financial education programs. Each session targets financial institutions, government agencies, nonprofit organizations, teachers, individuals and community leaders who are interested in providing consumer education and improving financial literacy in their communities. Although the statewide on-site workshops have been well attended, the web-based training has resulted in increased participation by bankers located in rural and remote areas statewide and also has reached out-of-state participants.

The DOB provides consumer services through several channels, including the consumer assistance section of its website and agency publications. It also works to assess how well banks are meeting the needs of their communities by performing follow-up reviews on actions taken to correct weaknesses previously noted in CRA examination reports.

At the federal level, agencies such as the Office of the Comptroller of the Currency support financial education through online resources including OCC’s Financial Literacy Resource Directory used by national banks and savings associations; the bimonthly OCC Financial Literacy Update, covering literacy events, initiatives and other resources for school-age children; and its consumer website, [www.HelpWithMyBank.gov](http://www.HelpWithMyBank.gov).

## Economic Development Strategies

The Texas Governor’s Office of Small Business is housed within the Economic Development and Tourism Division, and works to eliminate legal and financial barriers for small, medium and historically underutilized businesses (HUBs). The Governor’s Small Business Team helps small businesses navigate governmental programs, laws, rules and policies, and also provides them with the necessary information and resources needed to succeed in the global marketplace. The team responds to requests for assistance and information and refers parties to useful resources and partners. The Small Business team also advocates for small-business interests by serving on various state agency working groups and task forces.

### Texas Small Business Division Services and Activities:

- Serves as the principal advocate for Texas small business owners, providing information and resources that include consideration of all legislation and regulations affecting Texas small businesses.
- Represents the views and interests of Texas small businesses before other state agencies and departments.
- Enlists the cooperation and assistance of public and private agencies, business organizations, industry associations and other government partners in conveying information about programs and services available to small businesses.
- Works with experts, authorities and organizations in various fields of small business assistance such as access to capital, business investment, venture capital investment, commercial banking, insurance, rural affairs and export trade and financing.
- Assists Texas small businesses in identifying technical assistance resources such as business and employer services, access to capital, certification and government procurement opportunities at the state and federal levels.
- Convenes Governor’s Small Business Forums statewide to assist Texas small businesses with information, resources and networking opportunities, and acknowledges the successes of small businesses via the Governor’s Small Business Recognition Awards.

During 2013, the Governor’s Small Business Team worked with local, state and federal partners to convene select Governor’s Small Business Forums in various cities across Texas. These forums provide education to the entrepreneurial and small business communities about the challenges involved in starting, operating and growing a business, while highlighting available opportunities, tools, and resources. The forums allow business owners to meet lenders, learn more about financing options, insurance and healthcare concerns, licensing, professional development initiatives, exports and a variety of other small business matters. They also recognize the achievements of local small businesses and the contributions they make to their local economies.



The Small Business Forums focus on the following topics:

- Workforce Development
- Business Start-up Essentials
- De-mystifying the Lending Process
- Marketing Your Business
- Hiring and Managing Employees
- Encouraging Small Business Networking and Capacity Building
- Providing Contacts with Federal, State and Local Government Agencies
- Promoting Entrepreneurship in Texas
- Export Trade Opportunities and Resources
- Services and Opportunities for Small and Historically Underutilized Businesses

## Housing Strategies

TDHCA continues to develop new programs and expand existing programs to encourage community reinvestment. These programs focus on creating a stable housing market and leveraging funding to increase savings to low-income Texans. Three of TDHCA's strategies submitted in its 2016 and 2017 Legislative Appropriations Request are to increase the availability of safe, decent and affordable housing; improve poor and homeless living conditions and reduce energy costs; and provide information and assistance for housing and community services.

*In fiscal 2013, TDHCA awarded more than \$100 million in funds, bonds or tax credits to fund construction or rehabilitation of over 9,000 units of reduced-rent housing units.*

### Increase the Availability of Safe, Decent and Affordable Housing

In fiscal 2013, TDHCA awarded more than \$100 million in funds, bonds or tax credits to fund construction or rehabilitation of over 9,000 units of reduced-rent housing units. The Housing Tax Credit Program, Multifamily Bond Program, and Home Investment Partnerships Program award for-profit and non-profit developers to build the housing. TDHCA anticipated that just the tax credit allocation of \$57.8 million in 2013 could have as much as a \$760 million impact on the state's economy when considering jobs, payroll funds and sales tax these properties generate.<sup>94</sup>

### Improve Poor and Homeless Living Conditions and Reduce Energy Costs

TDHCA's Housing Support Continuum's first phase is "Poverty and Homelessness Prevention." The continuum includes the Community Service Block Grant Program, Comprehensive Energy Assistance Program, Emergency Solutions Grants Program and Homeless Housing and Services Program, as well as other programs and activities targeted to the special needs of the homeless and low-income populations. The housing support continuum has five phases: 1) poverty and homelessness prevention, 2) rental assistance and multifamily development, 3) homebuyer assistance and single-family development, 4) rehabilitation and weatherization and 5) disaster relief. The next table shows the estimated funding allocations:

