

By: West

S.B. No. 1714

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Community Reinvestment Act; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 282 to read as follows:

CHAPTER 282. TEXAS COMMUNITY REINVESTMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 282.001. SHORT TITLE. This chapter may be cited as the Texas Community Reinvestment Act.

Sec. 282.002. DEFINITIONS. In this chapter:

(1) "Banking commissioner" means the banking commissioner of Texas.

(2) "Covered financial institution" means:

(A) a bank, savings bank, or credit union chartered under the laws of this state;

(B) an entity licensed in this state to make or originate residential mortgage loans that lent or originated 50 or more residential mortgage loans in the previous calendar year; and

(C) any other financial institution under the jurisdiction of the department as designated by rule by the banking commissioner.

(3) "Department" means the Texas Department of Banking.

1       Sec. 282.003. APPLICABILITY OF CHAPTER. This chapter does  
2 not apply to a bank, savings bank, savings and loan association, or  
3 credit union chartered under the laws of the United States.

4       Sec. 282.004. CONFLICT WITH OTHER LAW. To the extent this  
5 chapter conflicts with other law, this chapter prevails.

6       Sec. 282.005. RULES. (a) The banking commissioner may  
7 adopt rules necessary and appropriate to implement and enforce this  
8 chapter, including rules that:

9           (1) promote access for all communities in this state  
10 to appropriate financial services from covered financial  
11 institutions;

12           (2) define fair lending practices in connection with  
13 the activities of covered financial institutions;

14           (3) define the terms used in this chapter and  
15 interpret the provisions of this chapter; and

16           (4) create a public comments process.

17       (b) To implement this chapter, the banking commissioner  
18 shall adopt rules incorporating the regulations applicable to  
19 covered financial institutions under federal law. The banking  
20 commissioner may make adjustments and exceptions to the rules as  
21 necessary.

22       SUBCHAPTER B. ASSESSMENT OF COVERED FINANCIAL INSTITUTIONS'

23           SERVICE TO LOCAL COMMUNITIES

24       Sec. 282.051. OBLIGATIONS OF COVERED FINANCIAL  
25 INSTITUTIONS. (a) Each covered financial institution has a  
26 continuing and affirmative obligation to meet the financial  
27 services needs of the communities in which the institution's

1 offices, branches, and other facilities are maintained that is:

2 (1) consistent with the safe and sound operation of  
3 the financial institution; and

4 (2) for a credit union, consistent with the credit  
5 union's common bond.

6 (b) Each covered financial institution that provides all or  
7 a majority of the institution's products and services through  
8 mobile and other digital channels has a continuing and affirmative  
9 obligation to help meet the financial services needs of  
10 deposit-based assessment areas, including areas contiguous to  
11 those areas, low-income and moderate-income neighborhoods, and  
12 areas where there is a lack of access to safe and affordable banking  
13 and lending services, that is:

14 (1) consistent with the safe and sound operation of  
15 the financial institution; and

16 (2) for a credit union, consistent with a credit  
17 union's common bond.

18 Sec. 282.052. ASSESSMENT OF COVERED FINANCIAL  
19 INSTITUTIONS. (a) The banking commissioner shall assess the  
20 record of each covered financial institution in satisfying the  
21 financial institution's obligations under Section 282.051.

22 (b) The banking commissioner by rule shall provide for an  
23 assessment of the following factors relating to whether covered  
24 financial institutions are meeting the financial services needs of  
25 local communities:

26 (1) activities to ascertain the financial services  
27 needs of the community, including communication with community

- 1 members regarding financial services provided;  
2 (2) extent of marketing activities to make members of  
3 the community aware of the financial services offered;  
4 (3) origination of mortgage loans, including home  
5 improvement and rehabilitation loans, and other efforts to assist  
6 existing low-income and moderate-income residents to be able to  
7 remain in affordable housing in the their neighborhoods;  
8 (4) for small business lenders, the origination of  
9 loans to businesses with gross annual revenues of \$1,000,000 or  
10 less, particularly those in low-income and moderate-income  
11 neighborhoods;  
12 (5) participation, including investments, in  
13 community development and redevelopment programs, small business  
14 technical assistance programs, minority-owned depository  
15 institutions, community development financial institutions, and  
16 mutually-owned financial institutions;  
17 (6) efforts working with delinquent customers to  
18 facilitate a resolution of the delinquency;  
19 (7) origination of loans that show an undue  
20 concentration and a systematic pattern of lending resulting in the  
21 loss of affordable housing units;  
22 (8) evidence of discriminatory and prohibited  
23 practices; and  
24 (9) other factors that reasonably bear on the extent  
25 to which a covered financial institution is meeting the financial  
26 services needs of the institution's entire community, including  
27 responsiveness to community needs as reflected by public comments.

