

2009



CDFI State Legislation and Advocacy Guide

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Executive Summary

Opportunity Finance Network's *Community Development Financial Institution (CDFI) State Legislation and Advocacy Guide*, now in its fourth year of publication, tracked legislation in statehouses across the nation that supported CDFIs and the financial services markets in which they are active. The 2009 version of this publication comes as the economy is still entrenched in the worst economic downturn since the Great Depression. However, state governments have shown commitment to protecting their most vulnerable populations through their considerable support of opportunity finance legislation. During the 2009 legislative session, OFN tracked nearly 300 bills in 46 states legislatures that support, promote, and complement the work of the CDFI industry as the country navigates these tough economic terms.

Although its impact varies from city to city, county to county, and state to state the economic crisis underscores the need for states to develop new and more effective solutions to the daunting public policy challenges that lie ahead. As state and local governments struggle with budgetary restrictions and declining revenues, CDFIs are emerging as strong partners in developing and implementing these solutions, purveyors of local solutions that encourage investment in the human and physical capital in the nation's most vulnerable neighborhoods, and sound investment vehicles for state funds.

State governments are in the position to more accurately assess the needs of their populations, as well as communicate with county and municipal governments to deliver the necessary services. This enables state governments to serve as incubators of public policy, where different ideas can be tailored to the specific needs of the region or state, and those experimental results can serve as models for other states as well as nationally. In addition to creating new policy initiatives, states often model their own programs after existing federal programs. This year, five states (Florida, Hawaii, Kentucky, North Carolina, and Oregon) introduced legislation which mirrored the federal New Markets Tax Credit program, and Florida and Kentucky passed their New Markets Tax Credit legislation this session. Missouri and Louisiana extended their New Markets Tax Credit programs, while Massachusetts and Texas both introduced bills that are similar to the federal program, and provide investors with a tax credit for qualified investments in low-income communities.

This year, there was an unprecedented level of activity on the state level as states have taken new measures to protect consumers by regulating mortgage licensing more stringently, restricting payday lending operations, providing penalties for foreclosure rescue fraud, and bringing their state laws into compliance with federal S.A.F.E requirements.¹ Bills that were

¹ ¹ On July 30, 2008, President Bush signed House Resolution 3221 (P.L. 110-289). Title V of House Resolution 3221 is referred to as the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). Under the SAFE Act, all states must have a system of licensing in place for residential mortgage loan originators by August 1, 2009, that meets national definitions and minimum standards, including criminal history and credit background checks; pre-licensure education; pre-licensure testing; continuing education; net worth, surety bond or recovery fund; and licensing mortgage loan originators through a Nationwide Mortgage Licensing System and Registry (NMLS&R).

focused on mortgage lending, payday lending and predatory lending totaled 48 percent of the total bills introduced during this session.

State legislatures also created programs that complemented and augment federal programs with their own stimulus bills as well as legislation that allows them to fully take advantage of the federal funding provided to the states. As their coffers become more depleted, states are also searching for other methods to provide economic development financing to their constituents, and are experimenting with different delivery mechanisms for funding. In economically flush times, states created grant and loan programs, which would require direct appropriations from the legislature, and would place budget pressures on already dire economic conditions. This year, there are fewer of these programs, and new programs are being created as loan guarantee and tax credit programs, which allow states to defer some of the costs of the programs to later, and ideally, economically viable years in the future.

While the growth in opportunity finance legislation in state governments is encouraging, there is much more that can be done to immerse CDFIs as a mechanism for spurring economic growth, job creation, support of small businesses, and revitalizing of distressed communities. These are the engines of growth for the future, and governments across the country should continue to explore ways to include CDFIs in their economic plans.

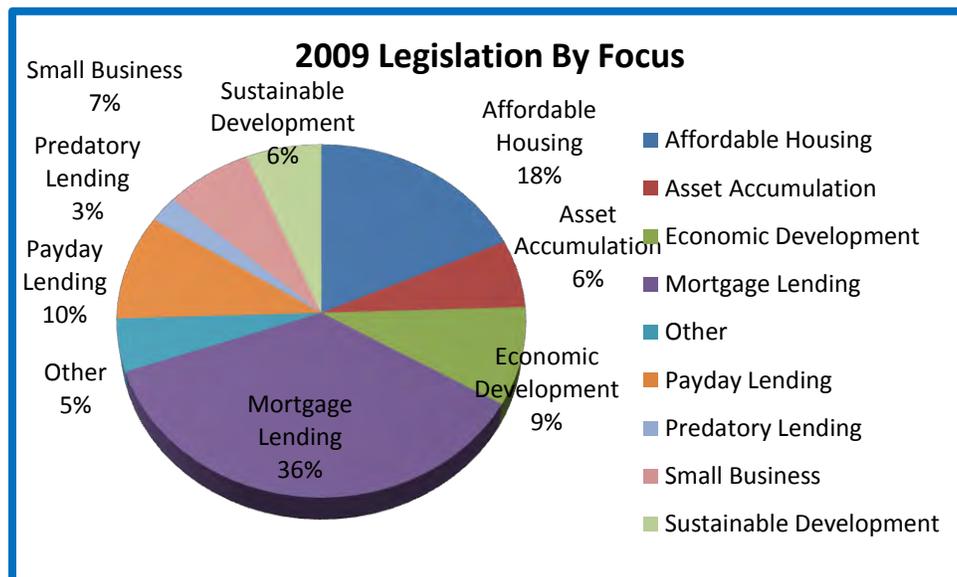
This paper begins with a detailed quantitative analysis of the initiatives introduced to support opportunity finance in state legislatures during the 2009 legislative session. The analysis of the legislation is focused on four areas: the subject matter, or focus, the type of bill, of the bill, whether the bill specifically mentions CDFIs, and the requirement of appropriation. Next, the publication contains detailed synopses of each bill included in the study. This year, the guide is divided into eight stand-alone sections, with legislation grouped by the focus of the subject matter: **Affordable Housing, Asset Accumulation, Economic Development, Mortgage Lending, Payday Lending and Predatory Lending, Small Business, Sustainable Development, and Other**. Finally, OFN will share tips and provide useful tools on how an organization can successfully begin to conduct an advocacy campaign in its legislature. We hope this guide will assist our Members in designing and implementing a successful advocacy effort in their own state governments.

Analysis

Bill Focus

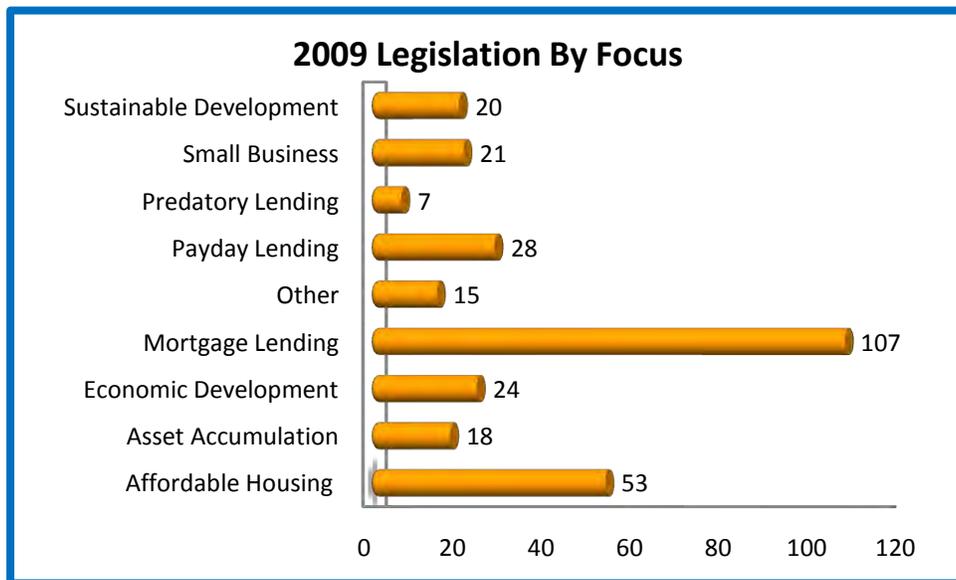
This year's state guide contains bills classified by nine subject matter areas: **affordable housing, asset accumulation, economic development, mortgage lending, payday lending, predatory lending, small business, and sustainable development**. Several of the categories of legislation have a sub-focus, or an additional category used for grouping and classification of the bills. For example, the legislation focused on asset accumulation falls into several smaller subgroups: Individual Development Accounts, Financial Literacy, and all other bills designed to assist low-income populations with asset accumulation. The analysis and bill synopses for each subject matter area contain information about the various sub-focuses of the legislation.

As depicted in the pie chart below, of the 293 bills featured in the study this year, more than one-third (107 bills introduced in 39 states) were focused on **mortgage lending**, by far the largest category of all subject matter areas. Mortgage lending legislation consists of the bills in the study that address a myriad of issues in the mortgage lending market such as prohibiting prepayment penalties, preventing foreclosure; protecting tenants facing eviction on foreclosed properties, judicial modification of mortgages, and statewide foreclosure moratoriums. This can be attributed to the continuing troubles in the mortgage market, as foreclosures continue to rise and state governments seek to address the housing needs of their constituents. To further their efforts, 23 states introduced 53 **affordable housing**-focused bills, 18 percent of the total bills introduced. Affordable housing bills are bills that facilitate the creation, maintenance and preservation of the affordable housing stock in the states. Together, mortgage and affordable housing-focused bills comprised 55 percent of the bills in this study.



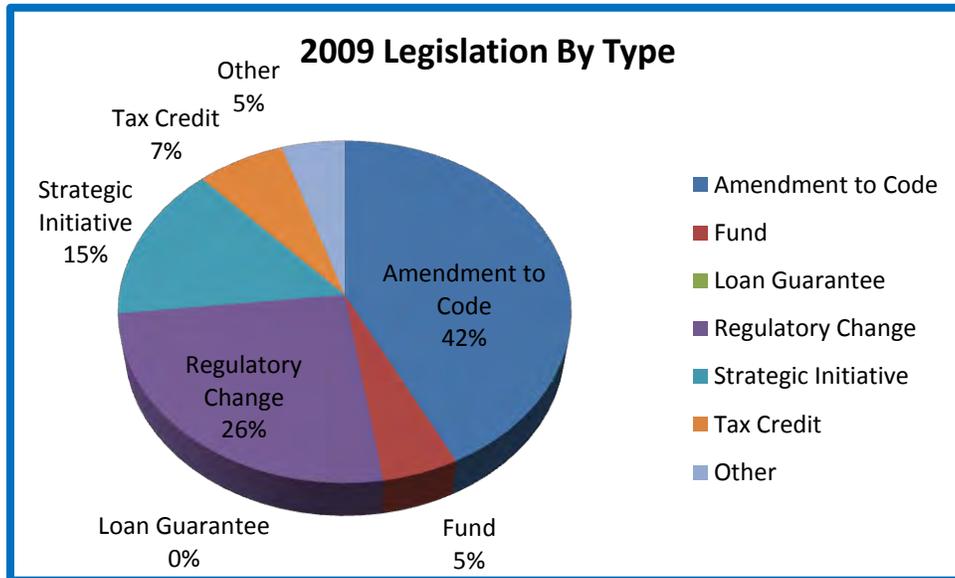
Consumer protection legislation in the form of **payday** and **predatory lending** bills were ten and three percent of the bills introduced this session, respectively. Payday lending legislation regulates small loans by capping usurious interest rates, requiring licenses for lenders of these loans, and allowing consumers the right to full disclosure of the terms of the loan and the interest rate before receiving the funds. Predatory lending legislation, on the other hand, regulates other consumer credit financial instruments that are non-payday and non-mortgage lending services, such as debt reduction programs, and instituting requirements for lenders to adopt fair and equitable lending standards. There were 28 payday lending initiatives introduced this session, four of which passed their legislatures in Kentucky, Minnesota, Nebraska, and Washington, and seven predatory lending bills introduced, two of which passed in Colorado and Connecticut.

Six percent of the legislation tracked were bills designed to promote **asset accumulation** for low- and moderate income families, as well as encourage savings and financial literacy. An additional eight percent of the bills (24 bills) promoted economic development. There were 21 small business and microenterprise-focused bills, and 20 sustainable development bills, three of which passed during the session.



Bill Type

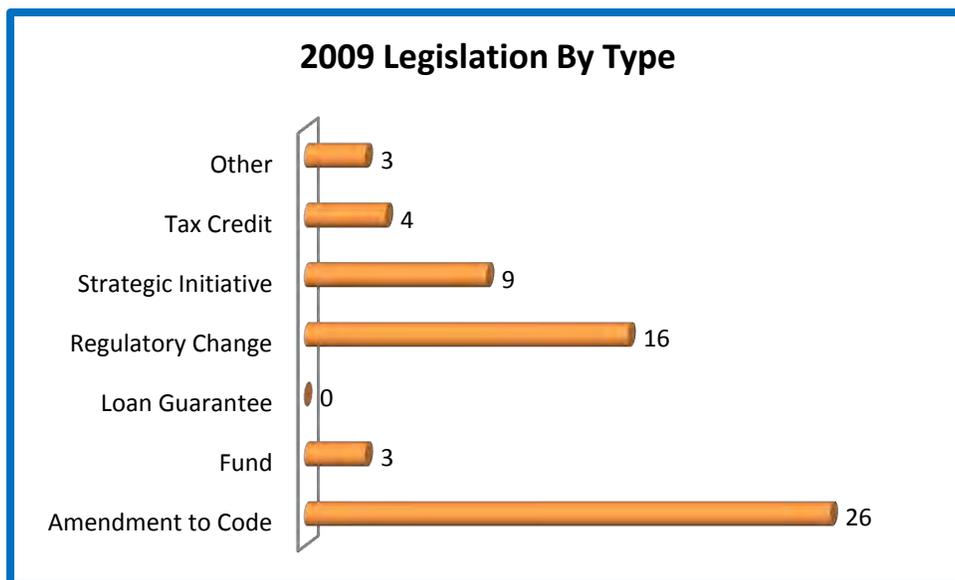
The type of bill as well as its focus can influence the likelihood the bill will be passed and implemented. This guide classifies legislation into seven types: **amendments to state code, funds, strategic initiatives, regulatory changes, tax credits, loan guarantees, and other**. The charts below show this year's legislation based on the type of bill.



This paper classifies **amendments to state code** as bill that make changes to existing statutes and programs, typically changes in technical definition, terms, and dates, and, for the purposes of this guide, do not require appropriations. In the 2009 session, 43 percent of all bills tracked were amendments to state code.

There were 65 **regulatory changes** tracked during this session, accounting for 22 percent of all bills. Sixteen of these regulatory changes passed, or 26 percent of all of the bills that passed during the session. As in previous years, most bills in this category were designed to limit unscrupulous lending practices within the states. States are holding mortgage lenders more accountable for their loan products and services, as evidenced by the increase in regulation of these products and services.

While these bills are similar to amendments to the state code, they were placed in the regulatory changes category if there were any penalties imposed for a violation of the statute. These regulatory changes can be amendments to existing state laws that mainly change or strengthen current predatory lending legislation, or new legislation that regulates mortgage loans extended to borrowers, particularly those with weak underwriting standards and exotic repayment terms. Regulatory changes also monitor lending and brokering activity, and enforce more stringent record keeping and reporting requirements.



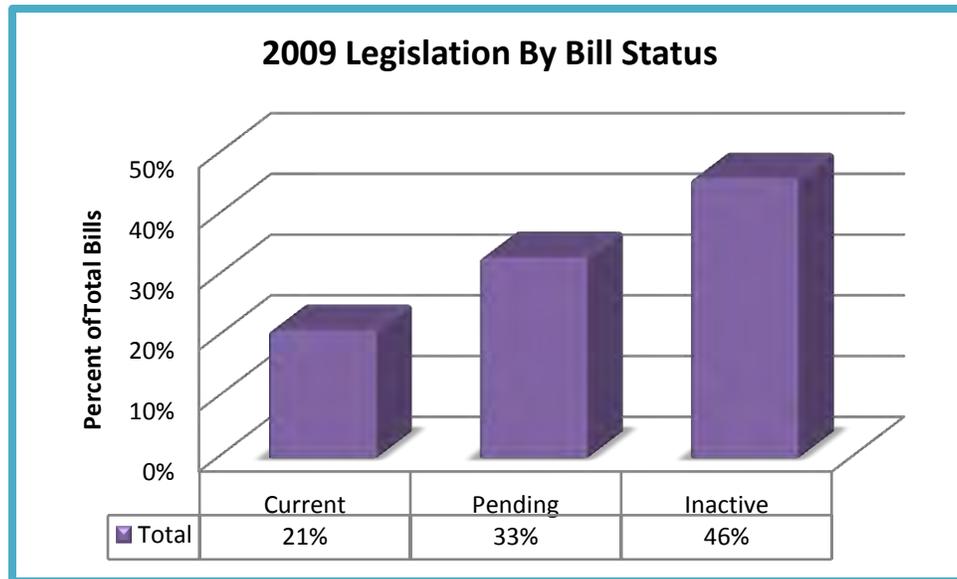
Twelve percent of the 2009 legislation introduced, or 35 bills were classified as **funds**, bill that created or extended grant and loan programs to support opportunity finance. There are many different types of funds, ranging from general funds that provide money for different types of community development corporations (CDCs), funds that CDFIs can apply to; and funds that appropriate money directly to a specific organization or cause, such as affordable housing or microenterprise. Legislation that creates a fund will not always provide for appropriations.

Seven percent of the bills (19 bills) were **tax credit** legislation. Four of these bills passed their legislatures, while another six are pending. The remaining nine tax credit bills died when the sessions ended. An additional 11 percent of bills introduced were strategic initiatives, legislation to support community development that does not involve direct appropriations to CDFIs. These strategies can be part of a broader economic development plan or stand alone as legislative remedies to particular issues within a state. **Strategic initiatives** are an alternative method to support the opportunity finance industry, and these bills tend to focus more on implementing long-term economic development plans and achieving sustainable growth in the state.

Finally, **loan guarantee** legislation allows opportunity finance institutions to lower the costs of capital because the state government acts as the guarantor, and agrees to pay a percentage or the entire amount due on a loan instrument in the event of nonpayment by the borrower (the CDFI). This reduces the lender's risk exposure, allowing that entity to deploy more capital into distressed communities. This type of legislation has declined in its prevalence in state legislatures in recent years. Loan guarantees continue to be a relatively unpopular type of legislation for state governments. While there were four introduced last session that would provide loan guarantees, there were five such bills introduced this session. However, none of these bills passed their legislatures this session: California A.B. 1410, a sustainable development initiative, Connecticut House Bills 6478 and 5201, a small business and mortgage lending legislation, respectively, and Texas Senate Bill 1602, a small business-focused bill.

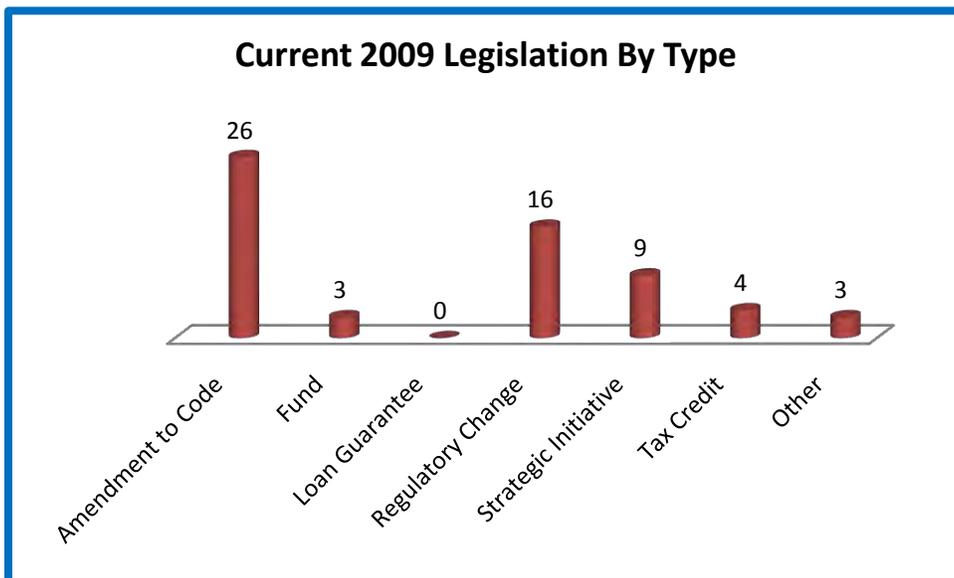
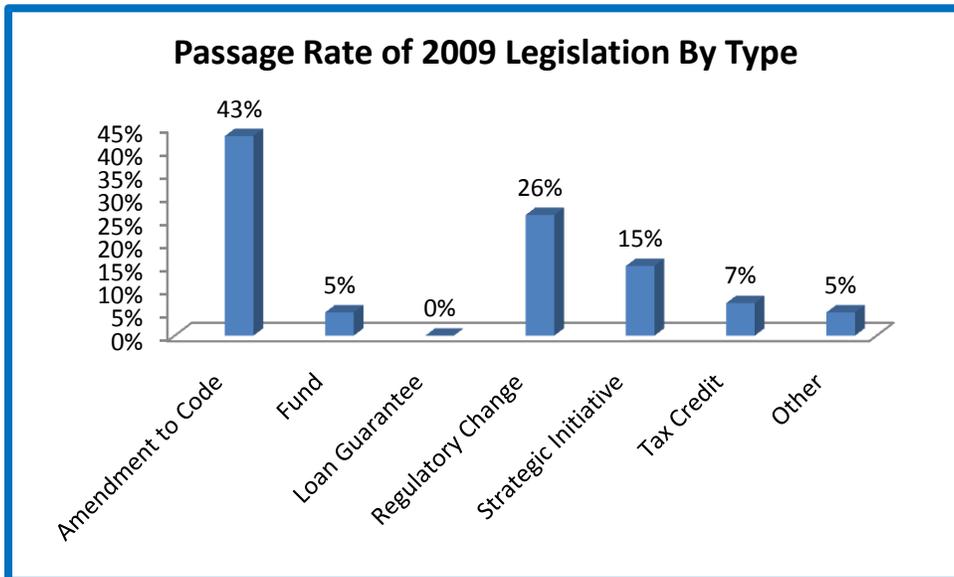
Bill Status

Legislation in the study is characterized as current, pending, or inactive. Bills that have passed their legislatures and were signed into law are considered current. Legislation held over to the second half of a biennial session, is being studied, or was passed but not signed into law, is classified as pending. Finally, bills that did not pass their legislatures during the 2009 session are inactive.

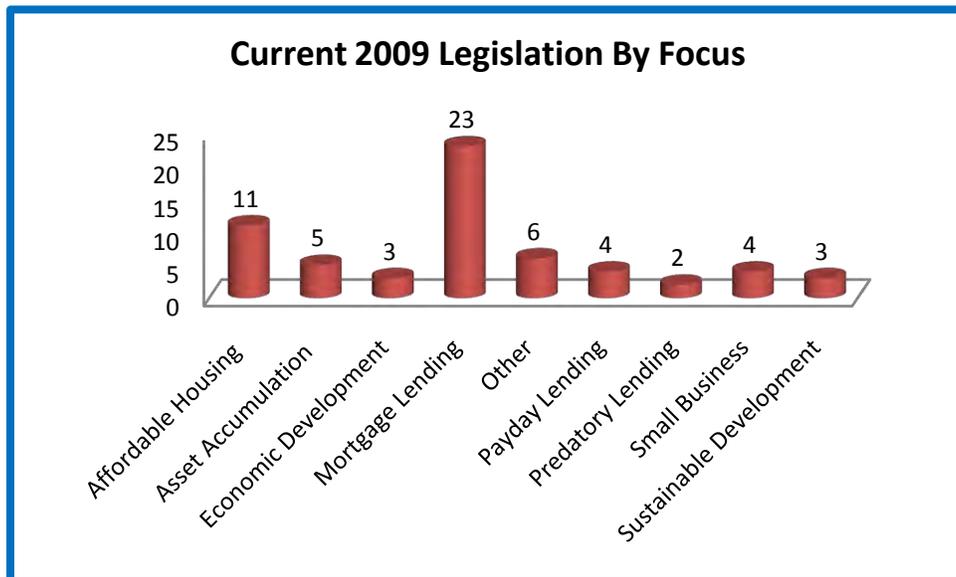
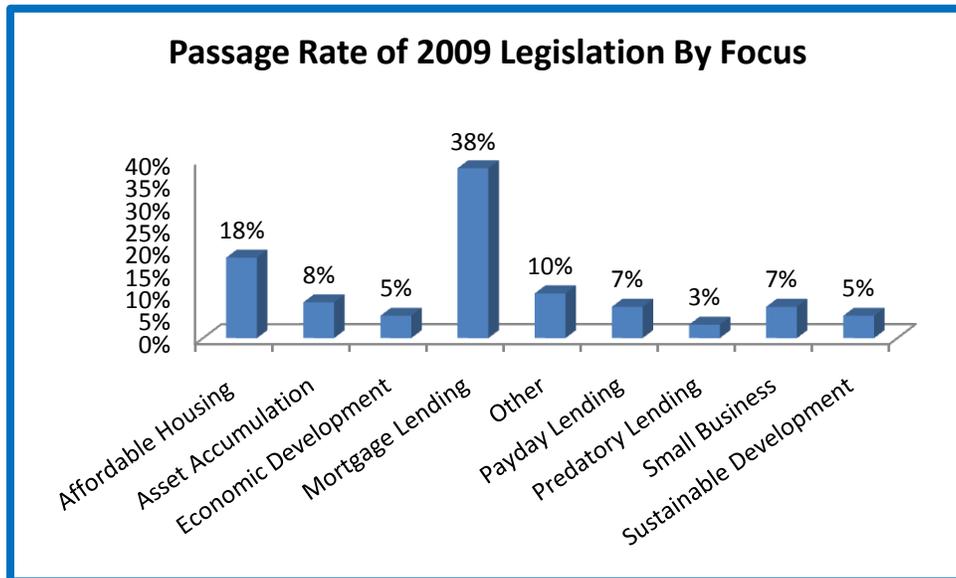


The above chart shows the percentages of bills that passed their legislatures, are still pending, or did not pass during the session and are inactive. Of the 293 bills in this study, 21 percent, or 61 bills, passed their legislatures this session. An additional one-third of the bills are still pending in their legislatures, as many states are in the first year of a biennial legislative session. The bills that are pending will be reintroduced in the second year of the session for debate. The remaining 135 pieces of legislation are inactive, as they did not pass their legislatures during this session.