## TDHCA Prevention Housing Support Continuum Funding Allocations Fiscal Year 2014

Program	Estimated Allocation, Fiscal 2014
Community Service Block Grant Program	\$28,230,378
Comprehensive Energy Assistance Program	To be determined
Emergency Solutions Grants Program	\$6,944,311
Homeless Housing and Services Program	N/A

### Education, Training and Outreach

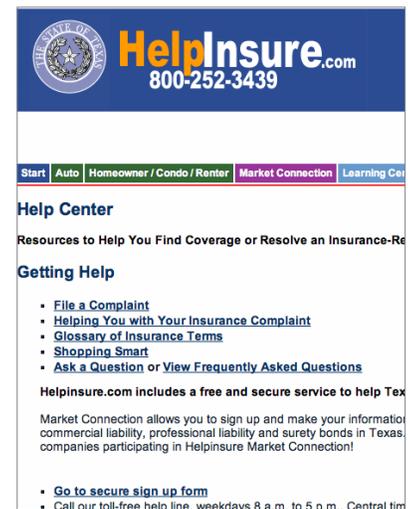
To target funding for its programs, TDHCA conducts housing research, education and outreach efforts. Texas Government Code §2306.259 established the Affordable Housing Research and Information Program, which requires TDHCA to undertake education and outreach efforts that will help the public understand the nature and purpose of affordable housing; periodic market studies to determine the need for low-income housing; research to determine the effect of affordable housing developments on surrounding neighborhoods; and research into affordable housing development approaches.

### Insurance Strategies

The Texas Department of Insurance’s primary community reinvestment goal is making insurance affordable and available to Texans. TDI has approved new policy forms and endorsements for homeowner and personal automobile insurance, to encourage a competitive market by ensuring that consumers can choose from an array of fairly priced products. (Endorsements are options, generally to add coverage, in an insurance policy.)

TDI’s website Helpinsure.com provides information to help consumers shop for auto and residential property insurance. Consumers can view and compare sample rates provided by insurance companies, obtain information about companies and agents and learn more about the types of insurance they need. TDI’s Consumer Protection Section helps consumers determine their available insurance options through publications and presentations at outreach events. The TWIA ombudsman in Consumer Protection helps TWIA policyholders learn about their rights, the claims process and ways to file a complaint. TDI also provides instructions on how to file a complaint if specific products are not offered in a consumer’s area.

Other statutory programs help protect consumers from the loss of insurance even when an insurer becomes insolvent. Most insurance policies are covered by one of the state’s guaranty funds, which pay claims for insurers that become insolvent. The funds cover up to \$100,000 for individual life insurance and annuity policies and up to \$300,000 for property and casualty insurance policies.



TDI’s website helps consumers compare sample auto and property insurance rates.

## Certified Capital Company State Economic Development (CAPCO) Strategies

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The CAPCO legislation was designed to provide entrepreneurs with venture capital to develop new products or services as well as seed or expansion capital. Typically, qualified businesses include those identified as early-stage businesses or that are located in low-income communities. A qualified business must maintain its headquarters and employ at least 80 percent of its payroll in Texas. If investments fail to meet the prescribed tests, the business may be disallowed as a qualified CAPCO investment. Since demand for growth capital from young businesses far exceeds the supply, CAPCO investment managers have a multitude of investment options.

As of December 2011, more than \$282 million had been invested in Texas' businesses through the Texas CAPCO Program. While it may be years before the full impact of the program is known, there are signs that the program provides access to needed business capital; interest and participation among insurance company investors has been considerable. Several venture capital companies have either returned to Texas or established new operations in the state in anticipation of expanded venture capital activity.

## APPENDIX A:

# CRA Evaluations

Four federal banking regulatory agencies regularly examine financial institutions using CRA regulations and examination procedures. The Federal Reserve board oversees state-chartered banks that are members of the Federal Reserve System and bank holding companies. The Federal Deposit Insurance Corporation oversees state-chartered banks and savings banks that are not Federal Reserve members. Until June 30, 2011,<sup>133</sup> the Office of Thrift Supervision regulated federally chartered savings banks and savings and loan associations. The Dodd-Frank Wall Street Reform Act of 2010 abolished the agency and transferred its functions to the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System on July 21, 2011. The Office of the Comptroller of the Currency regulates national banks, federal branches and agencies of foreign banks, their employees, stockholders and agents. The Federal Financial Institutions Examination Council also provides interagency information regarding the CRA.<sup>95</sup>

As of 2013, federal banking regulatory agencies used CRA exams to scrutinize banks about once every two years for banks or thrifts with assets of \$250 million or more, and once every four or five years for small banks with assets of less than \$250 million. The CRA exam results are classified as Outstanding, Satisfactory, Needs to Improve and Substantial Non-Compliance. Federal regulatory agencies publish a schedule of CRA exams on their websites and update it every three months.