1       Sec. 282.053. EXAMINATIONS; FEES. (a) The banking  
2 commissioner, in consultation with state and federal agencies with  
3 appropriate regulatory authority, may examine each covered  
4 financial institution for compliance with this chapter and other  
5 applicable state and federal fair lending laws, including:

6           (1) the Texas Fair Housing Act (Chapter 301, Property  
7 Code);

8           (2) the Equal Credit Opportunity Act (15 U.S.C.  
9 Section 1691 et seq.); and

10          (3) the Home Mortgage Disclosure Act of 1975 (12  
11 U.S.C. Section 2801 et seq.).

12       (b) The banking commissioner may adopt rules with respect to  
13 the frequency and manner of examination, including the imposition  
14 of examination fees.

15       (c) The banking commissioner shall appoint a suitable  
16 person to perform the examination. The banking commissioner or the  
17 commissioner's appointees may:

18           (1) examine the books, records, documents, and  
19 operations of each covered financial institution or the  
20 institution's parent company, subsidiaries, affiliates, or agents;  
21 and

22           (2) examine under oath any officers, directors,  
23 employees, and agents of the covered financial institution or the  
24 institution's parent company, subsidiaries, affiliates, or agents.

25       (d) Any document or record prepared or obtained in  
26 connection with or relating to the examination, and any record  
27 prepared or obtained by the banking commissioner, to the extent

1 that the record summarizes or contains information derived from any  
2 document or record described by this section, is not public  
3 information subject to disclosure under Chapter 552, Government  
4 Code, unless otherwise provided by this chapter.

5 Sec. 282.054. WRITTEN EVALUATION. (a) On completion of an  
6 examination of a covered financial institution under Section  
7 282.053, the banking commissioner shall prepare a written  
8 evaluation of the covered financial institution's record of  
9 performance under this chapter.

10 (b) Each evaluation must have:

11 (1) a public section that includes, at a minimum, the  
12 information that would be disclosed in a written evaluation under  
13 the Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et  
14 seq.); and

15 (2) a confidential section.

16 (c) After the banking commissioner gives the covered  
17 financial institution an opportunity to comment on the evaluation,  
18 the banking commissioner shall make the public section of the  
19 evaluation open to public inspection on request.

20 (d) The written evaluation must include:

21 (1) the assessment factors used to determine the  
22 covered financial institution's descriptive rating;

23 (2) the banking commissioner's conclusions with  
24 respect to each assessment factor;

25 (3) a discussion of the facts supporting those  
26 conclusions;

27 (4) the covered financial institution's descriptive

1 rating and the basis for the rating; and

2 (5) a summary of public comments.

3 Sec. 282.055. RATINGS FOR RECORD OF PERFORMANCE. (a) Based  
4 on an examination under Section 282.053, the banking commissioner  
5 shall assign a covered financial institution one of the following  
6 ratings in regard to the institution's record of performance in  
7 meeting the institution's community financial service needs:

8 (1) outstanding;

9 (2) satisfactory;

10 (3) needs to improve; or

11 (4) substantial noncompliance.

12 (b) Notwithstanding the provisions of this chapter, the  
13 banking commissioner may establish an alternative examination  
14 procedure for any covered financial institution that, as of its  
15 most recent examination, has been assigned a rating of outstanding  
16 or satisfactory for the institution's record of performance in  
17 meeting the institution's community financial services needs.

18 Sec. 282.056. PUBLIC NOTICE. Each covered financial  
19 institution shall provide, in the public lobby in each of the  
20 institution's offices and on the institution's Internet website, a  
21 public notice that is substantially similar to the following:

22 "STATE OF TEXAS

23 COMMUNITY REINVESTMENT NOTICE

24 The Texas Department of Banking (department) evaluates our  
25 performance in meeting the financial services needs of this  
26 community, including the needs of low-income to moderate-income  
27 households. The department takes this evaluation into account when

1 deciding on certain applications submitted by us for approval by  
2 the department. Your involvement is encouraged. You may obtain a  
3 copy of our evaluation. You may also submit signed, written  
4 comments about our performance in meeting community financial  
5 services needs to the department."