The charts below show legislation that passed their legislature this session based on the bill type. This year, of the 61 bills that passed, nearly 43 percent (26 bills) were amendments to the state code and 26 percent, or 16 bills, were regulatory changes. An additional 15 percent of successful bills were strategic initiatives, while tax credits, funds, and "other" bill types comprise seven, five, and five percent of the total bills passed this session, respectively. None of the loan guarantee legislation passed during the session.



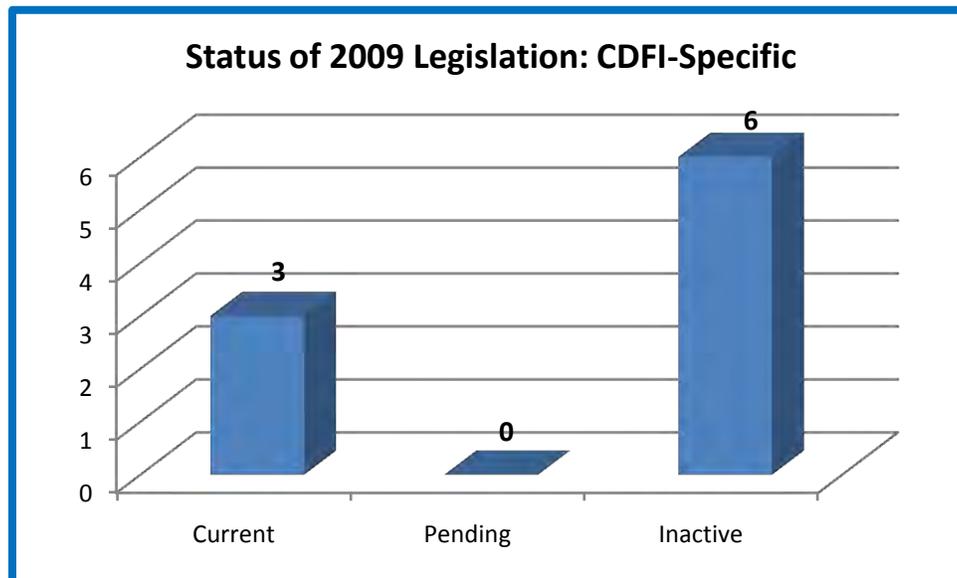
The following two charts analyze the legislation that was signed into law this session based on the subject matter area. Of the 61 bills that passed this session, bills focused on mortgage lending were the most successful, with 23 bills passing their legislatures (38 percent of all bills that passed.) An additional 18 percent of successful bills focused on the creation, maintenance, and preservation of affordable housing bills. Payday lending and small business legislation each comprised seven percent of the total bills that passed this session, with four bills passed in each focus area.



CDFI Specificity

The guide also tracks bills that are explicitly targeted at CDFIs. Although CDFIs were not mentioned specifically in most bills, CDFIs are eligible to participate in many of the programs that are open to CDCs or nonprofits that have 501(c)3 tax status. This session, there were nine bills that specifically mentioned CDFIs: three in Texas, two in Florida and Missouri, and one each in Kentucky and Vermont. CDFI-specific legislation had a passage rate of 33 percent, much higher than the 20 percent passage rate for non-CDFI specific legislation. Florida House Bill 485/Senate Bill 1502, a tax credit bill, Missouri House Bill 191, which focused on workforce development, and Vermont House Bill 313, the stimulus legislation, were the CDFI-specific bills that passed their respective legislatures this session.

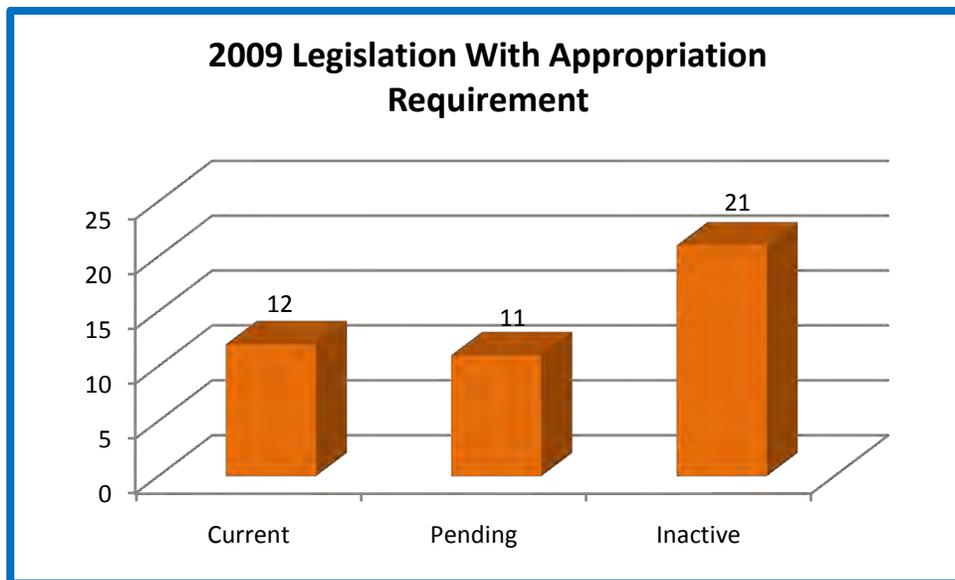
The other six bills, Florida House Bill 1149, a small business fund; Kentucky House Bill 511, the Kentucky New Markets Development Program; Missouri House Bill 712, an affordable housing fund; Texas House Bill 1593, and economic development tax credit; Texas Senate Bill 148, an economic development bill, and Texas House Bill 2459, a small business tax credit, all failed to pass their legislatures this session. The remaining initiatives had a broader focus. For example, some included CDFIs in their community building organizations (CBOs) criteria. Others included CDFIs in their lending-institution criteria or as eligible applicants for grant and loan funds.



Appropriation Requirement

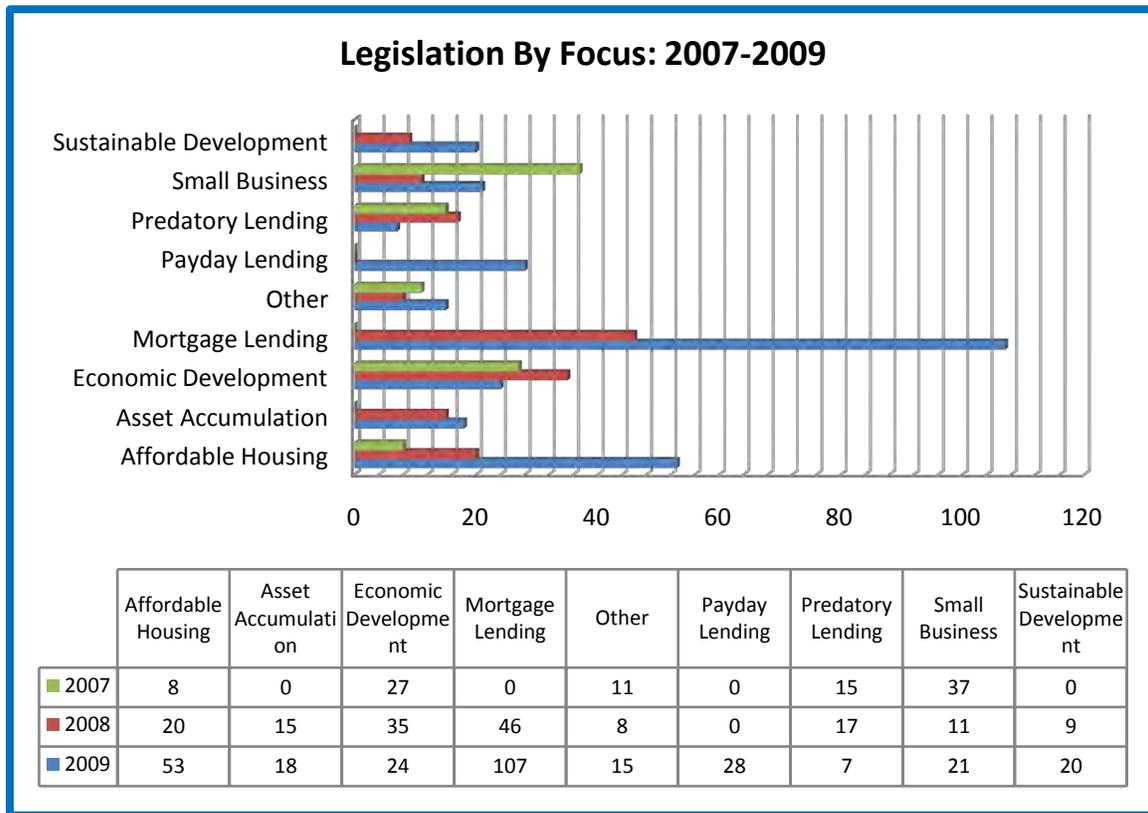
After examining the current initiatives based on type, status, and focus, additional statistical analysis was done to determine if a proposed initiative was more likely to succeed if no appropriation was required. The analysis included an assumption that an appropriation was required unless another funding source was identified either in the legislation or by program staff. Although tax credits do not require an appropriation, they are usually budgeted for in terms of program administration. For this analysis, we assume that tax credits require no appropriation.

The bar chart below shows the status of the 44 bills in this guide which require an appropriation. Of these bills, legislation requiring an appropriation fared slightly better in their legislatures than bills not requiring an appropriation, which is a change from previous years. Twelve bills requiring an appropriation passed this session, or 27 percent. An additional 25 percent of bills requiring appropriations are still pending, and 21 of these bills failed to pass during the session. On the other hand, 20 percent of bills not requiring an appropriation passed their legislatures, while another 35 percent are still pending.



Trends

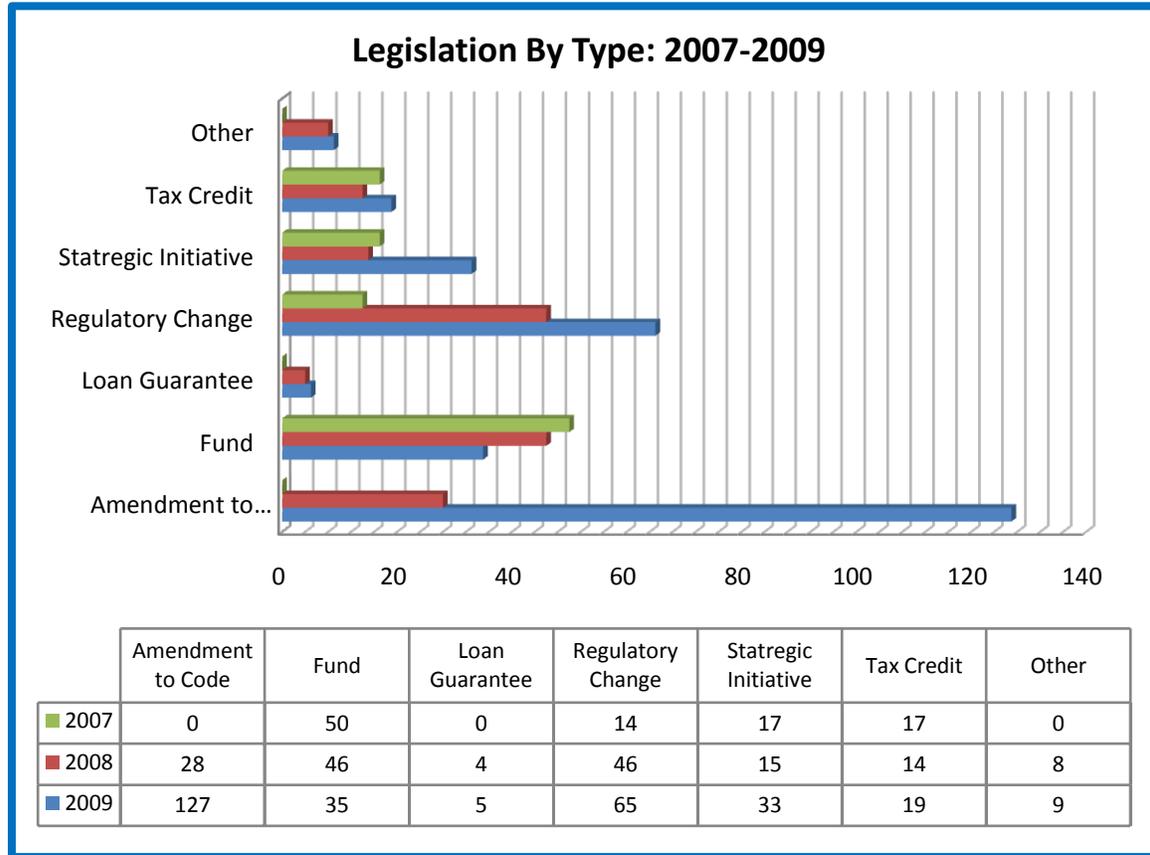
Year-to-Year Trends



Affordable housing legislation increased dramatically since 2007, more than doubling in 2008, then again in 2009, as states sought legislative solutions to address deteriorating conditions in the housing markets. The number of bills to create and preserve affordable housing in states increased from eight percent of all bills introduced, to eighteen percent of all bills introduced. In 2007, there were eight affordable housing bills introduced. That increased to 20 bills in 2008, then to 53 bills in the 2009 legislative session. State efforts to address housing issues is further evidenced by the growth in mortgage lending legislation as well, which more than doubled in 2009, from 46 to 107 initiatives.

States are also making strides towards environmental stewardship in the economic development process, as the number of sustainable development initiatives introduced has more than doubled since last year. Small business development bills have declined precipitously since 2007, when 37 bills were introduced. This declined to 11 bills in 2008, and increased to 21 bills in 2009, though that is still a 43 percent decline since 2007. Asset accumulation legislation saw a 20 percent

increase from 2008 to 2009, while sustainable development legislation more than doubled in that same time period.²



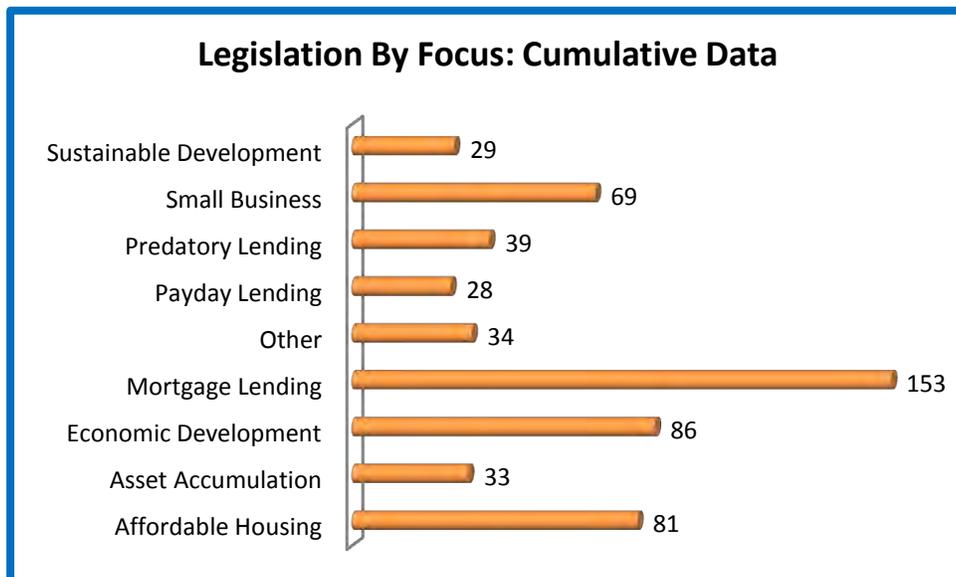
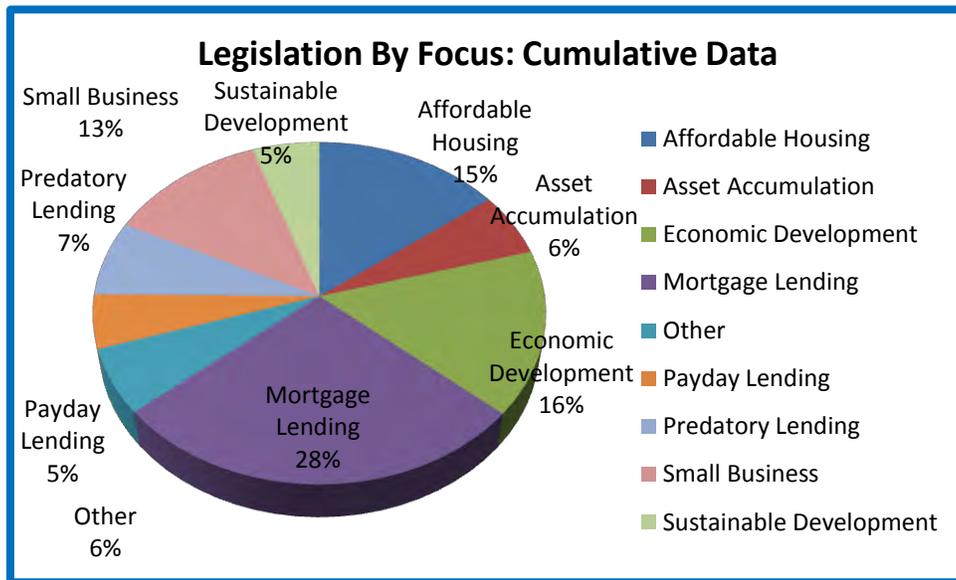
The bar chart above details the legislation tracked from 2007 to 2009 in the state guide based on the type of bill. It is notable that the number of bills to create grant and loan programs, categorized as funds, has declined by 30 percent since 2007, while the number of regulatory changes has more than tripled during the same period.³ This reflects the changes in the fiscal standing of many state governments as the ability to create and appropriate large grant and loan programs is diminished by the economy, as well as their attempts to address some of the unscrupulous credit practices that contributed to the financial crisis.

² Asset accumulation and sustainable development legislation were not tracked in the 2007 version of the publication. This data was collected starting in 2008.

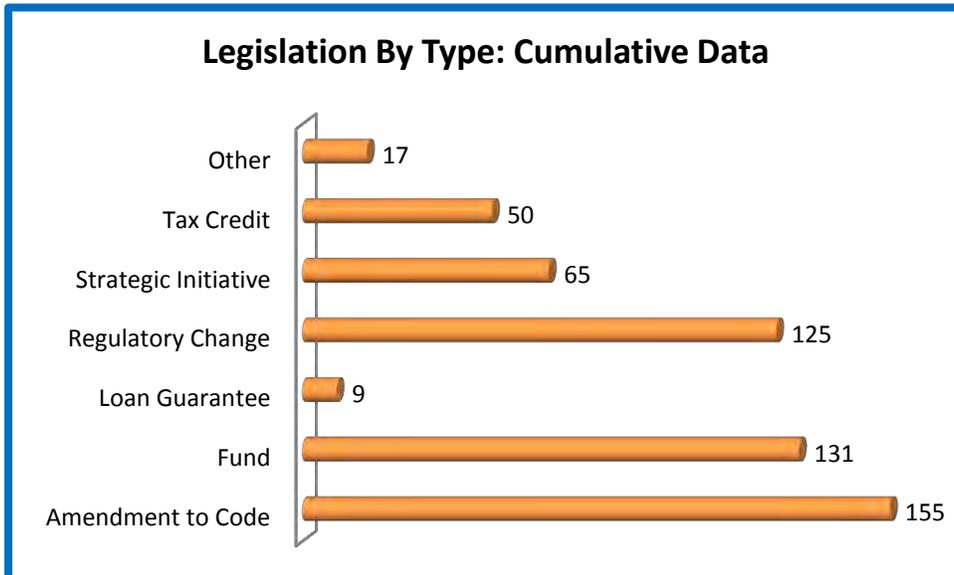
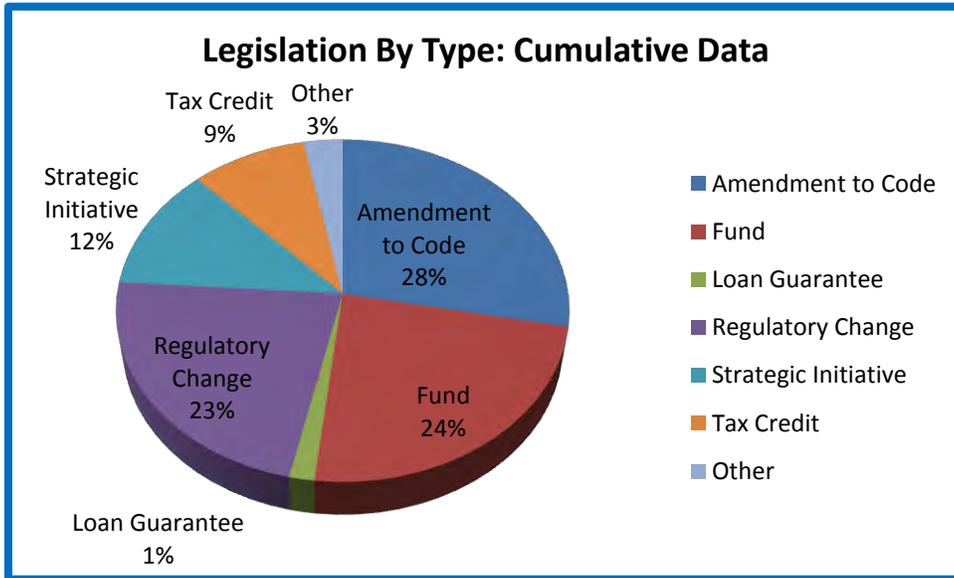
³ Changes in data collection methods have also contributed to the changes in the types of bills introduced. For example, the "amendment to code" category was not introduced until the 2008 version of the publication. However, year to year comparisons can be more useful with categories such as funds and tax credit, which have been tracked in our study over a three year period.

Cumulative Statistics

Over the past few years, OFN has tracked more than 550 opportunity finance bills in state legislatures. Of these bills, 112 passed their legislatures, or slightly more than 20 percent. Of the bills introduced, more than one-quarter were mortgage lending-focused bills, Mortgage lending legislation is the largest focus area of legislation tracked in the state guide, with 153 total bills introduced since 2007. Of these, 28 bills, or 18 percent, passed their legislatures. An additional 86 bills or 16 percent supported community and economic development, while 81 initiatives promoted the creation or preservation of affordable housing.



The charts below show the cumulative data for all bill types in the guide. Since 2007, 155 bills were introduced that proposed amendments to the current state laws, while 131 bills created or continued existing grant and loan programs. In addition, 125 bills were regulatory changes, which also change state laws but tend to restrict or deter certain behaviors by imposing civil or criminal penalties on individuals and institutions that violate these provisions. A total of 50 tax credit bills and 65 strategic initiatives were introduced, while nine were loan guarantees and 17 were classified as "other."



Regional Trends

The analysis contains regional distinctions, with states divided into four regions: Midwest, Northeast, South, and West. Regions and divisions in the report are defined by the Census Bureau.⁴ The following table compares regional results from the 2009 session only. It is important to note that cross regional comparisons are somewhat difficult, because certain regions contain a larger number of states than others. For example, the south region contains 19 states, and thus, appears to have been more active than the other states in introducing legislation. The bill passage rate allows for some comparison among regions. The Western region passed 36 percent of the legislation tracked in this study, the highest of any region and fifteen percentage points higher than the national bill passage rate. On the other hand, the Northeast region passed only ten percent of the legislation tracked in the study, or six bills. The Midwest and South passed 16 percent and 17 percent of the legislation, respectively. Two-thirds of the CDFI-specific legislation in the guide was introduced in the South region, while none was introduced in the West region.