In December 2013, the Federal Reserve Bank announced annual adjustments to the asset-size thresholds used to define small banks, small savings associations, intermediate small banks and intermediate small savings associations under the Community Reinvestment Act (CRA) regulations. The annual adjustments are required by the CRA rules.

Financial institutions are evaluated under different CRA procedures based upon their asset size. Those meeting the small and intermediate small asset-size threshold are not subjected to the reporting requirements applicable to large banks. Annual adjustments to these asset-size thresholds are based on the change in the average of the Consumer Price Index (CPI) for urban wage earners and clerical workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. As a result of the 1.39 percent increase in the CPI index for the period ending in November 2013, the definitions of small and intermediate small institutions for CRA examinations will change as follows:

- “small bank” or “small savings association” means an institution that, as of Dec. 31 of either of the prior two calendar years, had assets of less than \$1.202 billion.
- “intermediate small bank” or “intermediate small savings association” means a small institution with assets of at least \$300 million as of Dec. 31 of both of the prior two calendar years, and less than \$1.202 billion as of Dec. 31 of either of the prior two calendar years.

These asset-size threshold adjustments became effective as of Jan. 1, 2014.<sup>96</sup> The agencies publish the adjustments in the Federal Register. In addition, the agencies post a list of the current and historical asset-size thresholds on the website of the Federal Financial Institutions Examination Council. Annual adjustments to asset-size thresholds follow the year-to-year change in the average unadjusted CPI for urban wage earners and clerical workers, for every 12-month period ending in November, rounded up to the nearest

million. Adjustments for banks are required by the 2005 CRA regulatory amendments; OTS' 2007 CRA regulatory amendments apply to annual adjustments for savings associations.

### Evaluations and Bank Size

1. Small banks with less than \$250 million are evaluated under a lending test based on five factors including responses to public complaints. They are not required to report CRA data on small business or community development lending. Intermediate small banks and thrifts with assets between \$250 million and \$1 billion receive the lending and community development (CD) test and are not required to report CRA data on small business or farm lending. Large bank CRA exams apply to banks with assets of \$1 billion or more. Large banks are tested on their lending, investment and service to the community or communities they serve. Large banks are required to report CRA small business, small farm and CD loan data. Wholesale and limited-purpose banks are tested using a Community Development Test Strategic Plan that is mostly applied to non-retail banks; the bank can choose to include or exclude affiliates. The Dodd-Frank act preserves authority for the prudential federal supervisor to conduct CRA examinations while giving the Consumer Protection Bureau authority to conduct exams for HMDA and ECOA.
2. For depository institutions and credit unions with assets of \$100 billion or less, under Dodd-Frank the Consumer Protection Bureau has exclusive consumer rulemaking authority and exclusive examination authority. For state-chartered depositories with more than \$10 billion in assets, the bureau is required to pursue arrangements and agreements with state regulators on joint and coordinated examinations. To minimize regulatory burden, the bureau must coordinate its supervisory activities with the supervisory activities conducted by federal regulators and state bank regulatory authorities, including consultation regarding their respective schedules for examining covered persons and requirements regarding reports to be submitted by covered persons. To that end, the bureau uses reports that have been provided to a federal or state agency and public information. The bureau also has primary enforcement authority over insured depositories and credit unions with more than \$10 billion. Any other federal agency authorized to enforce a federal consumer financial law may recommend that the bureau initiate an enforcement action. If the bureau fails to do so within 120 days, the other agency can initiate an enforcement proceeding and conduct follow-up supervisory functions. For state-chartered depositories with more than \$10 billion in assets, state banking regulators and state attorneys general retain existing enforcement authority, as well as authority to enforce federal consumer financial protection laws and Bureau regulations.
3. Smaller Insured Depository Institutions. The bureau has exclusive consumer protection-related rulemaking authority for insured depository institutions and credit unions with total assets of \$10 billion or less. The bureau can require reports from these institutions and refer suspected violations of law to other agencies and regulators. However, the existing banking agencies continue to have examination and enforcement authority for these institutions. The bureau may participate in examinations conducted by prudential regulators on a sampling basis. The prudential federal regulator retains exclusive federal enforcement authority. For state-chartered institutions with \$10 billion or less in assets, state banking regulators and state attorneys general retain enforcement authority, as well as authority to enforce federal consumer protection laws and bureau regulations.