6 Sec. 282.058. CORPORATE ACTIVITIES AND RENEWAL  
7 APPLICATIONS. (a) The banking commissioner shall consider the  
8 record of performance of the covered financial institution and the  
9 institution's parent company, including subsidiaries, relative to  
10 this chapter in considering an application for:

11 (1) the establishment of a branch office or other  
12 facility;

13 (2) the relocation of a main office, branch office, or  
14 other facility;

15 (3) a license renewal;

16 (4) a change in control of a covered financial  
17 institution; or

18 (5) a merger or consolidation with, the acquisition of  
19 assets of, or the assumption of liabilities of:

20 (A) a covered financial institution;

21 (B) an out-of-state bank, credit union, or  
22 residential mortgage licensee;

23 (C) a national bank or credit union; or

24 (D) a foreign financial institution.

25 (b) The record of performance of the covered financial  
26 institution may be the basis for the denial of an application  
27 described by Subsection (a).



1                   SUBCHAPTER C. COOPERATIVE AGREEMENTS

2                   Sec. 282.101. COOPERATIVE AGREEMENTS. (a) For purposes of  
3 this chapter, the banking commissioner may:

4                   (1) conduct any examinations under this chapter with  
5 state, other state, or federal regulators;

6                   (2) enter into cooperative agreements regarding:

7                   (A) the coordination of or joint participation in  
8 the examinations;

9                   (B) the amount and assessment of examination  
10 fees; or

11                   (C) enforcement actions related to the  
12 examinations; and

13                   (3) accept reports of examinations by other regulators  
14 under those agreements.

15                   (b) Any coordination or joint participation under this  
16 section:

17                   (1) may seek to promote efficient regulation and  
18 effect cost reductions for the department and covered financial  
19 institutions; and

20                   (2) may not limit public participation as permitted  
21 under certain federal regulations.

22                   Sec. 282.102. CONFIDENTIALITY; PRIVILEGES. Any  
23 information or material shared for purposes of coordination or  
24 joint participation under this subchapter continues to be subject  
25 to the requirements under any federal or state law regarding the  
26 privacy or confidentiality of the information or material. Any  
27 privilege arising under federal or state law, including the rules

1 of any federal or state court, with respect to the information or  
2 material, continues to apply to the information or material.

3 Sec. 282.103. AUTHORITY NOT LIMITED. This subchapter may  
4 not be construed as limiting the authority of the banking  
5 commissioner to independently conduct examinations of and  
6 enforcement actions against a covered financial institution.

7 SECTION 2. Subchapter C, Chapter 404, Government Code, is  
8 amended by adding Section 404.0213 to read as follows:

9 Sec. 404.0213. CONSIDERATION OF FINANCIAL INSTITUTION'S  
10 COMMITMENT TO COMMUNITY. (a) In addition to any other requirements  
11 under law, the comptroller shall consider a financial institution's  
12 record and current level of financial commitment to the  
13 institution's local community when deciding whether to deposit  
14 state funds in the financial institution. The comptroller may  
15 consider:

16 (1) for financial institutions subject to the  
17 Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et  
18 seq.), the current and historical ratings that the financial  
19 institution has received, to the extent that those ratings are  
20 publicly available, under that law;

21 (2) any changes in ownership, management, policies, or  
22 practices of the financial institution that may affect the level of  
23 the financial institution's commitment to the institution's  
24 community;

25 (3) the financial impact that the withdrawal or denial  
26 of deposits of state funds might have on the financial institution;

27 and

1           (4) the financial impact to the state as a result of  
2 withdrawing state funds or refusing to deposit additional state  
3 funds in the financial institution.

4           (b) State funds may not be deposited in a financial  
5 institution subject to the Community Reinvestment Act of 1977 (12  
6 U.S.C. Section 2901 et seq.) unless the institution has a current  
7 rating of satisfactory or outstanding under that law.

8           (c) When investing or depositing state funds, the  
9 comptroller may give preference to financial institutions that have  
10 a current rating of outstanding under the Community Reinvestment  
11 Act of 1977 (12 U.S.C. Section 2901 et seq.).

12           (d) This section may not be construed as authorizing the  
13 comptroller to conduct an examination or investigation of a  
14 financial institution or to receive information that is not  
15 publicly available and the disclosure of which is otherwise  
16 prohibited by law.

17           SECTION 3. This Act takes effect September 1, 2021.