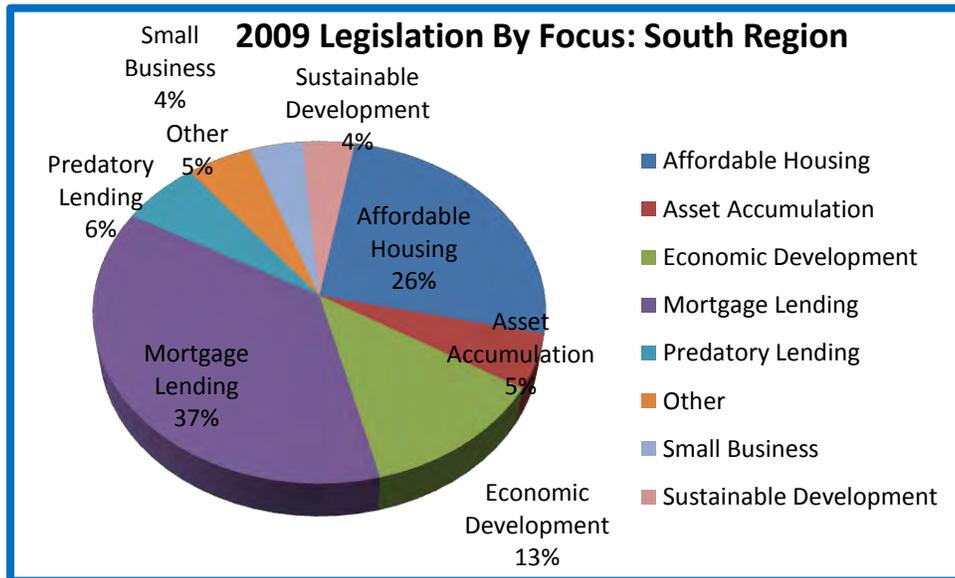
	Midwest	Northeast	South	West	National
Number of Bills	58	59	96	80	293
Current Legislation	10	6	15	29	61
Passage Rate	17%	10%	16%	36%	21%
CDFI-specific	2	1	6	0	9
Appropriation Required	9	8	14	13	44

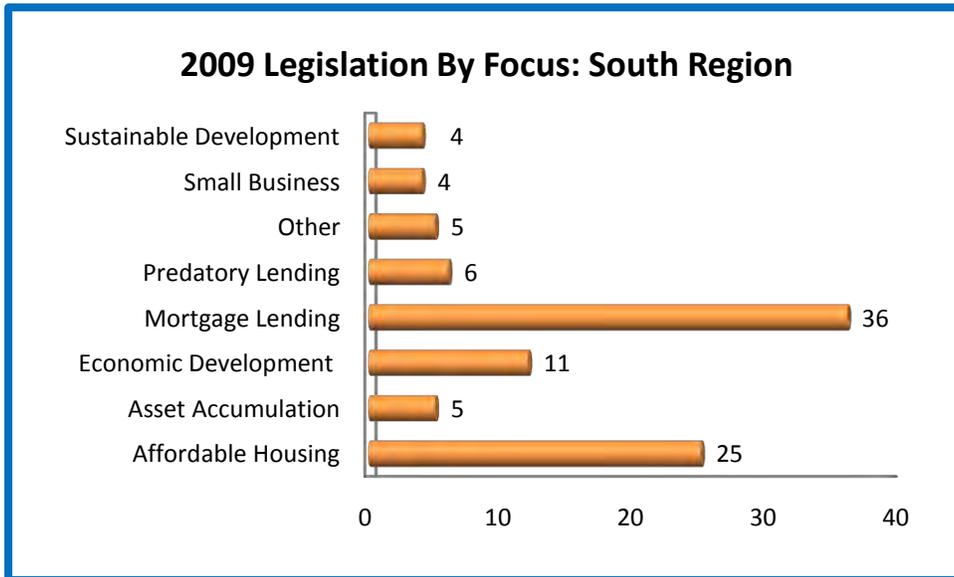
The sections below analyze the legislation in this guide by region. Additional regional analysis can be found in the nine stand-alone sections, where the bills are grouped by subject matter area.

⁴ See Methodology Section for full regional definitions.

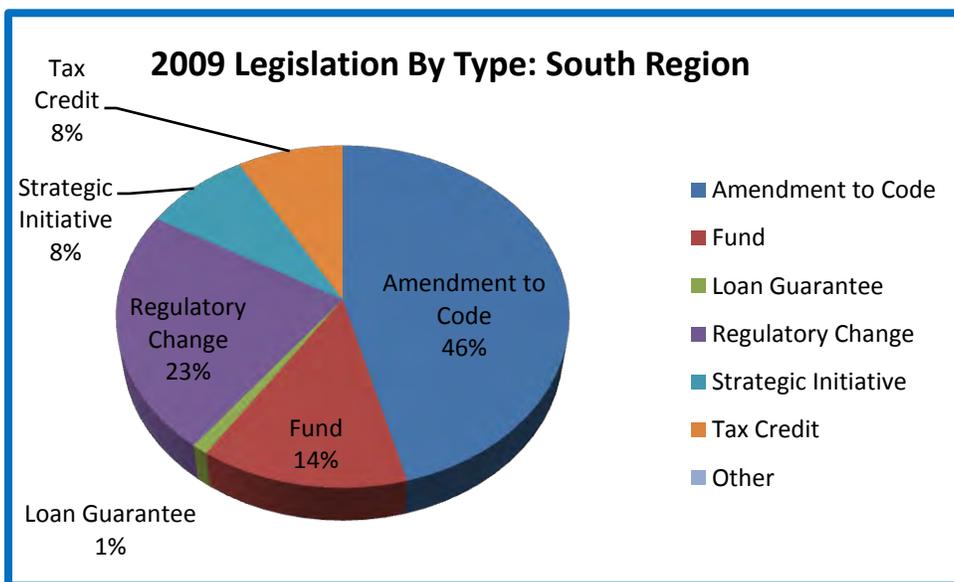
South Region

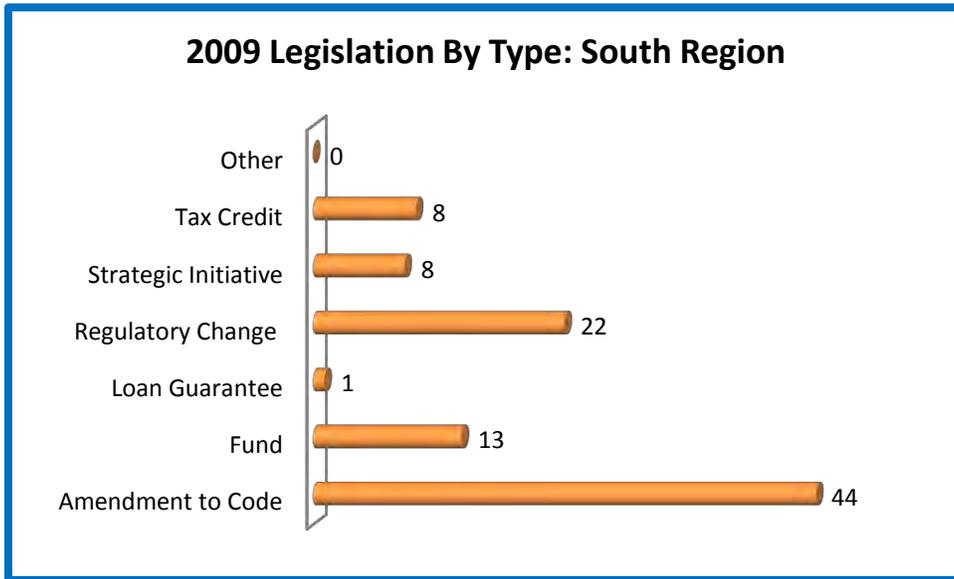
There were 96 bills introduced in the South region this session. The charts below show the legislation introduced in this region based on the subject matter. More than one-quarter of the bills introduced in the South region were focused on affordable housing, while 37 percent were mortgage lending bills. Eleven of the bills were economic development legislation. The remaining 24 percent of the legislation is divided amongst predatory lending, asset accumulation, small business, sustainable development, and other bill focus. Further, of the fifteen bills that passed their legislature in the South region, one-fifth (three bills) were affordable housing bills. An additional 40 percent of the bills that passed, or six bills, were mortgage lending bills, while 13 percent were economic development and "other" bills. Finally, predatory lending and sustainable development bills each comprised seven percent of the bills that passed during this session. The remaining 75 bills died during the session.



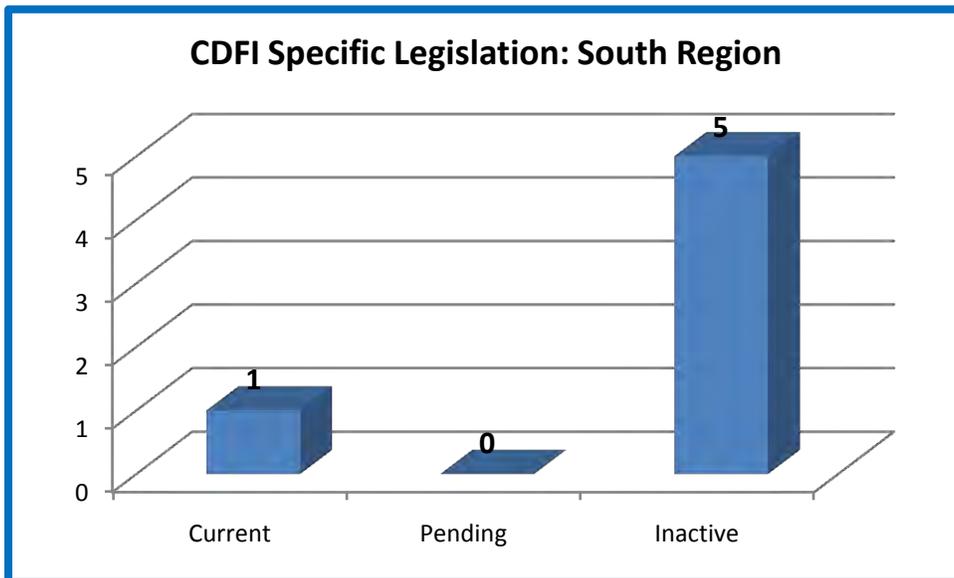


The charts shown below contain the types of opportunity finance legislation introduced in the South region for 2009. Nearly half of the bills introduced in the South were amendments to state code, while an additional 23 percent were regulatory changes. There were 13 bills introduced to create funds, totaling 14 percent of all legislation introduced in the region, eight strategic initiatives, eight tax credit bills, and one loan guarantee bill, Texas House Bill 1602, which would provide loan guarantees for microenterprise development. Five of the bills that passed this session were amendments to the state code of Maryland, North Carolina, Tennessee, Virginia, and West Virginia. An additional four bills were regulatory changes. Of the bills still pending in the South, four are amendments to code, and there is one fund, regulatory change, and tax credit.

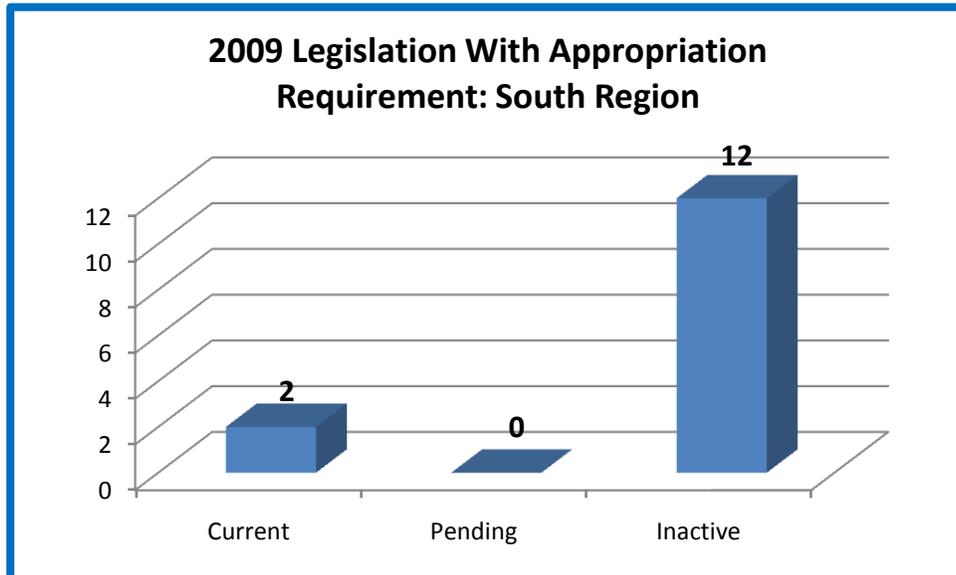




Of the bills in the South introduced this session, six were specific to CDFIs. Only one of these bills passed the legislature, Florida House Bill 485, the Florida New Markets Development Program. More than 14 percent of legislation that mentions CDFIs from the legislatures in the South region passed this session, compared with 16 percent of bills that did not specifically mention CDFIs, and 15 percent of all bills in the South. However, this is significantly lower than the overall passage rate of 33 percent for CDFI-specific legislation tracked in the guide.

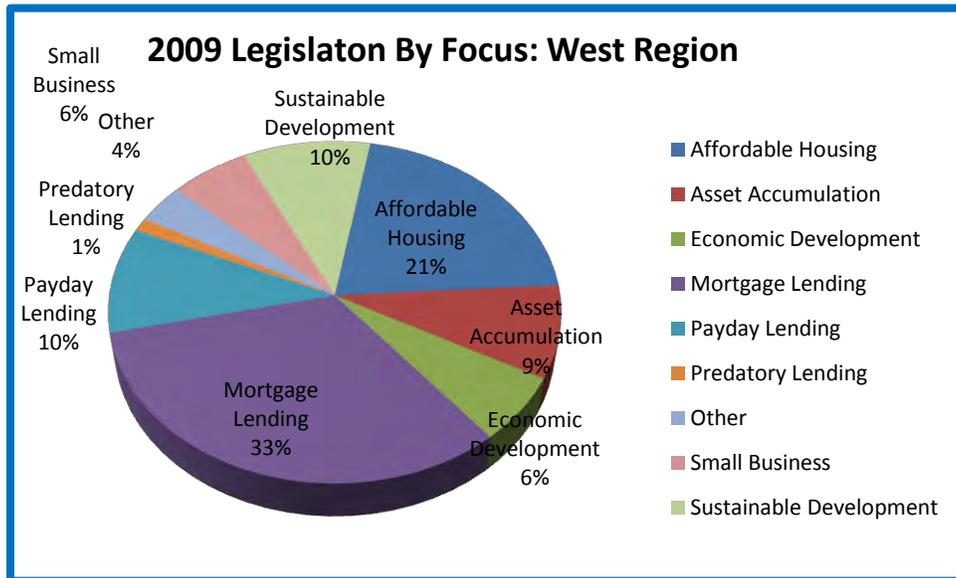


There were 14 bills requiring an appropriation introduced in the South region during the 2009 session. Of these, two passed their legislatures: Florida House Bill 1435, a sustainable development initiative, and Arkansas Act 661, an affordable housing fund. The other twelve bills died in their legislatures.

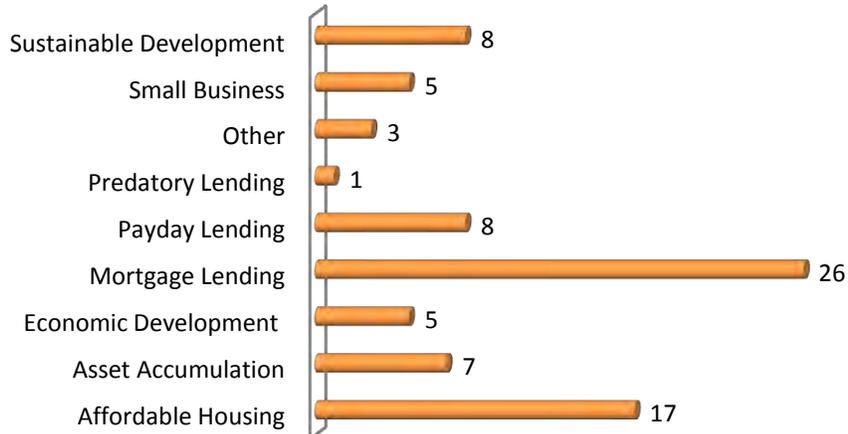


West Region

There were 80 bills tracked in the Western region this session. Mortgage lending bills comprised one third of the total bills introduced in the West region this session, and the 12 mortgage lending bills that passed account for 41 percent of all bills that passed in that region. There were also 17 affordable housing bills introduced in the West this session, nearly half of which passed their legislatures. Payday lending and sustainable development legislation comprised an additional ten percent of bills tracked this session. One payday lending bill passed, Washington House Bill 1709, and one sustainable development bill passed, Washington House Bill 2227. Seven bills were focused on asset accumulation, while there were five bills focused on economic development and small business. There were three bills characterized as "other" in this region: California Assembly Bill 33, Colorado Senate Bill 42, and Oregon House Bill 2199. There was one predatory lending bill: Colorado House Bill 1141, which passed this session.

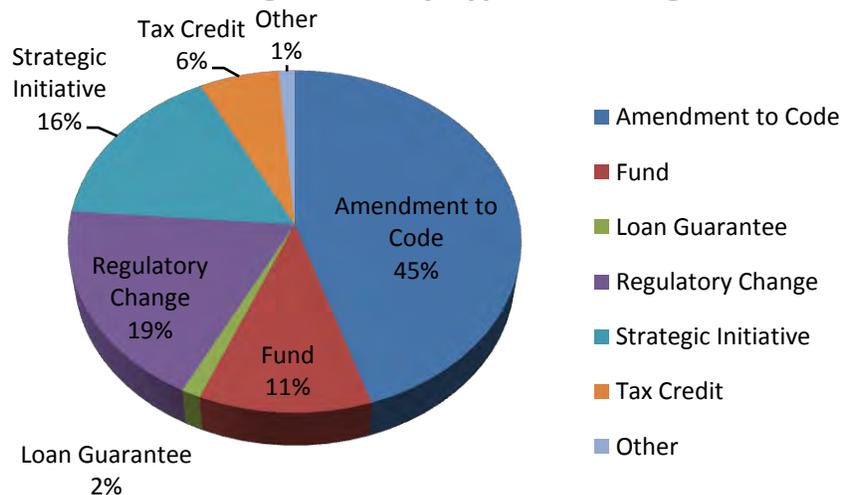


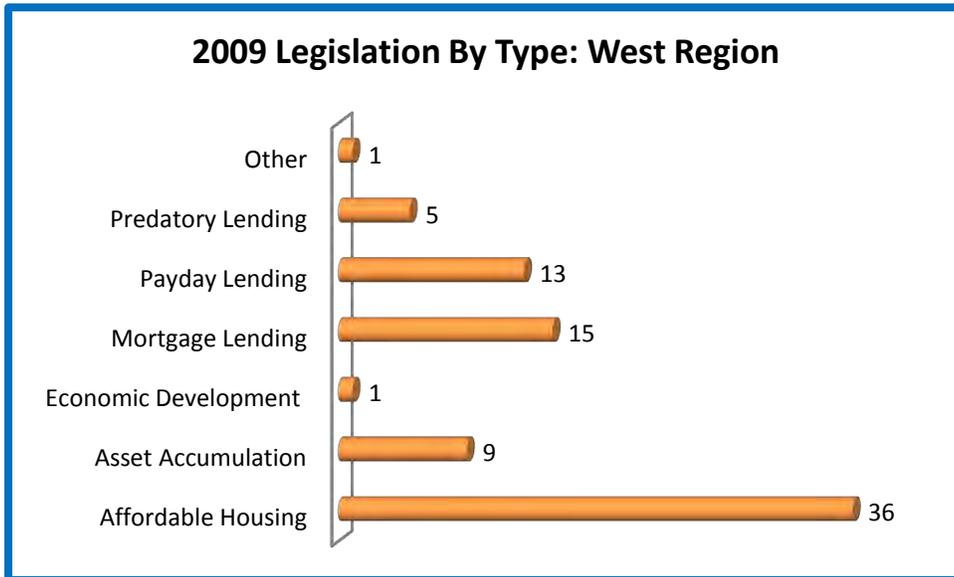
2009 Legislation By Focus: West Region



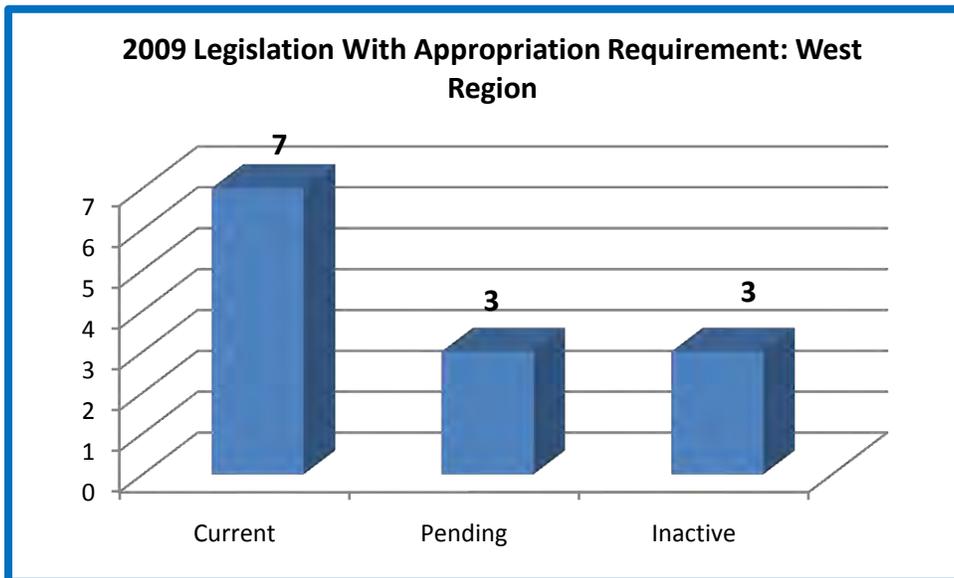
The charts below categorize the bills in the West region based on the bill type. Forty-five percent of the bills introduced in the West region were amendments to state code. Of these 36 bills, 13 passed their legislature during the session, including New Mexico House Bill 501, which amends the New Mexico code to require that loan prepayment penalties must be disclosed in writing and provided to the borrower by the lender. Nearly 20 percent of the bills in the West were regulatory changes, and 16 percent were strategic initiatives. Eleven percent were bills to create or continue grant and loan programs. Two of the fund bills passed this session, California Assembly Bill 1009, a small business bill, and Colorado House Bill 1213, an affordable housing bill. There were five tax credit bills introduced; one passed in Oregon and another is pending in California. There is one loan guarantee bill pending in California, Assembly Bill 1410.

2009 Legislation By Type: West Region





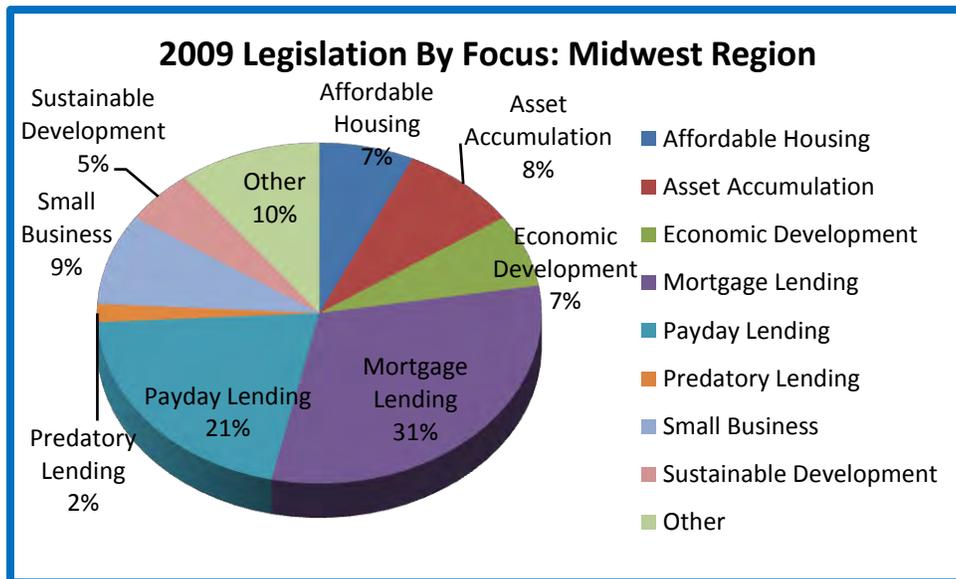
There were no CDFI-specific bills introduced in the West region during the 2009 legislative session.

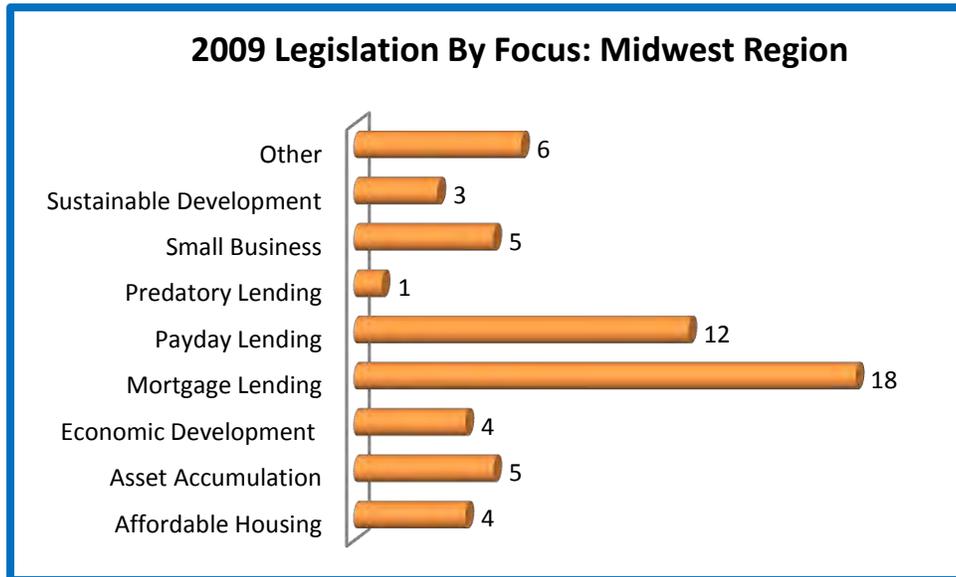


There were 13 bills in the West region that required an appropriation from the legislature, seven of which passed their respective legislatures during the session. Two bills were in California: Assembly Bill 1009, a small business development fund, and Assembly Bill 767, an affordable housing bill. Colorado passed House Bill 1213, an affordable housing fund, and Oregon House Bill 2261 is an affordable housing tax credit. New Mexico also passed an affordable housing bill, and Washington passed two bills House Bill 2227, a sustainable development-focused bill, and Senate Bill 5723, a small business-focused bill.