4. The bureau has supervisory and enforcement authority over non-depository covered persons. The bureau can define this class as it sees fit, but the definition at minimum must include mortgage-related businesses (regardless of size), payday lenders (regardless of size) and private student loan providers. The bureau has supervisory and enforcement authority over such businesses; holds exclusive rulemaking and examination authority, and shared enforcement authority with state regulators and state attorneys general; and may require reports and recordkeeping requirements. Non-depositories may also be required to register with either an existing system, such as the CSBS/AARMR Nationwide Mortgage Licensing System & Registry (NMLS), or with a new system. The bureau is required to consult with state regulators on the coordinated or combined use of registration systems. Furthermore, the bureau must implement a risk-based supervision program based on the risks to consumers as well as existing state consumer protection supervision, the asset size of the covered entity and its transaction volume. The bureau also must coordinate with federal prudential regulators and state banking regulators.<sup>97</sup>

## APPENDIX B: **CRA Regulations**

For a history of CRA regulations, questions and answers, related amendments and associated documents for download by regulatory agency, visit the following links:

Board of Governors of the Federal Reserve  
<http://www.federalreserve.gov>

Federal Deposit Insurance Corporation  
<http://www.fdic.gov>

Federal Financial Institutions Examination Council  
<http://www.ffiec.gov/default.htm>

Office of the Comptroller of Currency  
<http://www.occ.gov>

## APPENDIX C:

# History of HMDA

The Home Mortgage Disclosure Act (HMDA) was enacted by Congress in 1975 and implemented by the Federal Reserve Board's Regulation C.<sup>98</sup> On July 21, 2011, the rule-writing authority of Regulation C was transferred to the Consumer Financial Protection Bureau.

For a complete history of HMDA, visit the Federal Financial Institutions Examination Council website at <http://www.ffiec.gov/hmda/>.

## APPENDIX D:

# Dodd-Frank Act Changes Affecting HMDA (2010-2013)

On July 21, 2011, the Dodd-Frank Act became effective, resulting in changes to HMDA data, collection and reporting requirements for HMDA reporting institutions. Savings associations or thrifts previously regulated by the OTS were reassigned to OCC or FDIC. Previously regulated thrift subsidiaries were reassigned to OCC, FDIC or the Federal Reserve System.<sup>99</sup>

In 2010, a notice was posted to the FFIEC-HMDA website that provided information about changes to HMDA Institution Disclosure Statements and Metropolitan Statistical Area (MSA/MD) Aggregate and National Aggregate Reports made for the presentation of 2009 HMDA data.<sup>100</sup> As a consequence of changes to the loan price (rate spread) reporting rules made under Regulation C in 2008, the 2009 HMDA data reflect price information reported under two different methodologies. The changes to the disclosure statements and reports were made to help ensure the accuracy of the information provided to the public. The changes affected only tables that included loan-pricing information. In addition, the raw data made available to the public by the FFIEC contained pricing information for all loans and included a field that indicated whether or not the application for the loan was taken prior to Oct. 1, 2009.

In December 2010, the FRS Board raised the asset exemption threshold for depository institutions to \$40 million for data collection in 2011. The asset threshold for nondepository institutions for the 2011 collection remained unchanged at \$10 million or less (when combined with the assets of any parent corporation) or originated 100 or more home purchase loans (including refinancings of home purchase loans) in the preceding calendar year.

The rules used to determine whether a loan was classified as higher-priced under HMDA were changed in 2008. The 2010 data reflect the first full year of data reported under the revised loan pricing rules.

The Dodd-Frank Act transferred HMDA rulemaking authority to the Consumer Financial Protection Bureau. It also affected HMDA supervisory and enforcement authority of the Board of Governors of the Federal Reserve System (FRS), FDIC, OCC, the National Credit Union Administration and the Department of Housing and Urban Development (HUD).

The Dodd-Frank Act also transferred OTS's functions on July 21, 2011. While most of its functions were transferred to the OCC, certain other authorities of the OTS were transferred to FDIC, FRS and CFPB. The appropriate federal agencies for HMDA Reporting and Compliance questions are:

- CFPB for very large banks, thrifts, credit unions (those with more than \$10 billion in assets) and their affiliates (including affiliates that are themselves banks, thrifts, or credit unions regardless of asset size and subsidiaries of such affiliates);
- FRS for state member banks of the Federal Reserve System, their subsidiaries, subsidiaries of bank holding companies, branches and agencies of foreign banks (other than federal branches, federal agencies and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks and organizations operating under section 25 or 25A of the Federal Reserve Act and, as

a result of the Dodd-Frank Act changes, subsidiaries of savings and loan holding companies;

- FDIC for nonmember insured banks (except for federal savings banks) and their subsidiaries, insured state branches of foreign banks supervised by the FDIC, certain other depository institutions and, as a result of the Dodd-Frank changes, state-chartered savings associations and their subsidiaries;
- OCC for national banks and their subsidiaries, federal branches and federal agencies of foreign banks, and as a result of the Dodd-Frank Act changes, federal savings associations and their subsidiaries;
- NCUA for credit unions not being handled by the CFPB, as indicated above; and
- HUD for other lending institutions not being handled by the CFPB or another agency as indicated above.