Midwest Region

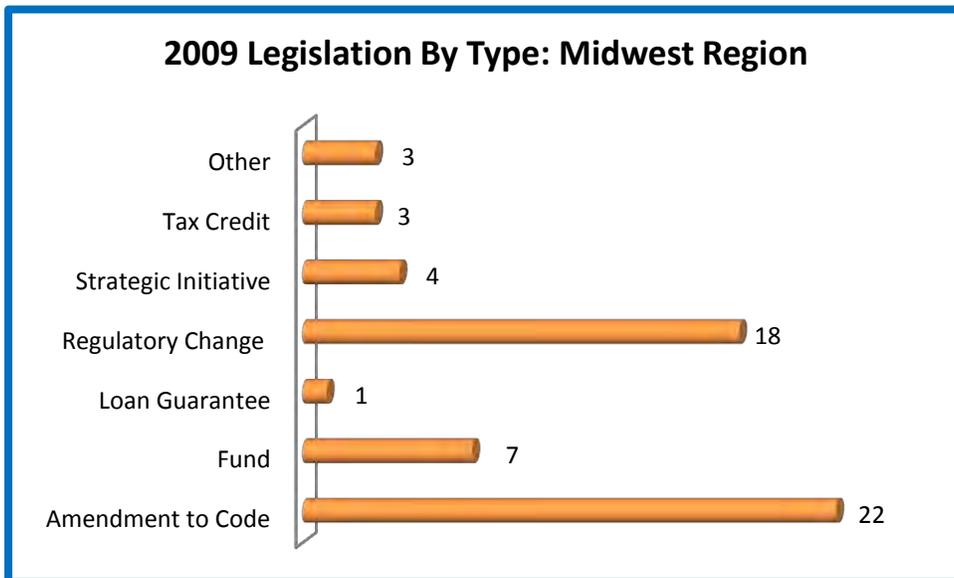
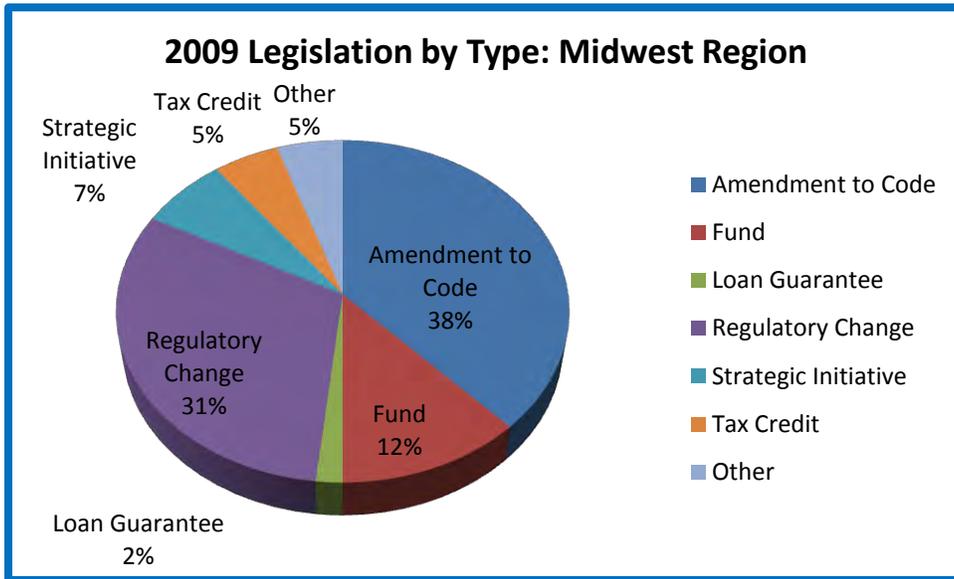
The Midwest region introduced 58 opportunity-financed related bills that were tracked in this study. Only one of the 18 mortgage lending bills introduced this session passed in the Midwest: Indiana House Bill 1176. However, 13 mortgage lending bills are still pending: six in Illinois, three in Michigan, two in Minnesota, and two in Wisconsin. Asset accumulation legislation comprised 30 percent of all bills that passed this session in the Midwest region. The three bills that passed were Iowa House Bill 672 and North Dakota Senate Bill 2260, both of which pertained to Individual Development Accounts, and Illinois Senate Bill 1563, a bill to create child savings accounts. An additional 20 percent of successful legislation focused on curbing payday lending: Minnesota Senate File 806 and Nebraska Legislative Bill 327. Two small business bills also passed this session in Indiana, House Bill 1697, and Nebraska Legislative Bill 531.



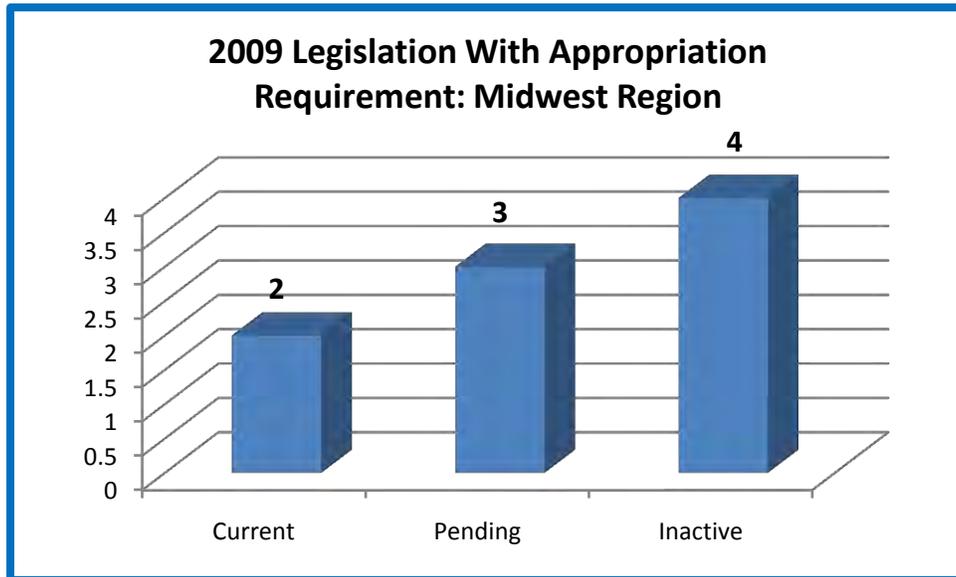


As the charts below show, amendments to state code accounted for 38 percent of all bill types introduced in the Midwest during the 2009 session, and 40 percent of all bills that passed during the session. Regulatory changes, on the other hand, were 31 percent of bills introduced, and 30 percent of all bills that passed. Of the 18 regulatory changes introduced, three passed this session: Indiana House Bill 1176, a mortgage lending bill, Minnesota Senate File 806 and Nebraska Legislative Bill 327, both payday lending-focused bills.

Three of the bills categorized as "other" died during the session, and all three were introduced in the Iowa House of Representatives: House File 539, House File 728, a disaster recovery fund, and House Bill 724, a regulatory change regarding debt management services. Overall, 17 percent of the bills introduced during this session passed their legislatures, and an additional 45 percent are still pending, as several legislatures are in the first year of a biennial session.



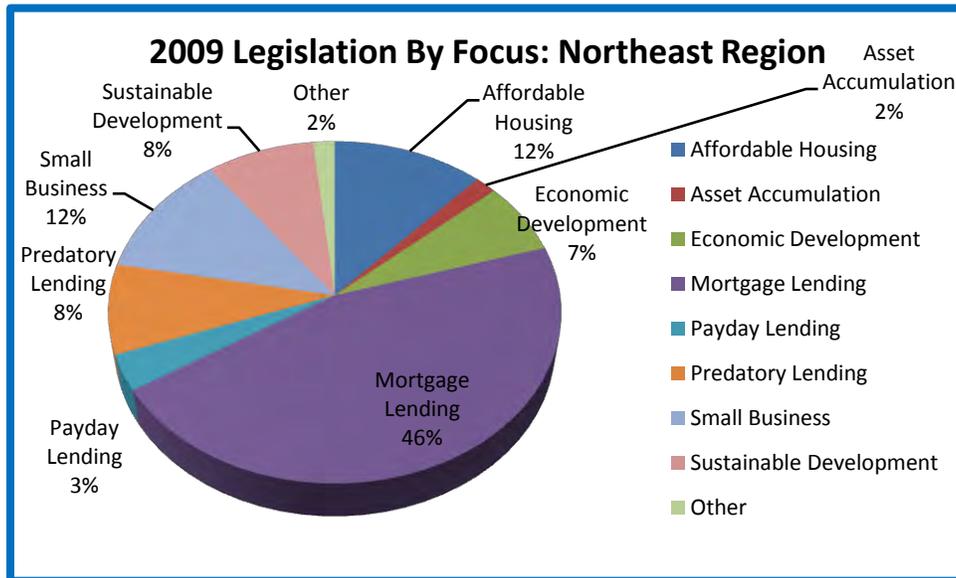
There were two-CDFI specific bills introduced in the Midwest, both in Missouri. House Bill 191, which provides a tax credit for workforce development activities, passed the legislature, and House Bill 712, an affordable housing fund, which did not pass this session.

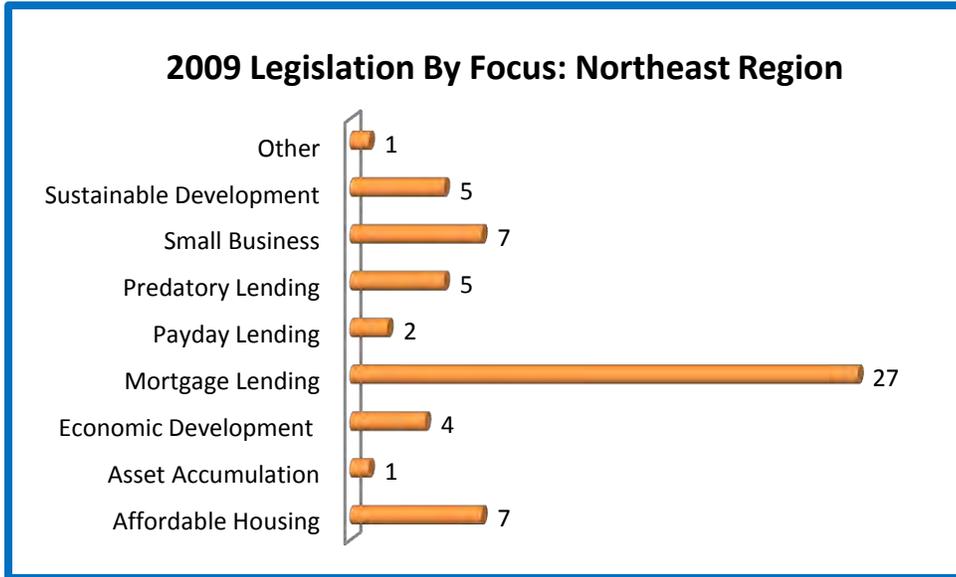


Two of the nine bills requiring an appropriation, or 22 percent, passed their legislatures in the Midwest region, whereas 16 percent of bills not requiring an appropriation passed. The two bills that passed were Iowa House File 672 and North Dakota Senate Bill 2260, both of which are bills to create Individual Development Account programs.

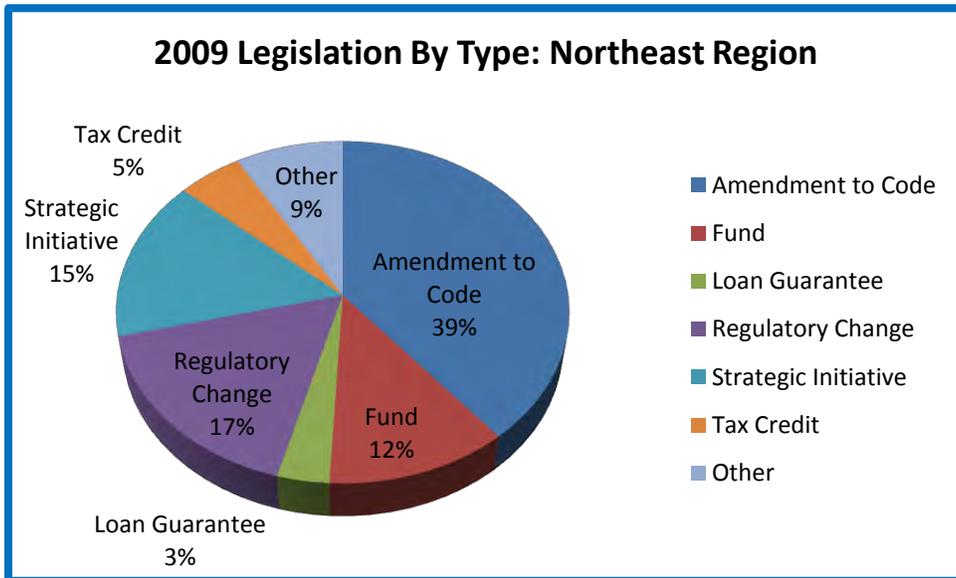
Northeast Region

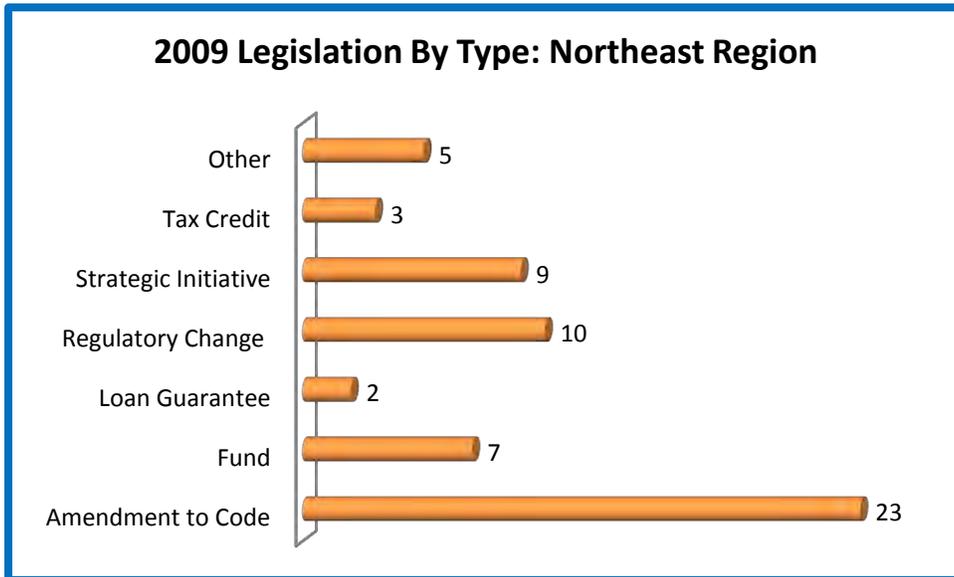
The Northeast region introduced 59 opportunity-finance related bills this session. There were seven small business and affordable housing bills introduced in the Northeast this session. However, none of either type of bill passed. Similarly, five sustainable development bills were introduced however, all five bills failed to pass their legislatures. Connecticut passed a predatory lending bills and Vermont, its own version of the stimulus. Of the 59 bills tracked in the Northeast region, 46 percent were related to mortgage lending. Twenty-seven mortgage lending-focused bills were introduced, just three passed: Connecticut Senate Bill 949, Maine Legislative Draft 1439, and New Jersey Assembly Bill 3816. Six of the bills in this study passed their legislatures in the Northeast region of the 59 bills introduced, a passage rate of slightly more than ten percent. Thirty of the bills are still pending in their legislatures, and 23 bills did not pass during the session.



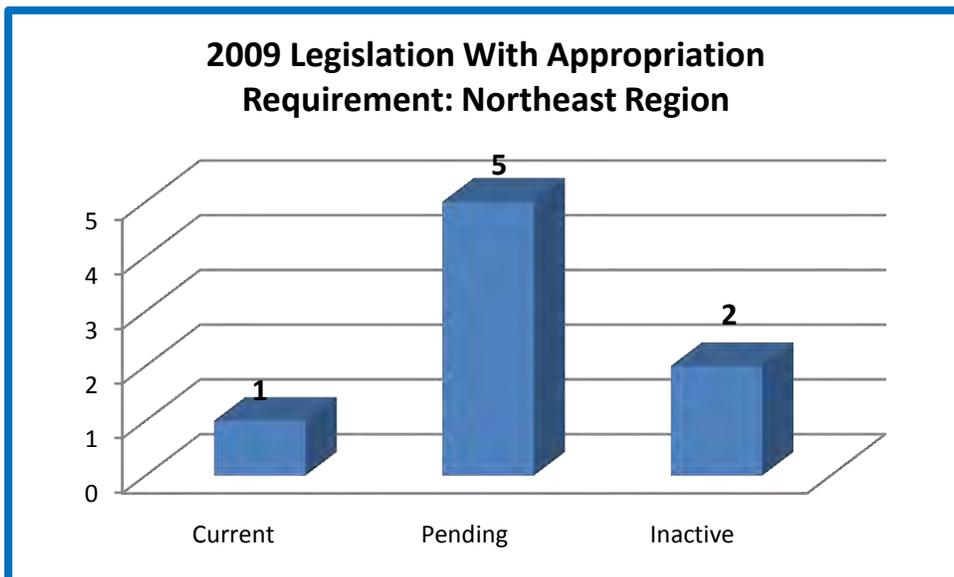


The charts below show the bills introduced in the Northeast region by type during the 2009 legislative session. Thirty-nine percent of all bills introduced in the Northeast were amendments to the state code. Of these 23 bills, two passed their legislatures this session: Connecticut Senate Bill 950 and Maine Legislative Draft 1439, a predatory lending and mortgage lending bill, respectively. An additional ten bills were regulatory changes and nine were strategic initiatives. Funds and tax credits comprised twelve and eight percent of the total bills introduced in the Northeast region, though no bills of either type passed this session.





There was one CDFI-specific bill introduced in the Northeast region during the 2009 legislative session, Vermont House Bill 313, the Vermont Recovery and Reinvestment Act of 2009. The bill contains a provision authorizing a study to evaluate innovative microenterprise development funding models to identify ways to fill existing gaps in start-up capital, a guarantee program or interest buy-down program that encourages private banks to make longer-term, lower-interest fixed rate loans to CDFIs, and a tax credit to businesses and individuals that donate funds to microenterprise development programs or IDA matched savings and financial education programs. There were eight bills in the region that require an appropriation, of which one passed, the Vermont stimulus legislation. The passage rate for appropriation-required bills is 12.5 percent, greater than the ten percent passage rate for bills not requiring an appropriation in the region.



Affordable Housing

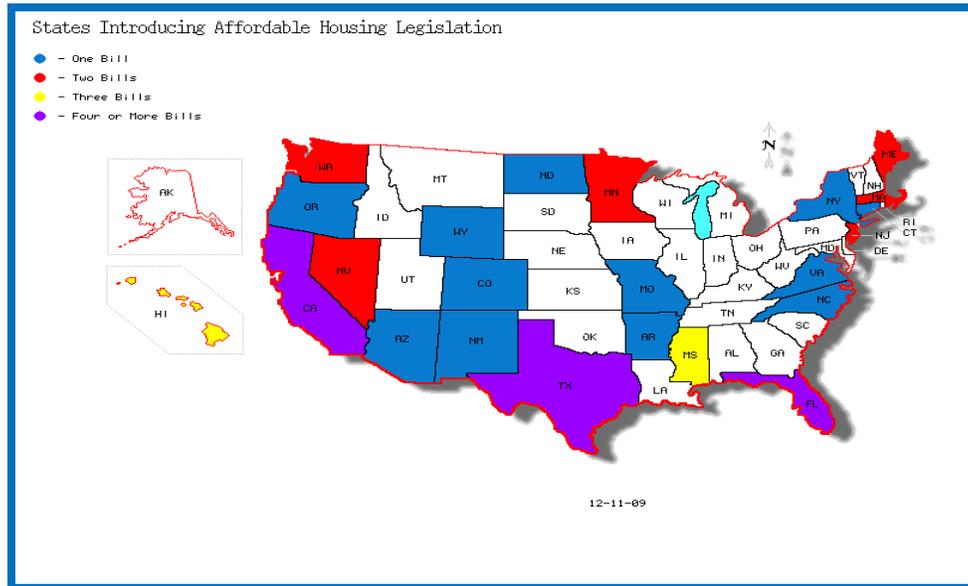
Affordable housing is a critical component of any comprehensive strategy for revitalizing communities, yet many of the neediest areas still lack quality, affordable housing for their residents. Issues of rising unemployment and foreclosures have compounded the need for state intervention in providing affordable housing for individuals and families across the country. Research from the Harvard Joint Center for Housing Studies estimates the number of households paying more than half their incomes for housing increased from 13.8 million in 2001 to 17.9 million in 2007, making these households severely cost burdened.⁵ Some state governments are making efforts to increase the supply of affordable housing through legislative change.

There were 53 affordable housing bills introduced in 24 states this session. Texas alone introduced 11 affordable housing bills. The map⁶ below show the state that introduced affordable housing legislation in color: states in blue introduced one bill, states in red introduced two, states that introduced three bills are shown in yellow and states that introduced four or more affordable housing bills are in purple.

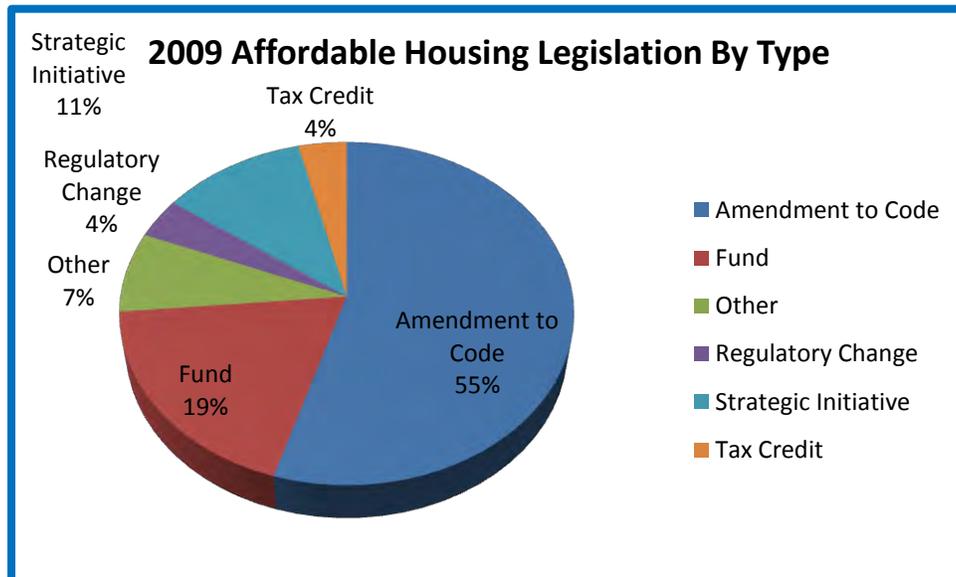
- One Bill: Arizona, Arkansas, Colorado, Connecticut, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Virginia, Wyoming
- Two Bills: Delaware, Maine, Massachusetts, Minnesota, Nevada, Washington
- Three: Hawaii, Mississippi, Rhode Island
- Four or More Bills: California, Florida, Texas

⁵ "2009: The State of Nation's Housing," Joint Center for Housing Studies, Harvard University: 2009. Accessed December 2, 2009. http://www.jchs.harvard.edu/publications/markets/son2009/son2009_executive_summary.pdf

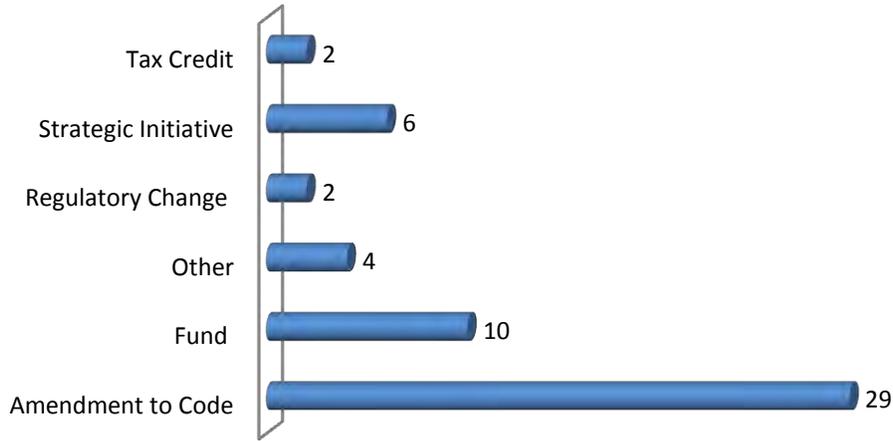
⁶ The map was created using interactive mapping software courtesy of Texas A&M University, found at <http://monarch.tamu.edu/~maps2/>.



Fifty-five percent of all affordable housing bills tracked in this guide were amendments to their state code, the most of all bill types. An additional ten bills were funds, totaling nearly 20 percent of the affordable housing bills tracked in the guide. Two of the funds, or legislation to create grant and loan programs to fund affordable housing programs, passed during the session: Arkansas Act 661 and Colorado House Bill 1213. Six bills were strategic initiatives, while there were two regulatory changes and two tax credit bills introduced during the session.

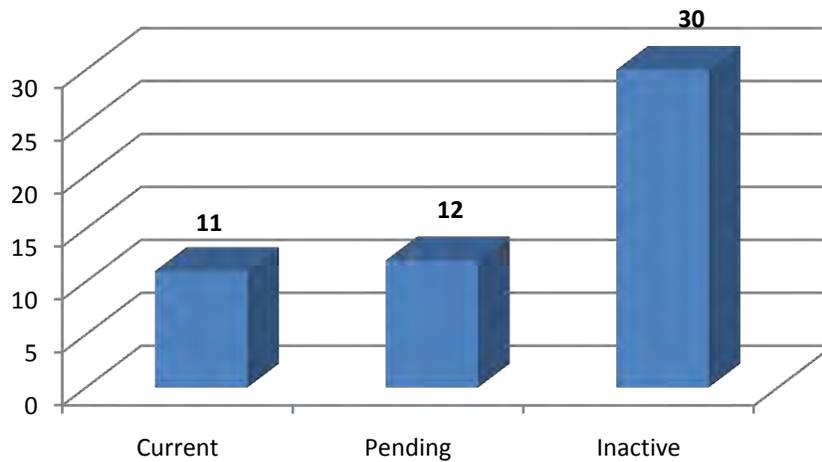


2009 Affordable Housing Legislation By Type



Of the 53 affordable housing bills introduced during this session, 11 passed their legislatures, or about 21 percent of the affordable housing legislation tracked in this guide. An additional six bills, or 23 percent, are still pending in their legislatures. The remaining 30 bill did not pass their legislatures this session.

2009 Affordable Housing Bill Status



Current Legislation

Arkansas: Arkansas Housing Trust Fund Act of 2009, Act 661

Focus: Affordable Housing

Type: Fund

This legislation creates the Arkansas Housing Trust Fund to provide a flexible source of funds for communities to address their affordable housing needs. The fund, to be administered by the Arkansas Development Finance Authority, will be used to provide assistance in the form of grants, loans, loan guarantees, and loan subsidies for eligible housing activities proposed by eligible applicants.⁷ Eligible activities include:

- new construction or rehabilitation of housing developments;
- construction of rental housing or housing designed for owner-occupancy;
- rental assistance;
- land acquisition;
- predevelopment costs;
- infrastructure;
- transitional housing;
- downpayment assistance;
- housing and foreclosure counseling; and
- technical assistance.

Eligible activities must benefit residents with household incomes of no more than 80 percent of the median household income and meet the Authority's designated affordability requirements. The Arkansas Housing Trust Fund is to be funded from appropriations, grants or other moneys from the federal government, any money received by the Arkansas Development Finance Authority or the state from private sources as a contribution, gift, or donation, repayments of loans made from the fund, any interest or investment earnings on amounts held in the housing trust fund, and any other money legally designated for the Housing Trust Fund. The bill passed the House and the Senate and was signed into law by the Governor on March 27, 2009, but did not contain an initial appropriation to the fund.

<http://www.arkleg.state.ar.us/assembly/2009/R/Pages/BillInformation.aspx?measureno=SB396>

California: Housing and Emergency Shelter Trust Fund of 2006: Reversion of Funds, A.B. 767

Focus: Affordable Housing

Type: Other

This bill provides a three-year extension for the Homeless Youth Program and the Building Equity and Growth in Neighborhoods (BEGIN) program authorized by Proposition 1C: Housing and Emergency Shelter Trust Fund Bond Act of 2006. Proposition 1C appropriated \$50 million for the development of housing for homeless youth under the Multifamily Housing Program (MHP), and

⁷ Eligible applicants for assistance from the Housing Trust Fund include local governments; public housing authorities, public housing agencies, and public housing facilities boards; nonprofit organizations; nonprofit housing developers; and for-profit housing developers.

\$125 million for downpayment assistance for homebuyers in communities that reduce regulatory barriers to housing production under the BEGIN program.

It also specified that any funds not committed to projects within 30 months of availability were to revert to other programs in the Department of Housing and Community Development. Under this provision, \$24 million dollars of Homeless Youth funding is scheduled to revert to the MHP on July 31, 2009 and \$40 million was scheduled to revert from BEGIN to CalHome⁸ on August 17, 2009. This bill would extend funding authorized by Proposition 1C for the Homeless Youth Program to July 31, 2011, and funding authorized for the BEGIN program to November 17, 2011. This bill was signed into law on August 6, 2009.

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_767&sess=CUR&house=B&author=ammiano

California: Community Redevelopment Act, A.B. 1422

Focus: Affordable Housing

Type: Amendment to Code

The Community Redevelopment Law requires a redevelopment agency to deposit no less than 20 percent of all taxes the agency receives in a Low- and Moderate-Income Housing Fund, and allocate those funds to increase, improve, and preserve the supply of low- and moderate-income housing available to persons and families of low- or moderate-income, lower-income households, very low-income households, and extremely low-income households.

This bill also authorizes a redevelopment agency, until January 1, 2013, to purchase, assume, or refinance, or assist lenders or nonprofit or for-profit developers in purchasing, assuming, or refinancing subprime or nontraditional mortgages on homes owned by qualified residents or make loans directly to those homeowners. The agency may also purchase, or assist lenders or nonprofit or for-profit developers in purchasing, homes within its jurisdiction that have been foreclosed and are vacant and sell those homes without regard to income. The legislation was signed into law on September 22, 2009.

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_767&sess=CUR&house=B&author=ammiano

Colorado: The Housing Development Grant Fund, H.B. 1213

Focus: Affordable Housing

Type: Fund

House Bill 1213 creates the Housing Development Grant Fund in the State Treasury and specifies that the fund is to be administered by the Division of Housing within the Department of Local Affairs. The legislation, following approval of the State Housing Board, authorizes the division to make a grant or loan to improve, preserve, or expand the supply of affordable housing in Colorado, finance foreclosure prevention activities in Colorado, and fund the acquisition of housing and economic data necessary to advise the Board on local housing conditions.

The bill requires all unexpended funds, including interest earned on the investment or deposit of moneys in the fund, to remain in the fund without reversion to the general fund or any other

⁸ The CalHome program provides grants to local public agencies and nonprofit developers to enable low and very-low income households to become or remain homeowners through deferred-payment loans.

fund at the end of the state fiscal year. The bill passed the Assembly and the Senate, and was signed into law by Governor Bill Ritter Jr. on May 2, 2009.

http://www.leg.state.co.us/clics/clics2009a/csl.nsf/fsbillcont3/F3C42C846A7D34F38725754C0078926B?open&file=1213_enr.pdf

Nevada: An Act Relating to Housing, A.B. 508

Focus: Affordable Housing

Type: Amendment to Code

Assembly Bill 508 establishes a program for the financing of the lease, purchase, or development of low-income multifamily housing and establishes the maximum amount of pro forma profit and overhead for a developer of a project. The bill contains a provision that the new regulations must not restrict or require the deferral of more than 60 percent of the payment of profits and overhead to a developer of a project that is constructed, developed, financed or insured in whole or in part through any program established by the United States Department of Housing and Urban Development and secured by a performance bond. A project is defined as a housing facility for residential use which consists of two or more dwelling units for occupancy by eligible tenants on a rental basis. The bill was signed into law by Governor Jim Gibbons on May 22, 2009.

http://www.leg.state.nv.us/75th2009/Bills/AB/AB508_EN.pdf

New Mexico: Regional Housing Authorities, S.B. 20

Focus: Affordable Housing

Type: Strategic Initiative

Senate Bill 20 enacts amendments to the Regional Housing Law by authorizing every regional housing authority to prepare, carry out, acquire, purchase, lease, construct, reconstruct, improve, alter, extend or repair any housing project and operate and maintain the housing project or affordable housing program within its region. Housing Authorities may also:

- lease or rent dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project or affordable housing program and establish and revise the rents or lease charges;
- own, hold and improve real or personal property;
- purchase, lease, obtain options upon, or acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein;
- sell, lease, mortgage, exchange, transfer, assign, pledge or dispose of real or personal property or any interest in real or personal property; or
- procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts, including the power to pay premiums on the insurance.

The bill also authorizes regional housing authorities within their jurisdictions to create partnerships between state, federal, city and county governments, nonprofit entities and the private sector that will provide the necessary resources to carry out the planning, financing, development and delivery of affordable housing, including providing technical assistance. The bill was signed into law by Governor Bill Richardson in late March.

<http://legis.state.nm.us/Sessions/09%20Regular/final/SB0020.pdf>

Oregon: An Act Relating to use of Affordable Housing Tax Credit, H.B. 2261

Focus: Affordable Housing

Type: Tax Credit

House Bill 2261 changes the eligibility requirements for the affordable housing tax credit. In order to be eligible for the tax credit, a lending institution must make a qualified loan by either purchasing bonds issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in the section below, or by making a loan directly to an individual or individuals who own a dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level when the loan is made of less than 80 percent of the area median income. Loans can also be made to a qualified borrower who uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing.

The lending institution must also issue a written certification executed by the Housing and Community Services Department that the housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income, and the full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project. The bill was signed into law on May 7, 2009, and the provisions went into effect September 28, 2009.

<http://www.leg.state.or.us/09reg/asures/hb2200.dir/hb2261.en.html>

Texas: An Act Relating to the Urban Land Bank Demonstration Program in Certain Municipalities, H.B. 2344

Focus: Affordable Housing

Type: Strategic Initiative

House Bill 2344 amends the Local Government Code to add provisions that apply only to home-rule municipalities that have a population of 1.18 million or more, are located predominantly in a county that has a total area of less than 1,000 square miles, and have adopted an urban land bank demonstration program under state law. The bill authorizes property sold due to foreclosure of a tax lien to be sold in a private sale to a land bank, regardless of current zoning to be zoned for more than one use that includes residential housing in accordance with the law governing urban land bank demonstration programs, provided that the requirements regarding property that is sold in a private sale to a land bank are satisfied. The bill specifies that the requirement that the property not be improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings includes a building or buildings that are claimed as a residence.

The bill also provides for subsequent resale of property by a land bank. It increases from three years to four years the period during which a land bank must sell a property to a qualified

participating developer following the date of acquisition or the property will be transferred from the land bank to the municipality. The bill also increases from two years to three years the period during which a qualified participating developer must apply for a construction permit and close on any construction financing or the property will revert to the land bank for subsequent resale. The bill was signed into law June 19, 2009, and went into effect immediately.

<http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2344>

Virginia: Assessment of Real Property, S.B. 1052

Focus: Affordable Housing

Type: Regulatory Change

Senate Bill 1052 changes the regulations for determining the fair market value of real property containing more than four residential units operated as affordable rental housing. The bill requires the duly authorized real estate assessor to consider:

- the rent and the impact of applicable rent restrictions;
- the operating expenses and expenditures and the impact of any such additional expenses or expenditures; and
- restrictions on the transfer of title or other restraints on alienation of the real property.

The owner of real property containing more than four residential units operated as affordable rental housing in accordance with the definition established by ordinance or resolution of the locality where the property is located may make an application to the locality to have the real property assessed pursuant to this legislation. The application will only be granted by the locality if the owner charges rents at levels that meet the locality's definition of affordable housing and the real property does not have any pending building code violations at the time of the application.

The authorized real estate assessor must also consider evidence presented by the property owner of other restrictions imposed by law that impact the value of the real property. Federal or state income tax credits with respect to affordable housing rental property will not be considered real property or income attributable to real property. For property where only a portion of the units are operated as affordable housing, as defined in Section 42 of the Internal Revenue Code or as required by state law or applicable local ordinance, only the portion determined to be affordable housing is subject to the bill's provisions. The bill was signed into law by Governor Tim Kaine on March 27, 2009.

<http://leg1.state.va.us/cgi-bin/legp504.exe?091+ful+CHAP0264>

Washington: Housing Trust Fund, H.B. 1059

Focus: Affordable Housing

Type: Fund

House Bill 1059 creates the Housing Trust Fund for the housing assistance program. The bill gives first priority to applications for projects and activities which utilize existing privately owned housing stock including privately-owned housing stock (housing that is acquired by a federal agency through a default on the mortgage by the private owner) purchased by nonprofit public

development authorities and public housing authorities. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock.

The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

- the degree of leveraging of other funds that will occur;
- the degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;
- recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;
- local government project contributions in the form of infrastructure improvements, and others;
- projects that encourage ownership, management, and other project-related responsibility opportunities;
- projects that demonstrate a strong probability of serving the original target group or income level for a period of at least 25 years;
- the applicant has the demonstrated ability, stability and resources to implement the project;
- projects which demonstrate serving the greatest need;
- projects that provide housing for persons and families with the lowest incomes;
- projects serving special needs populations which are under statutory mandate to develop community housing;
- project location and access to employment centers in the region or area;
- projects that provide employment and training opportunities for disadvantaged youth under a YouthBuild or YouthBuild-type program; and
- project location and access to available public transportation services.

The department is to finance projects that will provide housing for low-income households. Activities eligible for assistance include, but are not limited to new construction, rehabilitation, or acquisition of housing for low-income households, rent subsidies in new construction or rehabilitated multifamily units, downpayment or closing costs assistance for first-time home buyers, mortgage subsidies for new construction or rehabilitation of eligible multifamily units, and mortgage insurance guarantee or payments for eligible projects. The bill was signed into law on April 23, 2009; however, after the bill was amended on the House Floor, the provisions concerning the Housing Trust Fund were removed from the final legislation.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1059>

Washington: An Act Relating To a Joint Self-Insurance Program for Affordable Housing Entities, S.B. 5665

Focus: Affordable Housing

Type: Amendment to Code

This legislation will provide authority for two or more affordable housing entities to jointly self-insure property and liability risks, jointly purchase insurance or reinsurance, and to contract for

risk management, claims, and administrative services with other affordable housing entities, with the provisions of the bill designed to be liberally construed to grant affordable housing entities maximum flexibility in jointly self-insuring to the extent the self-insurance programs are operated in a safe and sound manner. Senate Bill 5665 defines affordable housing entity as:

- a housing authority created under the laws of the state or another state and any agency or instrumentality of a housing authority including, but not limited to, a legal entity created to conduct a joint self-insurance program for housing authorities;
- a nonprofit corporation, whether organized under the laws of this state or another state, that is engaged in providing affordable housing and is necessary for the completion, management, or operation of a project because of its access to funding sources that are not available to a housing authority; or
- a general or limited partnership or limited liability company, whether organized under the laws of this state or another state that is engaged in providing affordable housing.⁹

The bill was signed into law on April 30, 2009, and the provisions take effect January 1, 2010. [http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session percent20Law percent202009/5665-S.SL.pdf](http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session%20Law%202009/5665-S.SL.pdf)

⁹ A partnership or limited liability company may only be considered an affordable housing entity if a housing authority or nonprofit corporation if it has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company, possesses the power to direct management or policies of the partnership or limited liability company, or has entered into a contract to lease, manage, or operate the affordable housing owned by the partnership or limited liability company.

Pending Legislation

California: An Act Relating to Taxation, S.B. 16

Focus: Affordable Housing

Type: Tax Credit

Senate Bill 16 would allow the Low-Income Housing Tax Credit (LIHTC) to be refundable for projects that have received a preliminary reservation for a state low-income housing tax credit on or after July 1, 2008 and before January 1, 2011. Currently, LIHTC credits are applied to reduce taxes owed, and any remaining amounts are carried forward to reduce taxes in future years. Under this bill, after applying the credit to reduce taxes owed, the excess amount of the credit would be refundable. Refunded amounts would not be subject to taxation and credits would not be allowed to be carried over and claimed in future years. The bill is pending in the Senate Appropriations Committee.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sb_16_bill_20081201_introduced.html

California: An Act Relating to Mobile home Parks, A.B. 566

Focus: Affordable Housing

Subfocus: Manufactured Housing

Type: Amendment to Code

This bill changes the economic displacement requirements for the proposed conversion of a rental mobile home park to resident ownership and allows local governments to consider whether a majority of residents support the conversion before approval. It also establishes a plan to avoid displacement of non-purchasing residents by allowing residents who are not low-income to increase monthly rent from the pre-conversion rent to market rents in equal annual increases over four years.

For non-purchasing, low-income residents,¹⁰ the monthly rent may increase from the pre-conversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion.¹¹ Assembly Bill 566 passed the Assembly and Senate, and is currently awaiting Governor Schwarzenegger's signature.¹²

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_566&sess=CUR&house=B&author=nava

Georgia: An Act Relating to Provide That Before Agreeing To Participate In The Federal Section 8 Housing Choice Voucher Program, A Landlord, Property Manager, Or Property Owner Shall Give Certain Notice, H.B. 460

Focus: Affordable Housing

Type: Amendment to Code

¹⁰ House Bill 767 defines lower-income household, in relation to non-purchasing residents, as individuals and families whose income does not exceed the qualifying limits for lower-income families established under Section 8 of the United States Housing Act of 1937 and includes very low- and extremely low-income households. In relation to non-purchasing residents, area-median income means the median family income of a geographic area of the state.

¹¹ The bill contains a provision that in no event may the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

¹² The bill was pending as of September 30, 2009. The bill was vetoed by Governor Schwarzenegger in October, and is now inactive.

House Bill 460 requires any landlord, property manager, or property owner contemplating qualifying for participation in the Section 8 Housing Choice Voucher Program to file a public notice specifying the street address of the property affected, the number of Section 8 Housing Choice Voucher Program housing units which will be created, and the street address and telephone number of the landlord, property manager, or property owner. This notice must be given to the county in which the property is located and, if applicable, to any homeowners' association at its address of record by registered or certified mail or statutory overnight delivery at least once not later than two weeks but not earlier than one month prior to the date of such qualification. The bill is pending in the House.

http://www.legis.ga.gov/legis/2009_10/fulltext/hb460.htm

Hawaii: Self-Help Housing Trust Fund, S.B. 1277

Focus: Affordable Housing

Type: Fund

Senate Bill 1277 establishes a dedicated source of funding for self-help housing by creating a Self-Help Housing Trust Fund with income from the conveyance tax and increasing the amount of conveyance tax paid per \$100 of value for properties with a value greater than \$1 million. Self-help housing means housing in which prospective homeowners have contributed labor, materials, or real property. The fund is to be administered by the Hawaii Housing Finance and Development Corporation.

The fund is to be used to provide loans or grants for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of self-help housing units. Grants and loans are provided for planning, design, land acquisition, costs of options, agreements of sale, downpayments, equity financing, capacity building of nonprofit housing developers, and other housing development services or activities.

The corporation may provide loans and grants under this bill provided that the corporation loan-to-value ratios are in place to protect the fund from inordinate risk, not to exceed 100 percent. The corporation must submit an annual report to the legislature at least 20 days prior to the convening of each regular session describing the projects funded and its efforts to develop self-help housing projects, including any assistance or other partnership efforts with private or other governmental self-help housing organizations. Senate Bill 1277 is pending in the House Finance committee.

http://www.capitol.hawaii.gov/session2009/lists/measure_indiv.aspx?billtype=SB&billnumber=1277

Hawaii: An Act Relating to Affordable Housing, H.B. 363

Focus: Affordable Housing

Type: Amendment to Code

House Bill 363 seeks to increase the development of affordable housing in transit-oriented developments by requiring new for-sale housing developments to designate at least 30 percent of the units as affordable housing for low- and moderate-income residents in the state. The bill also establishes a commission to facilitate affordable housing in transit-oriented developments by better coordinating transportation and housing planning and programs. Counties in the state

must provide incentives for the development of affordable housing that may include density bonuses, height waivers, cluster zoning, greater design flexibility, waiving water and sewer connection fees, priority infrastructure financing, and site flexibility.

Counties must also provide flexibility in public facility requirements to encourage the development of any rental housing project where at least a portion of the rental units are set aside for persons and families with incomes at or below 100 percent of the area median family income, of which 40 percent are set aside for persons and families with incomes at or below 80 percent of the area median family income. Affordable housing is defined as housing units for households with incomes at or below 140 percent of the median family income, as determined by the United States Department of Housing and Urban Development. The bill is pending in the House and will be reintroduced in the 2010 session.

http://www.capitol.hawaii.gov/session2009/lists/measure_indiv.aspx?billtype=HB&billnumber=363

Hawaii: An Act Relating to Affordable Housing, S.B. 758

Focus: Affordable Housing

Type: Amendment to Code

House Bill 758 exempts new for-sale housing developments from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units. The housing must consist of an unspecified number of units on privately owned lands in transit oriented developments and privately financed without federal, state, or county financing assistance or subsidies, including tax credits, that designate at least 30 percent of the units as affordable housing for low- or moderate-income residents. Transit oriented development is defined as compact, mixed-use development near new or existing public transit facilities that serves housing, transportation, and neighborhood goals. The bill was carried over to the 2010 session.

http://www.capitol.hawaii.gov/session2009/Bills/SB758_SD1_.HTM

Massachusetts: An Act Relative to Moving to Economic Opportunity Housing, H.B. 3690

Focus: Affordable Housing

Type: Strategic Initiative

House Bill 3690 authorizes the Metropolitan Boston Housing Partnership to establish a program of rental assistance for 500 extremely low-income, working families, consisting of one or more persons, through mobile and project-based vouchers. The project will be known as the Massachusetts Moving to Economic Opportunity Housing Program, administered by the regional nonprofit housing agencies.

Eligible households at initial occupancy may not have gross annual income exceeding 30 percent of the area median income as determined by the United States Department of Housing and Urban Development. Further, an adult member of the household must have a work history and be currently employed or seeking employment, although eligibility may continue for up to six

months if the adult member of the household becomes involuntarily unemployed and meets work search or training participation requirements established by the department.

The initial voucher value will be the difference between the approved monthly rent minus the monthly rent paid by the household, up to a maximum household payment of 30 percent of gross income for rent. The initial amount of a household's voucher will be reduced if the household's income increases. The household is eligible to receive assistance through this program until the tenant is paying the full amount of the rent without a subsidy for six months or the household's gross annual income reaches 80 percent of the area median income, adjusted for household size. Each household will be assigned a stabilization worker who will link households to supports including job training, education, and childcare opportunities.

The bill contains a provision that creates an escrow account for the household at initial occupancy. As the amount of the housing voucher is reduced, an amount equal to the reduction is to be placed in the escrow account for up to five years or the household's completion of the program, whichever comes first. At that time, the funds are to be released to the household plus interest earned, without incurring any income tax liability. The funds may be counted as the household's contribution toward any match required from an existing individual development account or similar program. This legislation is pending in the Joint Committee on Housing. <http://www.mass.gov/legis/bills/house/186/ht03/ht03690.htm>

Minnesota: Housing Account for Leverage Opportunity, S.F. 1132

Focus: Affordable Housing

Type: Fund

Senate Bill 1132 creates a dedicated source of funding for rental assistance and the Housing Account for Leverage Opportunity by appropriating an amount equal to the proceeds of the deed tax of the net consideration to the Housing Development Fund to be used for the Economic Development and Housing Challenge program. The program is to provide matching grants to eligible recipients to preserve, renovate, or develop affordable homeownership or rental housing. Eligible recipients are:

- a county;
- a city;
- a housing and redevelopment authority or public housing agency;
- an economic development authority;
- a community development agency;
- a neighborhood land trust; or
- a federally recognized American Indian tribe located in this state.

Households served through the grant must not have incomes at the time of initial occupancy that exceed, for homeownership projects, 115 percent of the greater of state or area median income as determined by HUD, and for rental housing projects, 60 percent of the greater of state or area median income as determined by HUD.

A grant from the account must be matched on a dollar-for-dollar basis by money or the value of the land provided by eligible recipients. The minimum grant is \$50,000, and the maximum grant to an eligible recipient each year is \$1 million. The local match may not include money from any other state or federal program for the same project. Only one matching grant may be awarded within the jurisdictional boundaries of an eligible recipient each year. The bill is pending in the Senate Finance Committee.

<https://www.revisor.mn.gov/bin/bldbill.php?bill=S1132.0.html&session=ls86>

Minnesota: An Act Relating to Housing, H.F. 1354

Focus: Affordable Housing

Type: Other

House File 1354 authorizes \$100 million of nonprofit housing bonds to be issued by the Housing Finance Agency for the purpose of making loans, on terms and conditions the agency deems appropriate, to local governments and 501(c)(3) nonprofit organizations to acquire land, predesign, design, construct, renovate, furnish, and equip affordable rental housing, and acquire vacant or foreclosed residential property to renovate and sell at affordable prices. The bonds may also be issued for the purpose of making loans to a neighborhood land trust to acquire and for affordable housing. The bill is pending in the Housing Finance and Policy and Public Health Finance Division.

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H1354.0.html&session=ls86>

New Jersey: An Act Concerning Non-Residential Development Fees for Affordable Housing, A.B. 3562

Focus: Affordable Housing

Type: Regulatory Change

This bill prohibits the imposition of the two and one half percent non-residential development fee to fund affordable housing on non-residential development or redevelopment for which a development application was completed prior to July 17, 2008. The bill is pending in the Assembly Housing and Local Government Committee.

http://www.njleg.state.nj.us/2008/Bills/A4000/3562_I1.HTM

New York: Housing New York Program for the Twenty-First Century, A.B. 1298

Focus: Affordable Housing

Type: Strategic Initiative

Assembly Bill 1298 establishes the Housing New York Program for the Twenty-First Century. The bill authorizes the city of New York, its agencies and instrumentalities, and the New York City Housing Development Corporation to acquire, rehabilitate, construct, enlarge, improve and renovate dwelling accommodations and provide assistance in order to have such activities performed. The bill requires an appropriation from the City Council every year to fund the programs. The money can be used to fund programs and activities designed to:

- preserve, repair, renovate, upgrade, improve, modernize, rehabilitate or otherwise prolong the useful life of dwelling accommodations;
- construct dwelling accommodations and undertake site preparation related thereto;

- restore abandoned, vacant or occupied city or privately-owned dwelling accommodations to habitable condition;
- assist in the acquisition of buildings which contain or are expected to contain dwelling accommodations;
- facilitate the disposition of city-owned buildings which contain or are expected to contain dwelling accommodations; and
- provide infrastructure improvements related to and undertaken as part of programs and activities for owner-occupied buildings which contain no more than four dwelling accommodations, though no more than ten percent of the amount of housing program funds shall be utilized for this purpose.

At least 40 percent of the funds committed to the program for the 21st century must be utilized to supply housing for persons and families whose incomes do not exceed 55 percent of the area median income. In addition, no more than 25 percent of such funds may be utilized to supply housing for persons and families whose incomes exceed 90 percent of area median income. In no event are any housing program funds to be used to provide dwelling accommodations for persons and families whose incomes are greater than 175 percent of the area median income.

The bill authorizes the subsidiary corporation to borrow money by issuing bonds and notes to grant money to the city to finance the acquisition, construction, equipping, improvement, enlargement, rehabilitation and renovation of residential housing facilities for the housing New York program and the Housing New York Program for the Twenty-First Century. The legislation is pending in the Assembly Committee on Housing.

<http://assembly.state.ny.us/leg/?bn=A01298&sh=t>

North Carolina: An Act to Appropriate Funds to the North Carolina Housing Finance Agency's Housing Trust Fund, S.B. 125

Focus: Affordable Housing

Type: Amendment to Code

This bill appropriates \$50 million from the General Fund to the North Carolina Housing Finance Agency the 2009-2010 fiscal year for the North Carolina Housing Trust Fund to promote affordable housing in the state. The bill is pending in the Senate Appropriations Committee.