In February 2012, the CFPB raised the asset exemption threshold for depository institutions to \$41 million for data collection in 2012, \$42 million in 2013 and \$43 million in 2014.<sup>101</sup>

## APPENDIX E:

## Small Business Data Requirements under the CRA and the Dodd-Frank Act

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 added small business loan data collection to the Equal Credit Opportunity Act (ECOA). This new ECOA section created data collection and reporting requirements for lenders to women-owned, minority-owned and small businesses.<sup>102</sup>

Section 704B of ECOA requires financial institutions to inquire at application on all commercial loans whether the business applicant is a women-owned, minority-owned or a small business. This information must be requested regardless of how the application is received, although the applicant is free to decline to respond. Section 704B defines women-owned and minority-owned businesses as those in which more than 50 percent ownership or control is held by one or more women or minority individuals and more than 50 percent of the net profits or losses of the business accrue to one or more women or minority individuals.<sup>103</sup>

According to the Federal Reserve Board of Governors, §1071 of the Dodd-Frank Act amended ECOA to require financial institutions to collect and report data for loans to minority-owned and women-owned businesses and small businesses. With the exception of motor vehicle dealers, the responsibility for issuing implementing regulations under ECOA was transferred from the board to CFPB. Accordingly, the board and the CFPB clarified that, although §1071 became effective on the designated transfer date of July 21, 2011, financial institutions and motor vehicle dealers do not have to comply with new data collection and reporting requirements until final implementing regulations become effective.<sup>104</sup>

A small business has the same meaning as a “small business concern” found in section three of the Small Business Act. Financial institutions must keep a record of the applicant’s response to this inquiry for not less than three years and underwriters or any other officer or employee of the financial institution or its affiliates involved in “making any determination concerning an application for credit” should not have access to the information collected in response to the inquiry. However, if the financial institution determines that these employees should have access to the information collected, it must provide the applicant with a notice indicating that the employees will have access to information and that the financial institution may not discriminate against the applicant on the basis of the information provided.

For more small business data requirements details, visit the Federal Reserve Board website ([http://www.federalreserve.gov/newsevents/reform\\_milestones.htm](http://www.federalreserve.gov/newsevents/reform_milestones.htm)) and see the Dodd-Frank Act, Section 1071, Subtitle G-Regulatory Improvements regarding small business data collection, and Section 704B, regarding small business loan data collection.<sup>105</sup>

## APPENDIX F:

# 2010 Dodd-Frank Wall Street Reforms

The Dodd-Frank Wall Street Reform and Consumer Protection Act, passed in 2010, contained 16 titles that changed regulation in the U.S. financial industries.<sup>106</sup>

TITLE I creates a Financial Stability Oversight Council to address emerging and systemic risks throughout the financial services industry. This council of regulators monitors the financial system for “systemic risk” and determines which entities pose significant systemic risk. The council makes recommendations to regulators for implementation of increased risk standards, called “prudential regulation,” to be applied to designated nonbanks and to bank-holding companies with total consolidated assets of \$50 billion or more. The act also provides exemptions for community banks with less than \$50 million in assets from a provision that excludes Tier I capital calculations trust preferred securities. The act preserved the Federal Reserve’s policy on small-bank holding companies and grandfathered trust-preferred securities issued before May 19, 2010 by bank holding companies with less than \$15 billion in total assets.

TITLE II supplies a framework for liquidation by the Federal Deposit Insurance Corporation (FDIC) of large institutions that present systemic risk. The U.S. Treasury provides liquidity for the liquidation that must be paid back in 60 months.

TITLE III merges the Office of Thrift Supervision (OTS) into the Office of the Comptroller of the Currency (OCC) and spreads the OTS’ regulatory responsibilities among other regulators. For example, the Federal Reserve oversees savings and loan holding companies, the OCC regulates federal savings associations and the FDIC regulates state savings associations. The act authorized this transfer of functions on the date one year from the date of enactment, with flexibility to extend the transfer for up to 18 months. Under the act, regulators are required to issue regulations for entities brought under their regulatory purview no later than the date of the transfer of the functions. Once transferred, OTS employees became employees of the OCC or the FDIC.

#### TITLE IV:

- establishes the regulation of investment advisers to hedge funds and restricts banks, banking affiliates and bank holding companies from proprietary investing or trading in a hedge fund or private equity fund.
- provides powers to the newly established Consumer Financial Protection Bureau (CFPB) as an independent office in the FRB with new authorities, functions and responsibilities under a broad list of consumer financial protection laws. (X)
- sets extensive requirements for the mortgage lending industry, including detailed requirements for appraisals, mortgage counseling, high-cost mortgages, mortgage originator compensation and underwriting, servicing and other matters. (XIV)
- preserves enforcement powers of states respecting financial institutions and restrict preemption of state laws by federal banking regulators.<sup>107</sup>
- provides key changes for community banks including the modification of these banks’ assessment base for deposit insurance. Before the act, the base was domestic deposits less tangible equity, calculated as average consolidated total assets minus average tangible equity. As a result, larger financial institutions with more non-deposit assets will pay a greater percentage of the aggregate insurance assessment

and smaller banks will pay less than they would have, perhaps as much as \$4.5 billion less over the next three years.