<http://www.ncqa.state.nc.us/gascripts/BillLookUp/BillLookUp.pl?Session=2009&BillID=S125>

Inactive Legislation

Arizona: Housing Trust Fund, H.B. 2547

Focus: Affordable Housing

Type: Strategic Initiative

House Bill 2547 allows a person, at the close of escrow, to donate money to the Housing Trust Fund for the purpose of assisting the homeless in obtaining housing and permits an escrow agent to place the donated amount from the escrow account in the Housing Trust Fund. Arizona Department of Housing does not currently have any programs that work toward finding permanent housing for the homeless, and the money under this legislation can be used only for obtaining permanent housing for the homeless. The bill died in the House Rules Committee.

http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=2547

California: An Act Relating to Transit Facilities, A.B. 338

Focus: Affordable Housing

Type: Amendment to Code

Existing California law allows the state to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds to finance specified public facilities including transit village development districts, upon voter approval. This bill would eliminate the requirement of voter approval for the aforementioned activities. However, a transit village plan¹³ financed by these bonds would be required to include specified demonstrable public benefits regarding housing:

- replace dwelling units at an affordable housing cost when specified dwelling units are destroyed or removed;
- dedicate at least 20 percent of all revenues derived from the property tax increment to increase, improve, and preserve the transit village district's supply of affordable housing; and
- maintain affordability of housing for no less than 55 years for rental units and 45 years for owner-occupied units.

The bill passed the Assembly and the Senate but was vetoed by Governor Schwarzenegger.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0301-0350/ab_338_cfa_20090710_094458_sen_floor.html

Connecticut: An Act Revising Certain Housing Statutes, H.B. 6413

Focus: Affordable Housing

Type: Amendment to Code

House Bill 6413 modifies several Department of Economic and Community Development (DECD) programs. First, the bill adds housing partnerships as eligible recipients of DECD grants or loans

¹³ Under current law, a city or county can create a transit village plan for a transit village development district. A transit village plan is required to include all land within at least one-quarter mile of the exterior boundary of the land on which a transit station is located. This bill would recast the area included in a transit village plan to include all land within not more than one-half mile of the main entrance of a transit station.

and as eligible applicants for the Low- and Moderate-Income Housing Predevelopment Cost Revolving Loan Fund program.¹⁴ It also expands eligibility for DECD's Low- and Moderate-Income Housing Predevelopment Cost Revolving Loan Fund by making for-profit developers eligible for the program and changing repayment requirements.

It also expands the DECD-administered Housing Trust Fund Program funding, allowing third-party contractors to receive funds to administer a revolving loan fund or undertake some of the department's program duties. The bill allows for-profit entities to qualify for financial assistance for predevelopment costs incurred in connection with the construction, rehabilitation, or renovation of housing for low- and moderate-income persons and families under certain conditions. The bill died when the legislative session ended.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=6413&which_year=2009&SUBMIT1.x=0&SUBMIT1.y=0&SUBMIT1=Normal

Florida: An Act Relating To Distribution of Proceeds from Excise Taxes on Documents, H.B. 25/S.B. 334

Focus: Affordable Housing

Type: Amendment to Code

This bill provides funding for the Florida Affordable Housing Trust Fund through the state excise tax. The Senate version of the bill contained a provision requiring the legislature to annually appropriate at least 90 percent of the tax proceeds distributed to the state Housing Trust Fund to provide affordable housing units. The bill died in Economic Development Policy Committee.

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName= h0025 .xml&DocumentType=Bill&BillNumber=0025&Session=2009>

Florida: An Act Relating to Affordable Housing, H.B. 161

Focus: Affordable Housing

Type: Amendments to Code

This legislation makes a number of changes to definitions related to affordable housing. House Bill 161 provides for assessment of property receiving low-income housing tax credit, defines the term community land trust,¹⁵ and provides for guidelines for assessment of structural improvements, condominium parcels, and cooperative parcels on land owned by community land trust used to provide affordable housing. It also provides additional criteria for determining

¹⁴ Housing partnership means any partnership, limited partnership, joint venture, trust or association consisting of a housing authority, a nonprofit corporation, or both and a for-profit business corporation or partnership, limited partnership, joint venture, trust, limited liability company, or association that has as one of its purposes the construction, rehabilitation, ownership, or operation of housing and basic organizational documents that DECD approves in accordance with its regulations for public housing developers, or a combination of these entities.

¹⁵ The term community land trust means a nonprofit entity that is qualified as charitable under section 501(c)(3) of the Internal Revenue Code and has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable homeownership. A community land trust may convey structural improvements, condominium parcels, or cooperative parcels, that are located on specific parcels of land that are subject to a ground lease having a term of at least 99 years, for the purpose of providing affordable housing to natural persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in the Florida statute. A community land trust retains a preemptive option to purchase any structural improvements, condominium parcels, or cooperative parcels on the land at a price determined by a formula specified in the ground lease which is designed to ensure that the structural improvements, condominium parcels, or cooperative parcels remain affordable.

whether affordable housing property owned by certain organizations is entitled to taxation exemption. The legislation passed the House but died in the Senate Messages committee.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=39977&SessionIndex=-1&SessionId=61&BillText=&BillNumber=161&BillSponsorIndex=0&BillListIndex=0&BillStatuteText=&BillTypeIndex=0&BillReferredIndex=0&HouseChamber=H&BillSearchIndex=0>

Florida: An Act Relating to Affordable Housing, H.B. 267

Focus: Affordable Housing

Type: Amendment to Code

House Bill 267 contains many of the same provisions of H.B. 161, but is narrower in scope. This bill provides for assessing property receiving low-income housing tax credits and defines the term community land trust. It also provides for assessment of structural improvements, condominium parcels, and cooperative parcels on land owned by a community land trust and used to provide affordable housing and provides specific criteria to be used in arriving at just valuation of structural improvements, condominium parcels, and cooperative parcels subject to specified conditions. This legislation died when the session ended in May.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=39977&SessionIndex=-1&SessionId=61&BillText=&BillNumber=161&BillSponsorIndex=0&BillListIndex=0&BillStatuteText=&BillTypeIndex=0&BillReferredIndex=0&HouseChamber=H&BillSearchIndex=1>

Florida: An Act Related to Affordable Housing, H.B. 1009

Focus: Affordable Housing

Type: Amendment to Code

House Bill 1009 authorizes the Department of Community Affairs and the Florida Housing Finance Corporation to assist in the production costs, operating costs, or a rent assistance program to increase access to units that are affordable to persons with special needs. Eligible recipients of funding must meet the definition of persons with special needs and have total annual adjusted gross household income that does not exceed the Supplemental Security Income qualification regulations.

This bill also amends the program guidelines for qualified activities. Under this bill, the distribution of housing funds for multifamily rental housing should be administered to address the housing needs of persons most in need of housing, including persons with special needs. In addition, mixed-income projects funded or administered through the State Apartment Incentive Loan program, the Home Investment Partnership program, or the federal Low-Income Housing Tax Credit Program must meet the following guidelines:

- the percentage distribution of units targeted for extremely-low-income persons must reflect the percentage distribution of current housing needs data of extremely-low-income persons and may not be less than 20 percent of the units; and
- at least half of the units designated for extremely- low-income persons, not less than ten percent of the project's total units, must be reserved for persons with special needs.

The bill died in the Military & Local Affairs Policy Committee.

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName= h1009c1.xml&DocumentType=Bill&BillNumber=1009&Session=2009>

Florida: An Act Related to Affordable Housing, S.B. 1040

Focus: Affordable Housing

Subfocus: Community Land Trusts

Type: Amendment to Code

Senate Bill 1040 establishes special provisions for property appraisers to use in determining the just valuation of properties held by community land trusts (CLT) defined as a nonprofit entity that qualifies as a charitable entity under section 501(c)(3) of the Internal Revenue Code and which has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable housing.

The bill provides that the land owned by a community land trust must be assessed based on the fair market value of the property.¹⁶ Any improvements, condominium parcels, or cooperative parcels must also be assessed based on the fair market value of the property, as limited by the terms of the ground lease. The bill also provides for the assessment of structural improvements, condominium parcels, and cooperative parcels on land that is owned by a community land trust and used to provide affordable housing.

The bill requires a CLT to convey structural improvements, condominium parcels, or cooperative parcels located on specific parcels of land to persons or families who qualify for affordable housing or for workforce housing under the income limits of the Florida Statutes. The improvements or parcels are each subject to a ground lease of at least 99 years, and the ground lease must contain a formula limiting the amount for which the improvement or parcel may be resold. Senate Bill 1040 also allows the CLT to retain the first right to purchase at the time of resale. The bill died in the Senate Committee on Finance and Tax.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=40585&SessionId=61>

Florida: An Act Relating to Affordable Housing Providing for the Assessment of Property Receiving the Low-Income Housing Tax Credit, S.B. 1042

Focus: Affordable Housing

Subfocus: Community Land Trusts

Type: Amendment to Code

This legislation contains many of the same provisions of Senate Bill 1040 in regard to community land trusts. This synopsis highlights the provisions that are substantially different from Senate Bill 1040. Senate Bill 1042 provides limitations on the Florida Housing Finance Corporation's access to the state allocation pool, revises certain definitions relating to the state's affordable housing program to allow the use of State Apartment Incentive Loans for moderate rehabilitation efforts, and modifies the distribution of funds from the Local Government Housing Trust Fund by authorizing set-asides for specific purposes.

The bill also directs the Florida Housing Finance Corporation, the agencies receiving funding under the State Housing Initiatives Partnership Program, local housing finance agencies, and public housing authorities to coordinate with the Department of Children and Family Services and

¹⁶ As limited by the terms of the ground lease which restrict the use of the land to the provision of affordable housing in perpetuity.

community-based care providers to develop and implement strategies and procedures to increase affordable housing opportunities for young adults who are leaving the child welfare system.

Finally, the bill provides specific assessment requirements for property receiving the low-income housing tax credit and property owned by a community land trust and used for affordable housing. Additional criteria is provided to be used in determining if certain organizations are eligible for an ad valorem tax exemption when providing affordable housing. The bill died in Policy and Steering Committee on Ways and Means.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=40586&SessionId=61>

Maine: An Act to Provide the Right of First Refusal to Mobile home Park Residents, H.B. 620

Focus: Affordable Housing

Type: Amendment to Code

Legislative Bill 620 allows tenants of the mobile home park that have incorporated as a cooperative affordable housing corporation the right of first refusal if an owner decides to sell a mobile home park.¹⁷ The bill requires the owner to provide 45 days written notice of any bona fide offer that the owner intends to accept to buy the park, provided the owner of the mobile home park has been sent a certified letter from the corporation. The notice must include the price, terms and conditions of an acceptable offer the owner has received to sell the park or the price, terms and conditions for which the owner intends to sell the park.

Any corporation entitled to notice under this bill may purchase the park as long as it meets the same price, terms and conditions of any offer by executing a contract or purchase and sale agreement with the owner within the 45-day notice period of the offer and obtaining any necessary financing or guarantees within an additional 135 days. Failure of the corporation to obtain a binding commitment for financing or any failure to secure any necessary guarantees within 135 days of execution of a purchase and sale agreement terminates the right of the corporation to purchase the park, though the specified time periods in the bill may be extended by agreement of the corporation and the owner. The bill died in the Committee on Legal and Veterans Affairs.

http://www.mainelegislature.org/legis/bills/display_ps.asp?id=902&PID=1456&snum=124

Maine: An Act to Authorize a General Fund Bond Issue for Affordable Housing, H.B. 629

Focus: Affordable Housing

Type: Other

This legislation sought to send a bond issuance to the residents of Maine for their approval to fund \$20 million for low-interest affordable housing construction loans. The bill died in the Committee on Appropriations and Financial Affairs.

http://www.mainelegislature.org/legis/bills/bills_124th/billtexts/HP062901.asp

¹⁷ The corporation must have at least 51 percent of the tenants as members and have articles of incorporation specifying all rights and powers, including the power to negotiate for, acquire, and operate the mobile home park on behalf of the member tenants.

Maryland: An Act Concerning Real Property- Community Land Trusts, H.B. 1006

Focus: Affordable Housing

Subfocus: Community Land Trusts

Type: Amendment to Code

This bill exempts community land trusts (CLT)¹⁸ from existing prohibitions on the creation of new ground leases and subleases, specifically the prohibition on new ground leases or subleases on residential property with four or fewer dwelling units that went into effect January 22, 2007, and from statutory provisions regarding the conversion of irredeemable ground rents to redeemable ground rents.

The bill further exempts CLT residential leases of from the statutory right of redemption if the lease grants the CLT a preemptive right to purchase the lessee's interest in the property, or any improvements on the property if separately conveyed, or contains language restricting the transfer, sublease, or assignment of the property with regard to potential transferees and the price at which the property may be transferred. The bill died in the Committee on Environmental Matters.

<http://mlis.state.md.us/2009rs/bills/hb/hb1006f.pdf>

Maryland: Rental Housing Trust Fund, S.B. 877

Focus: Affordable Housing

Type: Amendment to Code

Maryland Senate Bill 877 would allow the Maryland Department of Community Development to make loans, including deferred payment loans, to sponsors¹⁹ for the acquisition of ownership interests in eligible projects. The bill establishes terms for loans including repayment schedules, maturity dates, and interest rates, which may be as low as zero percent as well as imposes fees and charges in connection with loans.

In order to limit the return on equity allowed to sponsors, the Department is authorized to enter into equity participation agreements with sponsors and establish income limits to be served by a project and a minimum number of units to be restricted for families of limited income in a project, which may vary for different types of housing, different types of loans, and different geographic regions. The bill was withdrawn following an unfavorable report by the Education, Health, and Environmental Affairs Committee.

<http://mlis.state.md.us/2009rs/bills/sb/sb0877f.pdf>

¹⁸ The bill defines a community land trust as a 501(c) tax-exempt nonprofit organization or a State or local government agency that provides affordable housing to low-income and moderate-income individuals.

¹⁹ The legislation defines sponsor as someone who received a loan from the Rental Housing Trust Fund.

Mississippi: An Act To Amend The Mississippi Code, To Remove the Provisions Prescribing the Manner In Which the Appraisal Of Affordable Rental Housing Shall Be Made for the Purpose of Arriving at the True Value of the Property For Ad Valorem Tax Purposes, H.B. 172

Focus: Affordable Housing

Type: Amendment to Code

This bill amends the method appraisers use to arrive at the true value (including, but not limited to market value, cash value, actual cash value, proper value and value for the purposes of appraisal for ad valorem taxation) of certain property. For differing types of categories of property, differing approaches may be appropriate. The choice of the particular valuation approach or approaches to be used should be made by the assessor upon a consideration of the category or nature of the property, the approaches to value for which the highest quality data is available, and the current use of the property.

In arriving at the true value of all Class One and Class Two property and improvements, the appraisal must be made according to current use, regardless of location. In arriving at the true value of any land used for agricultural purposes, the appraisal shall be made according to its use on January 1 of each year, regardless of its location, using soil types, productivity and other criteria set forth in the land appraisal manuals of the State Tax Commission.

The bill states that for every parcel of property subject to assessment, the tax assessor is to consider whenever possible the income capitalization approach to value, the cost approach to value and the market data approach to value, as such approaches are determined by the State Tax Commission. In determining the true value of land and improvements, factors to be taken into consideration are the proximity to navigation, to a highway, to a railroad, to a city, town, village or road, and any other circumstances that tend to affect its value, and not what it might bring at a forced sale but what the owner would be willing to accept and would expect to receive for it if he or she were to sell it to another able and willing to buy. The bill died in the House Ways and Means Committee.

<http://billstatus.ls.state.ms.us/2009/pdf/history/HB/HB0172.xml>

Mississippi: Amending the Housing Authority Law to Allow Certain Authority to Establish For-Profit Subsidiaries, H.B. 729

Focus: Affordable Housing

Type: Strategic Initiative

House Bill 729 creates a pilot program within Jones County to allow the Laurel Housing Authority to establish for-profit subsidiary corporations if the profits are used to fund housing and community development activities for low-income residents, and to allow for-profit subsidiary corporations to establish Individual Development Accounts (IDAs) for certain purposes.

The Laurel Housing Authority must submit a report to the Chairperson of the Select Committee on Poverty on the results of the pilot program before January 1, 2012. The report must include the number of for-profit subsidiary corporations created, comparative data on the number of persons and families who have established savings, and the amounts saved before and during

each year of the pilot program. The report also must include a recommendation on whether or not the pilot program should be implemented on a permanent basis for all authorities throughout the state. The bill passed the House but died in the Senate.

<http://billstatus.ls.state.ms.us/documents/2009/html/HB/0700-0799/HB0729PS.htm>

Mississippi: Mississippi Affordable Housing Trust Fund, S.B. 2462

Focus: Affordable Housing

Type: Fund

Senate Bill 2463 creates the Mississippi Affordable Housing Trust Fund for assisting the development, rehabilitation, and preservation of affordable housing, administered by the Mississippi Development Authority (MDA). The trust fund will contain all taxes, fees, interest, penalties, damages, fines, or other money collected by the State Tax Commission under the Gaming Control Act. The bill contains an appropriation of \$500,000 to be deposited by the state tax commission into the Mississippi Affordable Housing Trust Fund.

Five percent of the money credited each year to the trust fund account may be used to make capacity building grants to nonprofit organizations, local government units, Indian tribes, and Indian tribal organizations to expand their capacity to provide affordable housing and housing-related services. The grants may be used to assess housing needs and to develop and implement strategies to meet those needs, including the creation or preservation of affordable housing, prepurchase and post-purchase counseling and associated administrative costs, and the linking of supportive services to the housing. The MDA, with the approval of the oversight board, shall adopt rules and regulations specifying the eligible uses of grant money with funding priority given to those applicants that include low-income individuals and families in their membership, have provided housing-related services to low-income individuals and families, and demonstrate a commitment of local resources, which may include in-kind contributions.

MDA shall administer the trust fund to provide loans, loan guarantees, loan subsidies, grants or other comparable forms of assistance to eligible applicants for the following activities:

- housing production (both rental and homeownership), including, without limitation, new construction, rehabilitation and adaptive reuse;
- acquisition, including, without limitation, land, single-family residential buildings, multifamily residential buildings and other existing dwellings that may be used in whole or in part for residential purposes;
- rental assistance payments;
- downpayment assistance for homeownership;
- preservation of existing affordable housing, including emergency repair;
- housing related support services, including homeownership education and financial counseling, downpayment assistance and foreclosure prevention; and
- grants or loans to nonprofit organizations whose purpose is addressing the affordable housing needs of low-income individuals or families.

At least 60 percent of the funds in the trust fund must benefit very low-income persons and families, of which at least 55 percent must benefit extremely low-income persons and families. At least 55 percent of the funds in the trust fund must benefit rural areas. At least 40 percent of the funds in the trust fund shall benefit homeownership activities, and at least 40 percent of the funds in the trust fund shall benefit rental activities. The bill also details the affordability requirements for the housing developments. The bill died in both the Senate Housing and Finance Committees.

<http://billstatus.ls.state.ms.us/documents/2009/html/SB/2400-2499/SB2462IN.htm>

Missouri: An Act Relating to Tax Increment Financing Projects, H.B. 712

Focus: Affordable Housing

Type: Fund

House Bill 712 requires 16 percent of the payments in lieu of taxes deposited into the Special Allocation Fund to be transferred to Affordable Housing Fund for all tax increment financing (TIF) redevelopment plans and projects, including housing units, adopted or approved after December 31, 2009. The housing fund will be administered by the municipality's TIF commission and will provide low-interest loans and grants within the municipality for affordable housing units for a low-income project.²⁰

The bill states that prior to receiving loans or grants from the housing fund, the property owner must enter into an 18-year agreement with the commission limiting the use of these units to affordable housing during the life of the agreement. However, instead of complying with this requirement, the proponents of the redevelopment project may choose to reserve eight percent of any new housing units created under the redevelopment plan for affordable housing units that have restricted rents not exceeding 30 percent of the median income occupied by individuals or families having an income of 60 percent or less of the median income.

In either case, if the agreement is violated, the commission may sue to recover the full amount of any loan or grant, plus any damages of up to \$1,000 per month from the first day of each month of the violation. The performance of the agreement must be secured by a deed of trust or other lien encumbering the property and must be filed with the county recorder of deeds. The bill died in the House Committee on Job Creation and Economic Development.

<http://www.house.mo.gov/content.aspx?info=/bills091/bills/hb712.htm>

²⁰ The legislation defines low-income project as a housing project which has restricted rents which do not exceed 30 percent of the median income for at least 40 percent of its units and are occupied by individuals or families with incomes of 60 percent or less of the median income or at least 20 percent of the units occupied by individuals or families with incomes of 50 percent or less of the median income.

Nevada: An Act Authorizing the Creation of Community Land Trusts, A.B. 506

Focus: Affordable Housing

Subfocus: Community Land Trusts

Type: Amendment to Code

This bill authorizes the creation of community land trusts for the acquisition of land to be held in perpetuity for the primary purpose of providing affordable homeownership. The bill authorizes the creation of community land trusts as nonprofit corporations or as entities created by a housing authority or a local government. According to the legislation, trusts are eligible to acquire and develop real property and to transfer ownership by deed of structures on the real property to certain qualified households if ownership is subject to a long-term ground lease on the real property and the trust retains a preemptive right to repurchase the land at a price determined by a formula set forth in the lease. The Housing Division of the Department of Business and Industry, who is administering the bill, is to adopt regulations concerning the governance, membership, and operation of community land trusts.

The bill also addresses the assessment of the value of the property for ad valorem property taxes by requiring a structure on real property owned by a community land trust to be valued subject to the restriction in the ground lease on its repurchase price and making the land upon which the structure is located exempt from taxation. It also authorizes the Nevada Tax Commission to adopt regulations concerning the valuation of structures on parcels of land owned by a community land trust. The bill died in the Committee on Governmental Affairs.

<http://www.leg.state.nv.us/75th2009/Bills/AB/AB506.pdf>

New Jersey: An Act Concerning the Production of Affordable Housing in an Economic Turndown, A.B. 3522

Focus: Affordable Housing

Type: Other

The regulations of the Council on Affordable Housing assign an obligation to each municipality to provide units of affordable housing. This bill suspends certain obligations of municipalities to create affordable housing units in certain adverse economic conditions by making the regulations of the Council on Affordable Housing advisory only and not obligatory. Each municipality, upon the effective date of the bill if enacted into law, would be deemed to be granted temporary substantive certification under the Fair Housing Act. Upon the volume of sales of existing single family homes returning to the level experienced in 2006, the Division of the New Jersey Real Estate Commission in the Department of Banking and Insurance would issue an advisory notice to the council and to the Legislature, which would lift the advisory status of the rules, and return the compliance status of municipalities to their previous conditions. Assembly Bill 3522 died in the Assembly in late June.

http://www.njleg.state.nj.us/2008/Bills/A4000/3522_I1.HTM

North Dakota: Affordable Housing Fund, H.B. 1259**Focus: Affordable Housing****Type: Fund**

House Bill 1259 creates the affordable housing fund, a special fund in the state treasury. After a public hearing, the housing finance agency is to create an annual allocation plan for the distribution of the fund. At least 75 percent of the fund must be used to benefit households with an annual income less than 100 percent of the area median income, and at least 50 percent of the fund must be used to benefit households with incomes less than 50 percent of the area median income. The annual allocation plan must give priority to projects that benefit households at not more than 30 percent of the area median income and to households with special needs.

The agency is to adopt rules for the fund to address the unmet affordable housing needs through loans, forgivable loans, grants, subsidies, guarantees, and credit enhancements. These forms of assistance may be used solely for:

- new construction, rehabilitation, or acquisition of affordable multifamily or a single-family residence;
- gap assistance, matching funds, and accessibility improvements;
- single-family downpayment or gap assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing. If there is a profit from a sale, either a proportion or the entire amount of single-family downpayment or gap assistance is subject to recapture based on the level of assistance and household income; and
- rental assistance, emergency assistance, or targeted supportive services designated to prevent homelessness.

Eligible recipients include units of local, state, and tribal government, local and tribal housing authorities, community action agencies, regional planning councils, and nonprofit organizations and for-profit developers of affordable housing. Individuals may not receive direct assistance from the fund. The bill appropriates \$10 million as initial capital into the fund. House Bill 1259 failed to pass a vote in the House in February.

<http://www.legis.nd.gov/assembly/61-2009/bill-index/bi1259.html>

Texas: An Act Relating to the Required Use of Tax Increment Financing to Provide Affordable Housing in Certain Reinvestment Zones, H.B. 1271**Focus: Affordable Housing****Type: Amendment to Code**

House Bill 1271 makes changes to certain requirements for affordability of housing in reinvestment zones located in a county with a population of more than 800,000 and less than 1.4 million residents, designated on or after January 1, 2005, and will be served by a rail transportation project. Under this bill, the project plan for the zone must:

- contain a residential component that includes the construction of affordable housing in the zone;

- require that at least 25 percent of the tax increment of the zone be used to acquire necessary real property and construct the affordable housing until at least ten percent of the total square footage in the residential component as shown in the project plan consists of multifamily rental properties and single-family dwellings, half of which are affordable to individuals or families with incomes at or below 30 percent of the area median income, as determined by the Texas Department of Housing and Community Affairs, adjusted for family size, and half of which are affordable to individuals or families with incomes above 30 percent and below 50 percent of the adjusted area median income;
- require that the affordable housing consisting of rental properties continue to be affordable for at least 30 years from the date of construction and that the affordable housing consisting of owner-occupied single-family dwellings continue to be affordable for at least 10 years from the date of construction; and
- include policies that govern the administration of the affordability terms for affordable housing consisting of rental properties and of owner-occupied single-family dwellings.

The bill died in the House Ways and Means committee when the session ended.

<http://www.legis.state.tx.us/BillLookup/history.aspx?LegSess=81R&Bill=HB1271>

Texas: An Act Relating to a Municipal Program for Foreclosure on and Improvement of Certain Property, and the Subsequent Sale of the Property as Affordable Housing, H.B. 3240

Focus: Affordable Housing

Type: Amendment to Code

House Bill 3240 allows a municipality to foreclose on a piece of property, convert the property to affordable housing, and sell the property to a state or federally recognized affordable housing program. The bill requires the proceeds to be used to pay taxes owed on the property in an amount negotiated by the municipality and the other taxing entities.