- establishes a separate provision affecting community banks, including a permanent increase in FDIC deposit insurance per depositor from \$100,000 to \$250,000 and extension of the unlimited deposit coverage for non-interest-bearing transaction accounts for two years. The act also increased the minimum reserve ratio for the Deposit Insurance Fund from 1.15 percent to 1.35 percent, but exempts institutions with assets of less than \$10 billion from the cost of the increase. (III)
- requires that most advisors to “private funds” register with the SEC. Private funds” are defined to cover most private equity funds, hedge funds and venture capital funds.
- redefines “accredited investor,” a key provision of interest to community banks. For the next five years, the net worth calculation for determining an accredited investor is \$1 million excluding the value of a primary residence. Previously, there was no such exclusion. After five years, the Securities and Exchange Commission is required to adjust the \$1 million threshold for inflation. On July 23, the SEC answered questions concerning how the indebtedness secured by the primary residence should be treated, indicating that such indebtedness should be deducted from an investor’s net worth while any equity in the primary residence is excluded. Community banks engaged in capital raising activities must amend the definition of “accredited investor” to conform. (IV).

TITLE V establishes a Federal Insurance Office in the Office of the Treasury to review the insurance industry and study the federal regulation of insurance for Congress.

TITLE VI implements the modified “Volcker Rule,” limiting the ability of certain bank and bank-related entities to engage in proprietary trading or invest in hedge funds and private equity funds to 3 percent of the entity’s Tier 1 capital, among other restrictions. “Proprietary trading” is defined to include the purchase or sale of any security, derivative or contract for the sale of a commodity for future delivery, or option on such an instrument.

It also imposes exchange trading for derivatives contracts and new capital and margin requirements and various reporting obligations on OTC swap dealers and major swap participants. For community banks, the most important provision in this title levels the competitive playing field by prohibiting the Federal Reserve or FDIC from providing assistance to insured depository institutions involved in the swaps markets, with certain exceptions.

TITLE VII strengthens regulation and transparency of over-the counter derivatives markets.

TITLE VIII allows for a systemic approach to certain financial market payment, clearing and settlement systems. Designation as “systemically important” will require two-thirds of the Financial Stability Oversight Council.

TITLE IX has a number of provisions intended to protect investors, including risk retention requirements for certain asset-backed securities; reforms to regulation of credit rating agencies; establishment of an Investor Advisory Committee and an Office of Investor Advocate; and a required SEC study of whether a fiduciary duty standard of care for broker-dealers providing personalized investment advice to a retail customer should be created.

This title creates new credit rating agency regulations, new requirements for executive compensation including shareholder “say on pay,” and requires securitizers to keep economic interest in securitized assets.

For community banks, the most important section of this title establishes a number of changes to corporate governance procedures for public companies that ultimately, and perhaps quickly, will become “best practices” (if not the expected practices) for all corporations large and small. The most important of these are proxy access requirements for shareholders; disclosures about the failure to separate the roles of board chair and chief executive officer; shareholder voting on executive compensation; the establishment of an independent compensation committee; and required executive compensation disclosures and clawbacks. In addition, the Federal Reserve must issue regulations regarding incentive-based pay practices within nine months of the effective date of the act; these regulations will apply to institutions with more than \$1 billion in assets.

For small, publicly held community banks, an important provision in this title is an amendment to the Sarbanes-Oxley Act to permanently exempt non-accelerated filers from section 404(b) of the act.

TITLE X is probably the most important title in HR 4173 for community banks. It dramatically alters the way consumer credit is regulated, moving from an existing framework of federal regulation of disclosure and state regulation of fairness and suitability to a nationwide federal suitability framework. It establishes the Bureau of Consumer Financial Protection, an independent entity within the Federal Reserve, to provide a source of funding (initially \$500 million) and authorizes the bureau to prohibit practices it finds to be “unfair,” “deceptive” or “abusive,” in addition to requiring certain disclosures. The words “unfair” and “deceptive” incorporate similar references in the enabling legislation of the Federal Trade Commission and some state consumer legislation. The “abusive” addition to this grant of regulatory scope, however, is new and it is likely that defining the term in this context will produce additional regulation and litigation. The bureau also may prohibit mandatory consumer arbitration provisions and oversee the mortgage reform and enforcement provisions of the act.

For community banks, this title contains a number of other important provisions. For example, it limits interchange fees for debit-card transactions (including those involved with certain prepaid card products) to an amount established as reasonable under regulations to be issued by the Federal Reserve. Cards issued by banks with less than \$10 billion in assets are exempt from this requirement, although the exemption has been criticized as ineffective because small banks will have to match the rates being offered by their larger competitors. Some community banks have estimated that this provision could mean hundreds of thousands of dollars of lost revenue. (X)

Another key change for community banks is the act’s treatment of preemption. Essentially, the act will undo recent court decisions and OCC guidance that expanded the application of preemption to subsidiaries of national banks. The standard for the preemption of state law is to return to the one enunciated in a well-known court decision, *Barnet Bank v. Nelson*: “irreconcilable conflict” and “stand as an obstacle to the accomplishment” of the purpose of the federal law. The act also codified a recent U.S. Supreme Court decision stating that the visitorial powers provisions of the National Bank Act do not limit the authority of state attorneys general to bring actions against national banks to enforce state consumer protection laws.