The bill provides that penalties and interest are not required to be paid if the sale of the property as affordable housing provides a public benefit to the taxpayers of another taxing entity, and the taxes are paid on a pro rata basis if the proceeds are not sufficient to pay each taxing entity in its entirety. If the property is not sold into an affordable housing program, but to another purchaser, the municipality is responsible for the negotiated amount of taxes owed to each taxing entity, as well as penalties and interest owed. The bill did not pass the legislature this session.

<http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB3240>

Texas: An Act Relating to the Creation, Operations and Financing of Tax Increment Reinvestment Zones, H.B. 4613

Focus: Affordable Housing

Type: Amendment to Code

House Bill 4613 allows a county or municipality to designate certain geographic areas as reinvestment zones to promote development or redevelopment of the area, if the governing body

determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. The bill authorizes certain tax increment financing in for projects in these reinvestment zones.

In order to be designated as a reinvestment zone, an area must substantially arrest or impair the sound growth of the municipality or county creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

- a substantial number of substandard, slum, deteriorated, or deteriorating structures;
- the predominance of defective or inadequate sidewalk or street layout;
- faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- unsanitary or unsafe conditions;
- the deterioration of site or other improvements;
- tax or special assessment delinquency exceeding the fair value of the land;
- defective or unusual conditions of title; or
- conditions that endanger life or property by fire or other cause; or structures, other than single-family residential structures, less than ten percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more.

Further, the area must be predominantly open, undeveloped, or underdeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county, be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community, or be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located. The bill did not pass during the session.

<http://www.legis.state.tx.us/tlodocs/81R/billtext/html/HB04613H.htm>

Texas: Rural Housing Land Assemblage Program Act, S.B. 990

Focus: Affordable Housing

Type: Amendment to Code

This legislation removes right of first refusal for real property that is ordered sold pursuant to foreclosure of a tax lien. Under this bill, the property may be sold in a private sale to a rural housing land assemblage entity by the officer charged with the sale of the property, without first offering the property for sale if:

- the property is used for the purpose of providing affordable housing;
- the market value of the property as appraised by the local appraisal district and as specified in the judgment of foreclosure is less than the total amount due under the

- judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;
- the property is not improved with a habitable building or buildings and is otherwise unoccupied;
 - there are delinquent taxes on the property for a total of at least five years; and
 - each municipality or county that participates in the rural housing land assemblage program has executed an interlocal agreement that enables those taxing entities to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the rural housing land assemblage entity.

A rural housing land assemblage entity may acquire, hold, and transfer, for the purpose of providing affordable housing for low-income households, unoccupied real property that is not improved with a habitable building or buildings. Property sold to and held by a rural housing land assemblage entity for resale is exempt from ad valorem taxation for a period not to exceed three years from the date of acquisition. The exemption period may be renewed for a property for an additional period, not to exceed three years, upon approval of the governing body of each participating municipality or county and any other taxing unit in which the property is located. Property is entitled to an exemption under this section only during the period the property is held by the rural housing land assemblage entity.

<http://www.legis.state.tx.us/BillLookup/history.aspx?LegSess=81R&Bill=SB990>

Texas: Small Municipality and Rural Area Housing Development Fund, S.B. 2287

Focus: Affordable Housing

Type: Fund

Senate Bill 2287 creates the Small Municipality and Rural Area Housing Development Fund to fund housing initiatives in eligible counties and municipalities or for the improvement of the housing conditions in a colonia.²¹ To fund this program, in each state fiscal year, the Office of Rural and Community Affairs is to set aside up to \$7.5 million each year, that is equal to any amount provided to the federal Community Development Block Grant (CDBG) Colonia Fund that exceeds the amount provided to that colonia fund for the state fiscal year ending August 31, 2008. The bill died in the International Relations and Trade Committee.

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB2287>

Texas: An Act Relating to the Provision of Affordable Housing in This State, S.B. 2288

Focus: Affordable Housing

Type: Fund

²¹ Colonia is defined as a geographic area located in a county or municipality that is eligible to receive financial assistance from the Community Development Block Grant Colonia Fund. The area must consist of 11 or more dwellings located in close proximity to each other in a community or neighborhood which has either has majority population composed of individuals and families of low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under the Texas Water Code, or an area that has the physical and economic characteristics of a colonia, as determined by the Texas Department of Housing and Community Affairs.

Senate Bill 2288 creates the Nonborder Colonia Fund, the Office of Rural Community and Small Municipality Housing Initiatives, the Rural Housing Land Assemblage Program, and the Texas Secure Loan Pilot Program. First, the bill establishes the Nonborder Colonia Fund as an account in the general revenue fund and, in each state fiscal year, requires the Office of Rural Community Affairs (ORCA) to set aside and transfer to the account a portion from amounts allocated to Texas under the federal CDBG non-entitlement program not to exceed \$7.5 million each year, that exceeds the amount provided to the state under that program for the state fiscal year ending August 31, 2008.

The bill also authorizes amounts deposited to the account to be appropriated to ORCA only for the benefit of counties and municipalities identified by ORCA rule as eligible to receive CDBG money for housing initiatives for nonborder colonias located in those counties and municipalities, including infrastructure associated with new construction, rehabilitation, or improvements, and the improvement of the housing conditions in those colonias.

Senate Bill 2288 specifies that funds in the housing trust fund in excess of the first \$2.6 million are required to be made available to nonprofit organizations to acquire, rehabilitate, and develop decent, safe, and sanitary housing. The remaining portion of the fund is to be distributed to, rather than competed for by, nonprofit organizations, for-profit organizations, and other eligible entities. The bill sets forth provisions authorizing the department to establish pilot projects to test and develop new approaches to providing housing in rural communities and small municipalities for individuals and families of low- and very-low-income, requiring ORCA to fund housing initiatives that serve agricultural workers and their families, and requiring the department to create a statewide community development corporation charged with developing, acquiring, and rehabilitating housing facilities in appropriate areas in the state for agricultural workers and their families.

The bill also enacts the Rural Housing Land Assemblage Program Act requiring the Department of Housing and Community Affairs, in consultation with ORCA, to establish the Rural Housing Land Assemblage Program to acquire, hold, and transfer certain real property for the purpose of providing affordable housing for low-income households.

Finally, the bill sets forth temporary provisions, set to expire September 1, 2013, requiring the department to allocate \$1 million from funds allocated to the department under the federal HOME Investment Partnerships program and for ORCA to allocate \$1 million from funds allocated to ORCA under the federal CDBG non-entitlement program to the Rural Housing Land Assemblage Program, and requiring the Department and ORCA to jointly submit a report to the legislature on the establishment and implementation of the rural housing land assemblage program not later than December 1, 2012. Senate Bill 2288 passed the Senate but died in the House Border and Intergovernmental Affairs Committee.

<http://www.legis.state.tx.us/tlodocs/81R/billtext/html/SB02288H.htm>

Texas: Rules Regarding Administration of Housing Trust Fund, H.B. 2296
Focus: Affordable Housing

Type: Amendment to Code

House Bill 2296 amends provisions relating to the administration and use of the Housing Trust Fund. The bill specifies that the date for determining the availability of additional funds for for-profit and nonprofit organizations is September 1st of each state fiscal year and that the remainder of the housing trust fund, in excess of the first \$2.6 million and after 45 percent of that excess has been made available to nonprofit organizations, are to be distributed to, rather than be competed for by, nonprofit and for-profit organizations and other eligible entities.

Eligible borrowers must have annual income that does not exceed 60 percent of the greater of the state or local median family income, when combined with the income of any person who resides with the owner-builder, have resided in this state for the preceding six months, have successfully completed owner-builder education class, and agree to:

- provide through personal labor at least 65 percent of the labor necessary to build the proposed housing by working through a state-certified owner-builder housing program;
- provide a certain amount of personal labor in connection with building housing for others through a state-certified nonprofit owner-builder housing program; or
- if approved by the department, provide through noncontract labor of friends, family, or volunteers at least 65 percent of the labor necessary to build the proposed housing by working through a state-certified owner-builder housing program.

The bill requires at least two-thirds of the dollar amount of loans made in each fiscal year be made to borrowers whose property is located in a county that is in a census tract with median household income not greater than 75 percent of the median state household income for the most recent year for which statistics are available.

The bill also raises the minimum amount of a loan to \$45,000 from \$30,000. If it is not possible for an owner-builder to purchase necessary real property and build adequate housing for \$45,000, the owner-builder must obtain the amount necessary that exceeds \$45,000 from one or more local governmental entities, nonprofit organizations, private lenders, or from grants awarded by the department. The total amount of amortized, repayable loans made by the department and other entities to an owner-builder may not exceed \$90,000.

A loan made by the department may not exceed a term of 30 years, bear interest at a fixed rate of not more than three percent, or bear interest in the following manner:

- no interest for the first two years of the loan;
- beginning with the second anniversary of the date the loan was made, interest at the rate of one percent a year;
- beginning on the third anniversary of the date the loan was made and ending on the sixth anniversary of the date the loan was made, interest at a rate that is one percent greater than the rate borne in the preceding year; and
- beginning on the sixth anniversary of the date the loan was made and continuing through the remainder of the loan term, interest at the rate of five percent.

The bill died when the legislative session ended.

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2296>

Texas: An Act Relating to Community Land Trusts, H.B. 4614

Focus: Affordable Housing

Subfocus: Community Land Trust

Type: Amendment to Code

House Bill 4614 allows a city or municipality to create a community land trust. The governing body of a municipality or county by ordinance or order may create or designate one or more community land trusts, including a housing finance corporation established or a land trust operated by a community housing development organization certified by the municipality or county, to operate in the municipality or county.

A community land trust must be a 501(c)(3) nonprofit organization that is created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the municipality or county. A community land trust may retain title to land it acquires and sell housing units located on the land and lease the land underground leases with terms of at least 50 years, or lease housing units located on the land.

Under this legislation, a community land trust may sell housing units only to families with a yearly income at the time of sale at or below 80 percent of the area median family income, adjusted for family size. At least 25 percent of the housing units sold by the trust must be sold to families with a yearly income at the time of sale at or below 60 percent of the area median family income, adjusted for family size. In addition, a community land trust may lease housing units only to families with a yearly income at the time of lease at or below 60 percent of the area median family income, adjusted for family size.

In addition to any other exemption to which the trust may be entitled, a community land trust is entitled to an exemption from taxation by a taxing unit of land owned by the trust, together with the housing units located on the land if they are owned by the trust, if the trust meets the requirements of a charitable organization as dictated by Texas statute, or if the trust owns the land for the purpose of leasing the housing units land and selling or leasing the located on the land, and engages exclusively in the sale or lease of housing. The bill died in the House Ways and Means Committee.

http://www.legis.state.tx.us/Search/DocViewer.aspx?K2DocKey=odbc_percent3a_percent2f_percent2fTLO_percent2fTLO.dbo.vwCurrBillDocs_percent2f81_percent2fR_percent2fH_percent2fB_percent2f04614_percent2f1_percent2fB_percent40TloCurrBillDocs&QueryText=4614&HighlightType=1

Texas: An Act Relating to Community Land Trusts, S.B. 1205

Focus: Affordable Housing

Type: Amendment to Code

Senate Bill 1205 provides clarifying definitions for community land trusts. A community land trust must be a 501(c)(3) nonprofit organization that is created to acquire and hold land for the

benefit of developing and preserving long-term affordable housing in the municipality or county. A community land trust may sell housing units only to families with a yearly income at the time of sale at or below 80 percent of the area median family income, adjusted for family size. The bill further states that at least 25 percent of the housing units sold by the trust must be sold to families with a yearly income at the time of sale at or below 60 percent of the area median family income, adjusted for family size, and the trust may lease housing units only to families with a yearly income at the time of lease at or below 60 percent of the area median family income, adjusted for family size.

In appraising land or a housing unit that is leased by a community land trust to a family meeting the income-eligibility standards limiting the amount that the family may be required to pay for the rental or lease of the property, the chief appraiser shall take into account the extent to which that use and limitation reduce the market value of the property, as well as the extent to which any regulations or restrictions limiting the right of the owner of the housing unit to sell the housing unit, including any limitation on the price for which the housing unit may be sold or reduce the market value of the housing unit. The legislation passed the Senate but died in the House Ways and Means committee.

<http://www.legis.state.tx.us/tlodocs/81R/billtext/html/SB01205E.htm>

Wyoming: Wyoming Workforce Housing Infrastructure Program, H.B. 112

Focus: Affordable Housing

Subfocus: Community Land Trusts

Type: Fund

House Bill 112 provides grants and loans for planning to develop or modify codes and ordinances in support of the following initiatives:

- workforce housing;
- planning subdivision regulations that encourage workforce housing development;
- planning to enable a community to conduct a land reuse study of a parcel of land or real estate that is planned, at least in part, to provide for workforce housing;
- workforce housing infrastructure projects; and
- planned workforce housing infrastructure projects.

Eligible applicants are cities, towns, counties, or special improvement districts. Loans may under the program be made at zero interest rate, up to an annual interest rate equal to the average prime interest. The council shall establish criteria for determining the maximum grant loan amounts subject to final approval by the state loan and investment board. Grants must be matching grants, made only if the applicant demonstrates that upon receipt of the grant all projected project costs the applicant is responsible for providing for the planned workforce housing neighborhood or area, through zoning, land use plans or other regulatory matters, will be funded. The bill also appropriated \$40 million to the program account. The bill passed the House but failed to pass in the Senate.

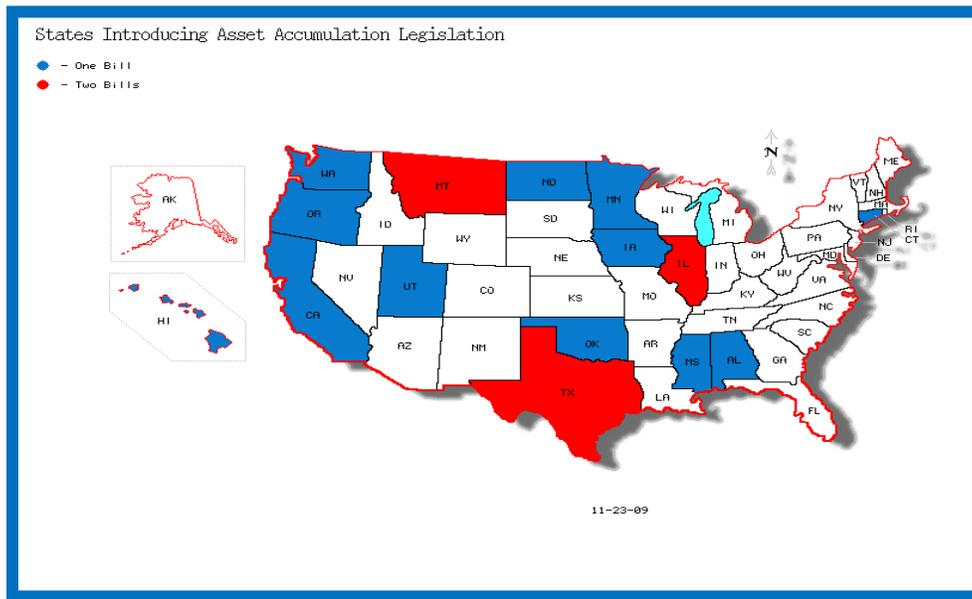
<http://legisweb.state.wy.us/2009/Engross/HB0112.pdf>

Asset Accumulation

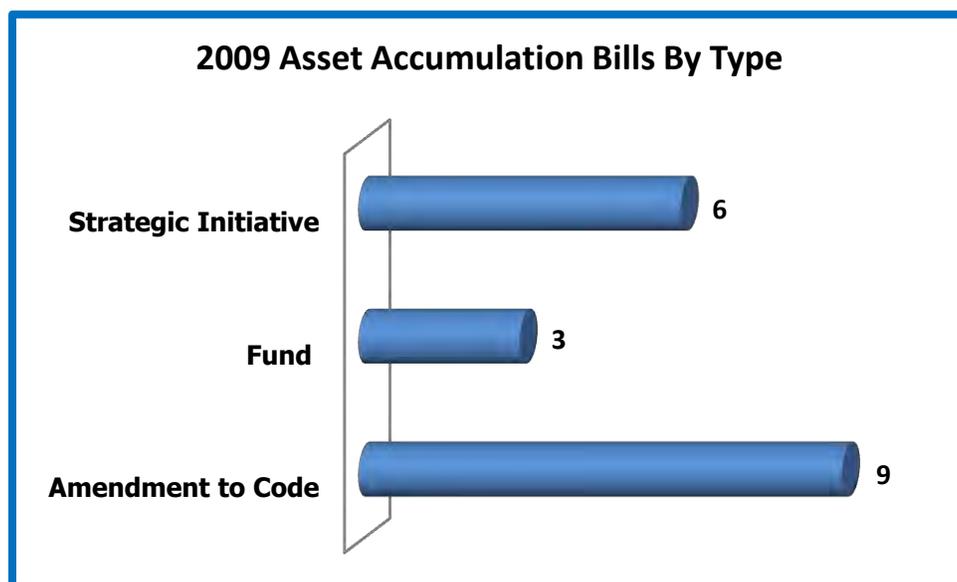
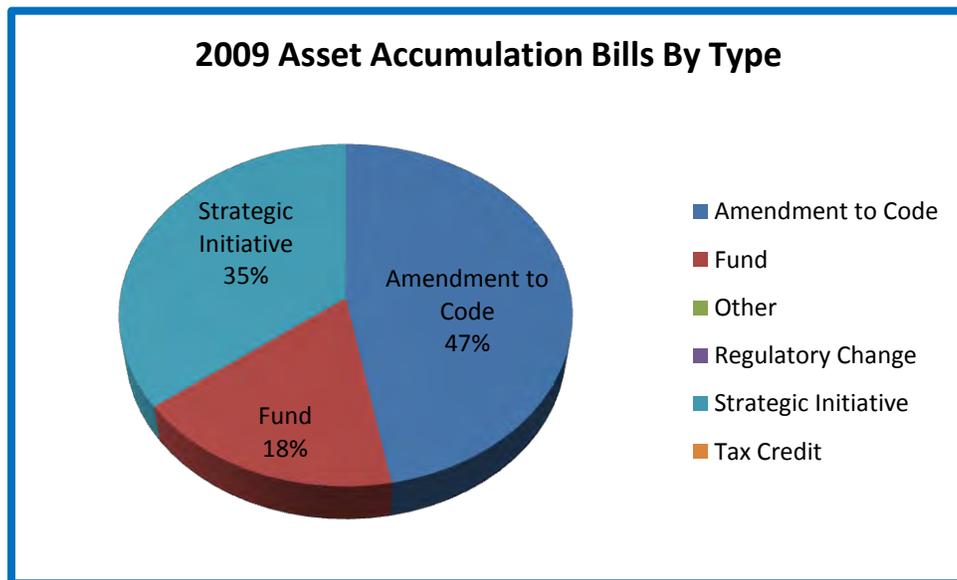
There were 18 asset accumulation-focused bills tracked in 15 states for the guide in the 2009 legislative session. Asset accumulation bills are initiatives designed to help low- and moderate-income residents save money for homeownership, education, funding small businesses, and other approved uses. States often match the contributions of the account holders, and most of these initiatives create Individual Development and Child Savings accounts. This year, financial literacy-focused legislation is included in the asset accumulation category.

The map below shows states that introduced asset accumulation legislation in color: states in blue introduced one bill, states in red introduced two bills.

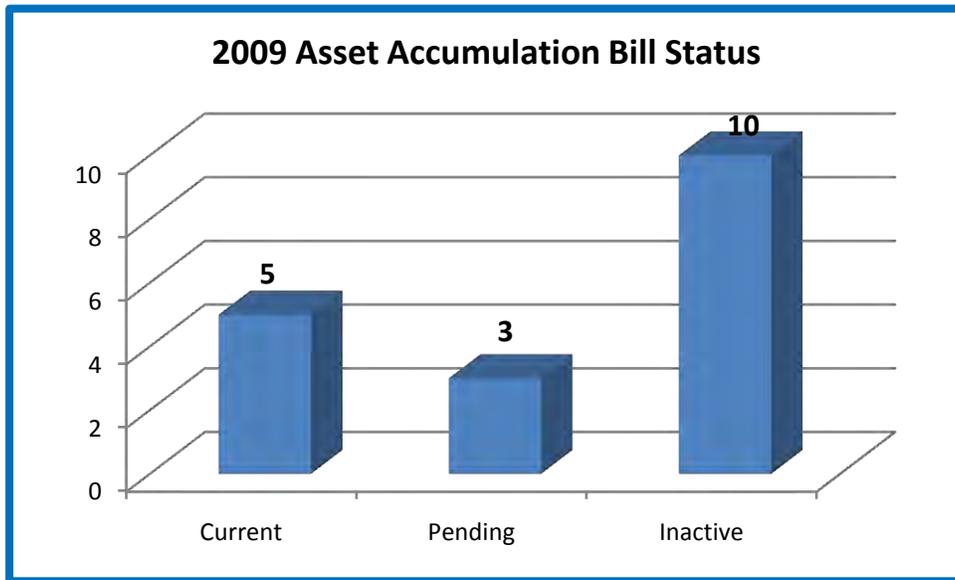
- One Bill: Alabama, California, Connecticut, Hawaii, Iowa, Minnesota, Mississippi, North Dakota, Oklahoma, Oregon, Utah, Washington
- Two Bills: Illinois, Montana, Texas



The following charts show the asset accumulation bills introduced this session based on the bill type. Forty-seven percent of the asset accumulation legislation tracked in this study, or eight bills, were amendments to state code. None of the asset accumulation bills introduced during the session were tax credits, regulatory changes, or “other” bill types. Six of the asset accumulation bills were strategic initiatives; half of which were focused on promoting financial literacy: Oklahoma House Bill 2010, Utah Senate Bill 100, and Washington House Bill 1829. The legislation in Utah was signed into law during the session, while Oklahoma’s bill died and Washington’s bill is still pending. There were also three bills introduced to create funds, none of which passed during the session.



Five of the asset accumulation bills that were introduced this session passed their legislatures: three bills relating to Individual Development Accounts (IDAs): Illinois Senate Bill 1563, which authorizes a Child Savings Account Task Force, and as mentioned above, Utah Senate Bill 100, a bill focused on financial literacy. Three asset accumulation bills are still pending in their legislatures, while the remaining ten bills did not pass their legislatures during the session.



Current Legislation

Illinois: Children's Savings Account Task Force, S.B. 1563

Focus: Asset Accumulation

Subfocus: Child Savings Accounts

Type: Strategic Initiative

Senate Bill 1563 creates a Children's Savings Account Task Force to review and make recommendations about children's savings account program options and to create a strategic implementation plan to create a savings account at birth for every child born in Illinois to Illinois residents. The Children's Savings Account Task Force must conclude its activities and submit reports by December 31, 2009, and the State Treasurer must present the reports by February 1, 2010. The bill was signed into law and became effective on August 11, 2009.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=SB&DocNum=1563&GAID=10&LegID=44126&SpecSess=&Session=>

Iowa: An Act Relating to Individual Development Accounts Available to Certain Persons with Low Income and Providing Effective and Applicability Date Provisions, H.B. 672

Focus: Asset Accumulation

Subfocus: Individual Development Accounts

Type: Amendment to Code

This bill makes several changes to the IDA program portion of the Iowa Code. The bill requires eligible applicants to have income of no more than 200 percent of the federal poverty line, whereas previously, this income restriction applied only to receiving the matching funds from the state. The bill also updates the Iowa Code to prohibit an account holder who is at least 59 and one-half years old to withdraw any amount from their account. The bill, which was signed into law by Governor Chet Culver in April, took effect upon enactment and is retroactively applicable to July 1, 2008.

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=BillInfo&Service=Billbook&qa=83&menu=text&hbill=HF672>

North Dakota: An Act Relating to State Matching Funds for Individual Development Accounts, S.B. 2260

Focus: Asset Accumulation

Subfocus: Individual Development Account

Type: Amendment to Code

This bill would provide an appropriation of \$125,000 for matching funds to Community Action Agencies for IDAs. In order to be eligible to participate in this program, a community action agency must:

- provide a separate account for the immediate deposit of program funds;
- establish a process to select participants and describe any priorities for participation;
- enter an IDA agreement with the household to establish the terms of participation;
- provide households with economic literacy education;

- provide households with asset-specific education;
- provide matching deposits for participating household;
- coordinate with other related public and private programs; and
- establish a process to appeal and mediate disputes.

The legislation also excludes a household's IDA savings and matching funds in determining eligibility for state-administered, means-tested programs, and includes the following eligible uses for the IDA account:

- tuition at an eligible educational institution and expenses at an eligible educational institution, including books, eligible supplies, and equipment required for courses of instruction;
- for first-time home buyers, acquisition costs of acquiring or constructing a principal residence, including any usual or reasonable settlement, financing, or other closing costs; and
- business capitalization expenses for expenditures on capital, plant, equipment, working capital, and inventory expenses of a legitimate business pursuant to a business plan approved by a community action agency.

The bill passed both the House and the Senate and was signed into law by Governor John Hoeven on April 30, 2009.

<http://www.legis.nd.gov/assembly/61-2009/bill-text/JBDF0300.pdf>

Oregon: An Act Relating to Individual Development Accounts, H.B. 2258

Focus: Asset Accumulation

Subfocus: Individual Development Account

Type: Amendment to Code

This bill changes definition of lower-income household for statutes relating to IDAs. Lower-income household is now defined as a household having an income equal to or less than the greater of the following: 80 percent of the median household income for the area or 200 percent of the poverty guidelines as determined by the Oregon Housing and Community Services Department. In making the determination, the Department is to give consideration to poverty guidelines published by the United States Department of Health and Human Services and may consider other income data periodically published by other federal or Oregon agencies. The bill was signed into law by the Governor Ted Kulongoski on April 9, 2009, and will go into effect January 1, 2010.