TITLE XI revisions gives the Government Accountability Office authority to conduct a one-time audit of the Federal Reserve’s emergency lending during the credit crisis, and other auditing responsibilities for the Federal Reserve. The title also tightens the conditions under which the Fed may provide emergency assistance to institutions, and authorizes the FDIC to guarantee debts of banks and bank holding companies.

TITLE XII is intended to encourage low-and moderate-income individuals to create accounts in insured depository institutions and creates a program to provide low-cost loans of \$2,500 or less.

TITLE XIII is a largely technical section dealing with previous programs for emergency assistance to insured financial institutions. It decreases the TARP funds authorized by under the Emergency Economic Stabilization Act of 2008 (the so-called TARP funds) from \$700 billion to \$475 billion.

TITLE XIV places new regulations on mortgage originators and imposes new disclosure requirements and appraisal reforms, the most important of which are the creation of a mortgage originator duty of care; the establishment of certain underwriting requirements so that, at the time of origination, the consumer has a reasonable ability to repay the loan; the creation of document requirements intended to eliminate “no document” and “low document” loans; the prohibition of steering incentives for mortgage originators; a prohibition on yield spread premiums, and prepayment penalties in many cases; and a provision allowing borrowers to assert as a foreclosure defense a contention that the lender violated the anti-steering restrictions or the reasonable repayment requirements.

TITLE XV offers miscellaneous provisions such as a restriction on certain loans to heavily indebted countries and disclosure requirements for companies operating mines.

TITLE XVI amends the Internal Revenue Code to exclude from the definition of a Section 1256 contract any interest rate swap, currency swap, basis swap, interest rate cap, interest rate floor, commodity swap, equity swap, equity index swap, credit default swap or similar agreement. This provision shields such instruments from treatment as sold for its fair market value, market to market, on the last business day of the taxable year for capital gains or loss taxation purposes.

## APPENDIX G:

# Glossary

- ARRA** – American Recovery and Reinvestment Act of 2009.
- Angel Investment Funds** – groups of investors that pool money to invest together along with investments from individuals.
- CAPCO** – Certified Capital Company.
- CDBG** – Community Development Block Grant Program. A federal program that grants funds to local and state governments to be used to develop viable urban communities. Funds may be used for economic development, housing and infrastructure activities.
- CDC** – community development corporation. A CDC provides affordable housing loans for low-income borrowers, manages loan funds for housing development and helps residents plan and track new investments in safe, sanitary and affordable housing and home reconstruction required to meet local building codes in rural, low-income areas.
- CDFI** – community development financial institution.
- CRA** – a 1977 federal law requiring regulating agencies to examine banks and savings and loan institutions to ensure that they follow affirmative steps to encourage commercial banks and savings and loans to meet the credit needs of communities they are chartered to serve. Also known as Title VIII of the Housing and Community Development Act (CRA).
- COG** – Council of Governments.
- Colonia** – a residential area along the Texas-Mexico border that may lack some of the basic living necessities such as electricity, paved roads, potable water, safe and sanitary housing and sewer systems.
- CPI** – Consumer Price Index.
- CFPB** – Consumer Finance Protection Bureau. Established in 2010 by the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB promotes financial education; helps make markets for consumer financial products and services work more efficiently for Americans; enforces federal monitoring and enforcement of consumer markets and financial laws; and broadens choices among credit cards offered to consumers.
- Crowd Funding** – business capital-raising method of selling of small amounts of equity to many investors.
- DETCOG** – Deep East Texas Council of Government.
- DOB** – Texas Department of Banking.
- DPAP** – Down Payment Assistance Program.
- EDAP** – Economically Distressed Areas Program.
- EDT** – The Office of the Governor’s Economic Development & Tourism Division.

- ETCOG** – East Texas Council of Government.
- FDIC** – Federal Deposit Insurance Corporation.
- FEMA** – Federal Emergency Management Association.
- FFIEC** – Federal Financial Institutions Examination Council.
- FRB** – Federal Reserve Board.
- GLO** – Texas General Land Office.
- GLB** – Gramm-Leach Bliley Act.
- HERA** – Housing and Economic Recovery Act.
- HGAC** – Houston-Galveston Area Council.
- HHSP** – Homeless Housing and Services Program.
- HMDA** – U.S. Home Mortgage Disclosure Act.
- HPRP** – Homelessness Prevention and Rapid Re-Housing Program
- HUD** – U.S. Department of Housing and Urban Development.
- IBAT** – Independent Bankers Association of Texas.
- MOD** – Method of Distribution.
- MSA** – Metropolitan Statistical Area.
- NAHB** – National Association of Home Builders.
- NEFE** – National Endowment for Financial Education.
- NFMC** – National Foreclosure Mitigation Counseling (NFMC) Program.
- NSP** – National Stabilization Program. Under the U.S. Department of Housing and Urban Development, the NSP provides funds to state and local governments and nonprofit organizations for the purchase and redevelopment of abandoned and foreclosed properties.
- OCC** – U.S. Office of the Comptroller of the Currency.
- OSCC** – Office of Consumer Credit Commissioner.
- OMB** – Office of Management and Budget.
- OTS** – U.S. Office of Thrift Supervision.
- Rita GO Zone** – The Rita GO Zone includes the portion of the Hurricane Rita Disaster Area determined by FEMA to be eligible for individual and/or public assistance from the federal government.
- SBA** – U.S. Small Business Administration. Federal government agency that administers loan guarantees and small business development programs.
- SBBCI** – State Small Business Credit Initiative. Under this initiative, participating states use federal funds for programs that leverage private lending to help finance small businesses and manufacturers that are creditworthy, but cannot obtain the loans they need to expand and create jobs.
- SETRPC** – Southeast Texas Regional Planning Commission.
- STEP** – The Small Towns Environment Program, a TxCDBG fund that provides funds to eligible applicants for water and sewer infrastructure improvements involving self-help methods.
- TCF** – Texas Capital Fund. This fund is used for projects that will create or retain permanent employment opportunities, especially for low- to moderate-income persons.

**TFPA** – The Texas FAIR Plan Association, an entity established by Texas Insurance Code §2211 to provide residential property insurance to qualified Texas citizens who are unable to obtain coverage from licensed insurance companies. This alternative market is a residual market of last resort and is not intended to compete with the standard property insurance market.

**TxCDBG** – Texas Community Development Block Grant Program.

**TDHCA** – Texas Department of Housing and Community Affairs.

**TDI** – Texas Department of Insurance.

**TEF** – Texas Enterprise Fund. This cash grant is used as a financial incentive tool for projects with estimated job creation and capital investment potential.

**TEKS** – Texas Essential Knowledge and Skills Test.

**TSHEP** – Texas Statewide Homebuyer Education Program. Since 1999, this program provides homebuyer counseling through experienced education providers, nonprofit housing providers, low-income housing advocates, for-profit housing providers, lenders and realtors.

**TDA** – Texas Department of Agriculture.

**TDRA** – Texas Department of Rural Affairs.

**TEA** – Texas Education Agency.

**TFPA** – Texas Fair Plan Association, an entity established by Texas Insurance Code §2211 to provide residential property insurance to qualified Texas citizens who cannot obtain coverage from licensed insurance companies. This alternative market is a residual market of last resort and is not intended to compete with the standard property insurance market.

**TID** – Texas Industry Development (TID) Loan Program. Administered by the EDT, the program provides capital to Texas communities at favorable market rates. Its main objective is to support projects that will stimulate job creation, corporate expansion and company relocation. TID loans can be used to acquire land, buildings, construction, machinery and equipment. TID financing is available for loans of more than \$5 million. TID loans generally are requested by a community's economic development corporation (EDC) and repaid by project revenues. The term of the loan cannot extend beyond the useful life of the assets, or bond maturity in 2025.

**TLF** – Texas Leverage Fund.

**Vendor Financing** – loans of money by a company to a customer that allow the customer to buy products from it. Leasing allows small companies to avoid tying up cash in equipment to make money available for marketing opportunities, working capital or seasonal cash flow needs. Leasing also allows small businesses to fully expense lease payments as a rental providing valuable tax deductions.

**WAP** – Weatherization Assistance Program.



# Endnotes

- <sup>1</sup> “Texas Added 29,110 Private Sector Jobs in December, According to ADP Regional Employment Report(SM),” *The Wall Street Journal*, Market Watch, January 15, 2014, <http://www.marketwatch.com/story/texas-added-29110-private-sector-jobs-in-december-according-to-adp-regional-employment-reportsm-2014-01-15>.
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- <sup>3</sup> U.S. Congress Joint Economic Committee, “Economic Snapshot: Texas,” April 2014, [http://www.jec.senate.gov/public/index.cfm?a=Files.Serve&File\\_id=8d12072f-aa16-4a75-b716-0a0aabbdc8ec](http://www.jec.senate.gov/public/index.cfm?a=Files.Serve&File_id=8d12072f-aa16-4a75-b716-0a0aabbdc8ec).
- <sup>4</sup> Office of Small Business Administration, “Texas Small Business Profile.”
- <sup>5</sup> U.S. Small Business Administration, Office of Advocacy, “Frequently Asked Questions,” *The Small Business Advocate* (April 2014), [http://www.sba.gov/sites/default/files/newsletter\\_April-2014\\_0.pdf](http://www.sba.gov/sites/default/files/newsletter_April-2014_0.pdf).
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