<http://www.leg.state.or.us/09reg/measures/hb2200.dir/hb2258.a.html>

Utah: Financial and Economic Literacy Education Amendments, S.B. 100

Focus: Asset Accumulation

Subfocus: Financial Literacy

Type: Strategic Initiative

This bill requires a public school to provide the parents or guardians of kindergarten students with a Financial and Economic Literacy Passport and information about opening a Utah Educational Savings Plan account. A financial and economic literacy passport is a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities, including the following: (a) basic budgeting; (b) saving and financial investments; (c) banking and financial services, including balancing a checkbook or a bank account; (d) career management, including earning an income; (e) rights and responsibilities of renting or buying a home; (f) retirement planning; (g) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans; (h) insurance; (i) federal, state, and local taxes; (j) charitable giving; (k) online commerce; (l) identity fraud and theft; (m) negative financial consequences of gambling; (n) bankruptcy; (o) free markets and prices; (p) supply and demand; (q) monetary and fiscal policy; (r) effective business plan creation, including using economic analysis in creating a plan; (s) scarcity and choices; (t) opportunity cost and tradeoffs; (u) productivity; (v) entrepreneurship; and (w) economic reasoning. The bill was signed into law in March, and went into effect on July 1, 2009.

<http://le.utah.gov/~2009/bills/sbillenr/sb0100.htm>

Pending Legislation

Illinois: An Act Concerning Appropriations, H.B. 3740

Focus: Asset Accumulation

Type: Amendment to Code

House Bill 3740 appropriates \$3 million from the Predatory Lending Database Program Fund to the Department of Revenue to make grants to a HUD-certified counseling agency in any county for counseling described in the U.S. Department of Housing and Urban Development Housing Counseling Program Handbook and counseling to a borrower as specified under the Residential Real Property Disclosure Act. The bill is pending in the House Rules Committee.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=3740&GAID=10&GA=96&DocTypeID=HB&LegID=46525&SessionID=76>

Minnesota: Ladder Out of Poverty Task Force, H.F. 2062

Focus: Asset Accumulation

Type: Strategic Initiative

House File 2062 creates the Ladder Out Of Poverty Task Force to identify specific actions and policies to assist Minnesotans to escape or avoid poverty through the accumulation and maintenance of assets. The task force is to provide recommendations to the chairs of the Senate Commerce and Consumer Protection Committee, the House of Representatives Labor and Consumer Protection Division and the House of Representatives Commerce and Labor Committee by January 15, 2010. At a minimum, the task force must identify specific policies, strategies, and actions to:

- increase opportunities for low-income families to create and build wealth;
- expand the utilization of Family Assets for Independence in Minnesota (FAIM) or other culturally specific IDA programs;
- reduce or eliminate predatory financial practices in Minnesota through regulatory actions, legislative enactments, and the development and statewide availability of alternative, non-predatory financial products;
- provide incentives or assistance to private sector financial institutions to offer additional programs and services that provide alternatives to and education about predatory financial products; and
- provide financial literacy information to low-income families and individuals at the moment the recipient has the ability, opportunity, and motivation to receive, understand, and act on the information provided.

The bill is still pending in the House Commerce and Labor Committee until the 2010 session.

https://www.revisor.leg.state.mn.us/revisor/pages/search_status/status_results.php?body=House&search=basic&session=0862009&location=House&bill=2062&bill_type=bill&rev_number=&submit_bill=GO&keyword_type=all&keyword=&keyword_field_short=1&keyword_field_long=1&keyword_field_title=1&titleword=

Washington: An Act Relating to Establishing the Financial Services Intermediary, H.B. 1829

Focus: Asset Accumulation

Type: Strategic Initiative

House Bill 1829 seeks to establish a framework that will provide access to capital and services to low-income individuals through a network of community-based organizations, financial institutions, consumers, and local and state governments. The creation of this state framework will allow state-chartered and tribal financial institutions and credit unions to provide essential financial products and services to low-income clients. These products include, but are not limited to: earned income tax credit services, IDAs, short-term loans, wire transmitting services, check cashing, mortgage loan assistance, career counseling, and financial literacy training to educate the client on the importance of savings, investing, and borrowing. The financial services intermediary is established to:

- improve the ability of low-income individuals to access and use mainstream financial products offered by financial institutions;
- identify strategies to make more mainstream financial products available to low-income individuals;
- coordinate with financial institutions to leverage the financial resources of low-income individuals served by community-based asset building coalitions to offer mainstream financial services to those individuals;
- consult and cooperate with organizations and government agencies that are already engaged in asset building and financial literacy activities;
- enter into memoranda of agreement with community-based asset building coalitions and financial institutions; and
- perform other duties as deemed appropriate by the intermediary.

The legislation is pending in the Washington legislature.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1829#documents>

Inactive Legislation

Alabama: An Act to Establish the Individual Development Account Program in the Office of the Commissioner of the Department of Agriculture and Industries, S.B. 93

Focus: Asset Accumulation

Subfocus: Individual Development Account

Type: Fund

Senate Bill 93 establishes the IDA program to be administered by the Commissioner of the Department of Agriculture and Industries. This bill provides for the establishment of IDAs for up to three years for eligible persons who have incomes equal to or less than 80 percent of the median income of the state or less than 200 percent of the federal poverty level whichever is greater. The bill places a cap of \$2,000 on the contributions made by the individual account holder.

Under this legislation, qualified withdrawals from an IDA include funds used to further postsecondary education, purchase a first-time home, improve a primary residence, purchase an automobile, for assistive technology, and other activities approved by the commissioner. Further, the bills include a provision exempting IDA savings and matching funds from eligibility for certain means-based programs including Medicaid and food stamps. The provisions of the bill would terminate five years after the effective date, prohibiting new IDAs from being created after that time. The bill was pocket vetoed by Governor Robert Riley on May 15, 2009.

<http://alisondb.legislature.state.al.us/acas/ViewBillsStatusACASLogin.asp?BillNumber=SB93>

California: California Financial Literacy Initiative, A.B. 550

Focus: Asset Accumulation

Type: Fund

This bill establishes the Financial Literacy Initiative in the Controller's office and the California Financial Literacy Fund in the State Treasury, and authorizes the controller to deposit donations from entities without direct financial interest in any financial products into the fund. It also requires the controller, beginning in 2011, to report to the specified committees of the Legislature annually on or before August 30 on the implementation of the initiative and any recommendations to enhance financial literacy in California. The bill was sent to the Appropriations suspense file in late April.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0501-0550/ab_550_bill_20090414_amended_asm_v98.html

Connecticut: Connecticut Graduates' First Home Purchase Fund, S.B. 327

Focus: Asset Accumulation

Type: Fund

Senate Bill 327 creates the Connecticut Graduates' First Home Purchase Program. The bill is intended to provide incentives for recent graduates to purchase a home in the state by allowing individuals who are employed in the state to save for the cost of purchasing a condominium or house. Eligible participants must graduate on or after January 1, 2010, and within one year after

receiving their degree elect to have up to \$5,000 of their annual gross income taxes deposited into the non-lapsing First-time Homebuyers Fund. The fund, established by the Comptroller, will be comprised of individual savings accounts. Participants must reside in Connecticut before the State Treasurer pays money out of the fund for the purchase of their first home. The bill also requires the State Treasurer to administer the fund, invest its proceeds, and credit the investment earnings to the General Fund. The bill died in the Senate Committee on Finance, Revenue and Bonding.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=327&which_year=2009&SUBMIT1.x=0&SUBMIT1.y=0&SUBMIT1=Normal

Hawaii: An Act Relating to Individual Development Accounts, S.B. 789

Focus: Asset Accumulation

Subfocus: Individual Development Accounts

Type: Amendment to Code

Senate Bill 789 amends the Hawaii state code to clarify the guidelines of the IDA program. The bill adds one motor vehicle purchase for school or work transportation as a qualified expenditure along with costs associated with first homeownership, post-secondary education, vocational training and small or microbusiness capitalization. Further, under the legislation, locally-based organizations must enter into a competitive process for the right to become fiduciary organizations. The proposals will be evaluated and participation rights awarded on the basis of:

- ability to market the program to potential IDA holders and potential matching fund contributors;
- ability to provide safe and secure investments for IDAs;
- overall administrative capacity;
- capacity to provide financial counseling and other related services to potential participants; and
- links to other activities designed to increase the independence of individuals and families through high return investments, including homeownership, education and training, and small business development.

It also designates the Department of Human Services, or a contracted agency, as the administrator of the IDA program and appropriates funds to allow fiduciary organizations to operate IDA programs. The legislation contains a space for an appropriation for the program; however the bill died before an amount was listed.

http://www.capitol.hawaii.gov/session2009/Bills/SB789_.HTM

Mississippi Family Savings Initiative Act: H.B. 1429/S.B. 2434

Focus: Individual Development Account

Type: Asset Accumulation

This legislation establishes the Family Savings Initiative Act to create IDAs designed to:

- provide individuals and families with limited means an opportunity to accumulate assets;
- facilitate and mobilize savings;

- promote homeownership, microenterprise development, and education; and
- stabilize families and build communities.

House Bill 1429 authorizes the Department of Human Services to enter into contracts with one or more nonprofit fiduciary organizations to administer the IDA accounts. Under this bill, contributions would be matched \$3:\$1 by the state, with a maximum of \$2,000 per IDA account holder or \$4,000 per household. The IDAs may be used for any of the following qualified purposes:

- qualified acquisition costs with respect to a qualified principal residence for a qualified first time home buyer, or the costs of major repairs or improvements to a qualified principal residence, if paid directly to the persons to whom the amounts are due.
- amounts paid directly to vendors used solely for qualified business capitalization expenses consistent with a qualified plan;
- postsecondary educational expenses paid directly to a vendor for education and training purposes; and
- qualified emergency withdrawals.

The Senate version of the legislation is essentially the same as the House version, except the House version of the bill contains more detailed and proscriptive uses for the funds saved in the IDA. Further, the Senate version offers a tax credit to taxpayers in the state that contribute matching funds to the IDA program. Both bills died in committee when the legislative session ended.

<http://billstatus.ls.state.ms.us/documents/2009/html/SB/2400-2499/SB2434IN.htm>

Montana: An Act Creating an Individual Development Account Program to Assist Eligible Individuals in Saving Funds for Specific Purposes, D.755

Focus: Asset Accumulation

Subfocus: Individual Development Accounts

Type: Amendment to Code

This bill directs the Montana Department of Health and Human Services to establish an IDA Program to match savings and provide financial literacy to eligible individuals. Eligible participants are Montana residents with household income at or below 250 percent of the federal poverty level. An IDA may be used to:

- buy a first home,
- repair a home owned by the individual
- invest in a business owned by the individual;
- pay for postsecondary education or training;
- buy a vehicle that is needed for transportation to the individual's place of employment or education; or
- repair a vehicle owned by the individual.

Entities that are eligible to administer IDA accounts include 501(c)(3) nonprofit organizations, a tribal government, or a tribal entity. In awarding contracts to administer the program, the Department is to consider:

- an entity's fiscal accountability;
- its ability to establish and administer a fund to receive all contributions from program contributors;
- its ability to work with local financial institutions to hold the IDAs;
- the proposed auxiliary services, including financial literacy training and grant writing for federal and other funding; and
- how the proposed auxiliary services relate to the goals of the IDA program.

The bill died when the legislative session ended.

<http://data.opi.mt.gov/bills/2009/lhtml/LC0755.htm>

Montana: Financial Literacy Pilot Program, S.B. 485

Focus: Asset Accumulation

Subfocus: Financial Literacy

Type: Strategic Initiative

Senate Bill 485 establishes the Financial Literacy Pilot Program account in the state special revenue fund. The account will be used to provide funds for the Superintendent of Public Instruction to establish and fund the Financial Literacy Pilot Program in one Montana school. The first year of the program must be dedicated to planning, including the selection of the pilot project location by the superintendent of public instruction and the establishment of project guidelines such as staffing needs, curriculum training, and development of the IDA program and of evaluation strategies. The pilot program must be implemented during the second year. The bill died in the House Education Committee after failing to pass a vote.

[http://laws.leg.mt.gov/laws09/LAW0203W\\$BSRV.ActionQuery?P_BLTP_BILL_TYP_CD=SB&P_BILL_NO=485&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_SBJ_DESCR=&P_SBJT_SBJ_CD=&P_LST_NM1=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/laws09/LAW0203W$BSRV.ActionQuery?P_BLTP_BILL_TYP_CD=SB&P_BILL_NO=485&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_SBJ_DESCR=&P_SBJT_SBJ_CD=&P_LST_NM1=&P_ENTY_ID_SEQ=)

Oklahoma: Passport to Financial Literacy Act, H.B. 2010

Focus: Asset Accumulation

Subfocus: Financial Literacy

Type: Strategic Initiative

The Passport to Financial Literacy Act would require personal financial literacy education to be taught in public schools. Personal financial literacy education includes the following areas of instruction:

- understanding interest, credit card debt, and on-line commerce;
- rights and responsibilities of renting or buying a home;
- savings and investing, and planning for retirement;
- bankruptcy, banking and financial services;
- understanding loans and borrowing money, including predatory lending, payday loans and insurance;

- identity fraud and theft;
- charitable giving;
- earning an income; and
- understanding state and federal taxes.

The bill also requires teachers employed by a school district prior to the 2010-2011 school year who will provide instruction in personal financial literacy to complete a six-hour professional development training program in personal financial literacy developed by the State Department of Education prior to the beginning of the 2010-2011 school year, and at least one time every three years thereafter.

All teachers employed by a school district after the beginning of the 2010-2011 school year who will provide instruction in personal financial literacy must complete a six-hour professional development training program in personal financial literacy prior to teaching the course or curriculum and at least one time every three years thereafter. The bill died in conference committee after the conferees failed to agree on the Senate's amendments to the legislation.
<http://webserver1.lsb.state.ok.us/TextOfMeasures/TextOfMeasures.aspx>

Texas: An Act Relating to the Creation of the Individual Development Account Program to Provide Savings Incentives and Opportunities to Eligible Low-Income Individuals and Households, S.B. 27

Focus: Asset Accumulation

Subfocus: Individual Development Accounts

Type: Amendment to Code

Senate Bill 27 creates an IDA Program to provide low-income individuals and households with an opportunity to accumulate assets and to facilitate and mobilize savings. The program is to be administered by the Comptroller, who by rule may develop and implement a program under which IDAs are facilitated and administered by sponsoring organizations. Sponsoring organizations are provided grant funds for use in administering the program and matching qualified expenditures made by program participants, with a provision in the bill requiring at least 85 percent of the grant funds to be used by the sponsoring organization for matching qualified expenditures. The comptroller must also establish eligibility criteria for participation in the program consistent with the purposes of the program and with the Assets for Independence Act.²² The bill also contains a provision stating that if federal Assets for Independence Act money is used as matching funds, the amount of federal matching funds spent for each IDA may not exceed the limits established by the Assets for Independence Act. If money other than Assets for Independence Act money is used as matching funds, the Comptroller by rule may set a different limit on the amount of matching funds that may be spent for each account. The bill died in the Senate Business and Commerce Committee.

<http://www.legis.state.tx.us/tlodocs/81R/billtext/html/SB00027I.htm>

²² Assets for Independence (AFI) is a federal program that provides grants to enable community-based nonprofits and state, local, and tribal government agencies to implement and demonstrate an asset-based approach for helping low-income families get out of poverty.

Texas: An Act Relating to the Creation of the Individual Development Account Program, H.B. 885

Focus: Asset Accumulation

Subfocus: Individual Development Account

Type: Amendment to Code

House Bill 885 is very similar to Senate Bill 27, although the House version contains a provision that the selection criteria for sponsoring organizations must give priority to organizations that serve rural areas, or have demonstrated a capacity to administer IDA programs or a commitment to serve areas of this state that currently do not have IDA programs available. The legislation died when it failed to receive an affirmative vote in the Agriculture and Livestock Committee.

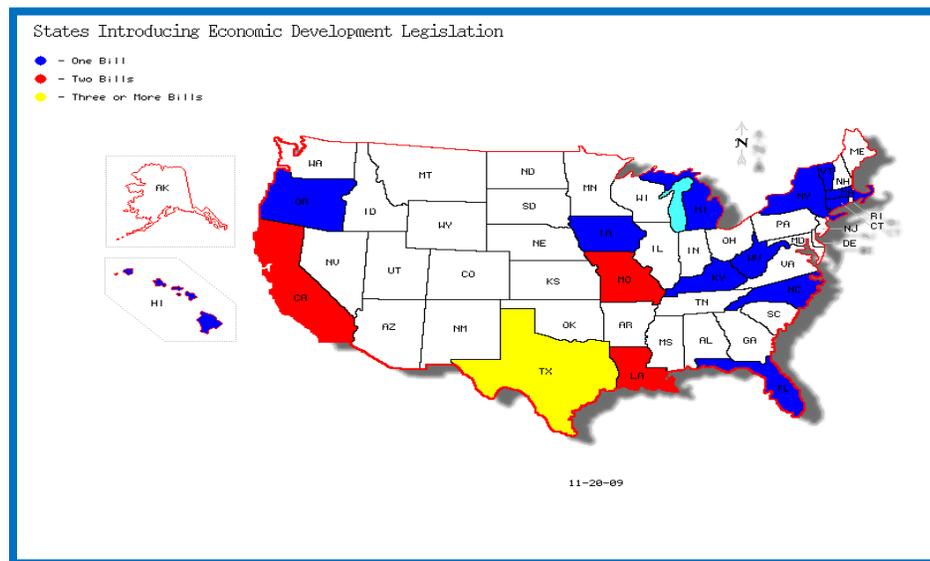
<http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB885>

Economic Development

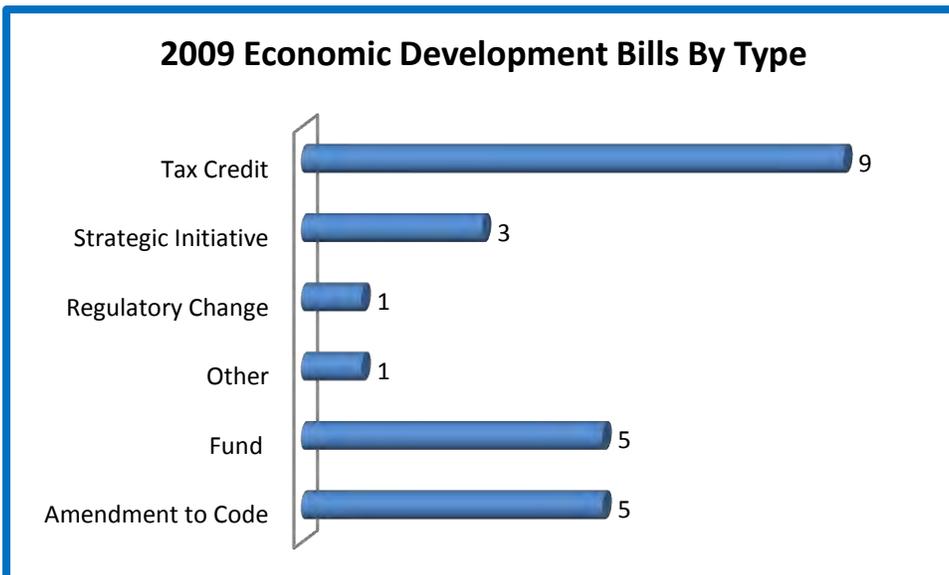
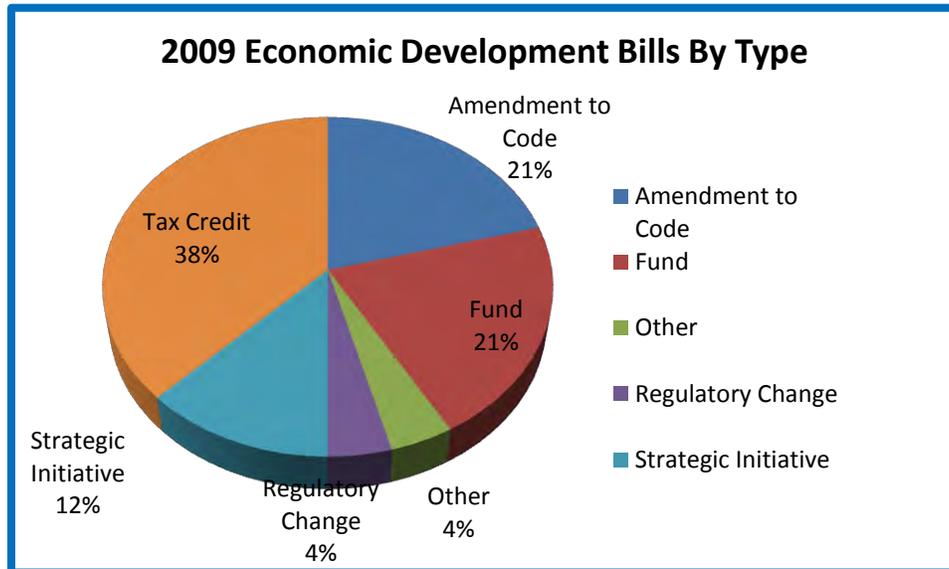
There were 24 economic development-focused bills tracked in 16 states for this guide in the 2009 legislative session. Economic development legislation, for the purposes of this guide, is a subject matter area that encapsulates community development to revitalize distressed communities by promoting job creation and providing incentives for investors to make investments in low-income communities, that are not housing or small business-related. Four of the bills were specifically targeted at economic development in rural communities: New York Assembly 977, Rural New York Smart Sites, Texas House Bill 1715 and its companion Senate Bill 684, Texas House Bill 1911, and Texas House Bill 2308.

The map shows the states that introduced economic development legislation in color: states in blue introduced one bill, states in red introduced two, and Texas introduced four bills, all of which failed to pass the legislature.

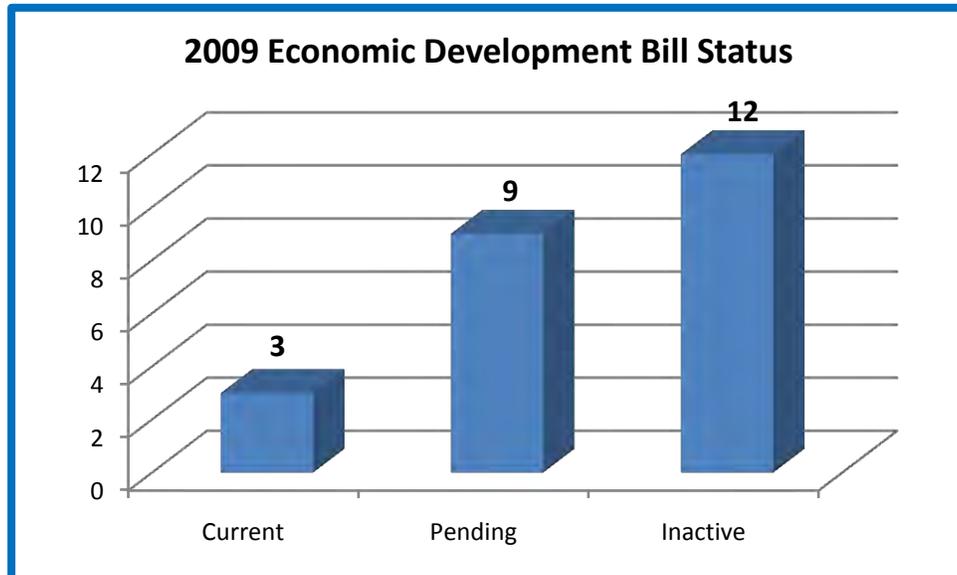
- One Bill: Connecticut, Florida, Hawaii, Iowa, Kentucky, Massachusetts, Michigan, North Carolina, New York, Oregon, Vermont, West Virginia
- Two Bills: California, Louisiana, Missouri
- Three or more Bills: Texas



More than one-third of the economic development legislation introduced this session would provide tax credits for certain investments, a total of nine bills. There were also five economic development bills that were amendments to their state codes, and another five that would create or fund existing grant and loan programs. Three bills were strategic initiatives, and there was one regulatory change and one bill categorized as other.



Three economic development bills introduced passed their legislatures this session: Florida House Bill 485, Louisiana House Bill 753, and Vermont House Bill 313, the Vermont Recovery and Reinvestment Act of 2009. The Florida bill is a New Markets Development tax credit bill modeled after the federal program, while Louisiana House Bill 753 amends the Louisiana New Markets Tax Credit statute. All three bills that passed were CDFI-specific, and mentioned CDFIs explicitly in the text of the legislation.



Current Legislation

Florida: New Markets Development Program, H.B. 485/S.B. 1502

Focus: Economic Development

Type: Tax Credit

House Bill 485 authorizes tax credits for investments in low-income communities. The program is designed to encourage private investment in low-income communities in the state, and is modeled after the federal New Markets Tax Credit Program. Investors who make qualified investments are eligible to receive tax credit allocations to offset corporate income or insurance premium tax liabilities. The program is designed to make the state more attractive to national investors who are deciding where to invest funds raised under the federal New Markets Tax Credits program by creating a state New Markets Development Program similar to the federal program. Potential investors can now receive a tax credit of up to 78 percent, as opposed to the 39 percent available under the federal program alone. Senate Bill 1502 contained many similar provisions to establish the New Markets Development Program; however that bill was tabled after House Bill 485 passed and was signed into law by Governor Charles Crist in May.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=40369&SessionId=61>

Louisiana: An Act to Amend and Reenact the New Markets Tax Credit, H.B. 753

Focus: Economic Development

Type: Amendment to Code

This bill amends the Louisiana New Markets Tax Credit statute. Existing law provides that with respect to the New Markets Tax Credit. Under the current law, no more than \$5 million of qualified low-income community investments may be issued by a single business for qualified equity investments issued after April 1, 2008, whether to one or more issuers of qualified equity investments.

House Bill 753 changes the date by which the investment must be issued from on or after April 1, 2008, to on or after April 1, 2008, and before Dec. 1, 2009. In addition, the bill increases the amount of qualified low-income community investments that can be issued by a single business from \$5 million to \$7.5 million. The bill also requires the Department of Economic Development to grant or deny a request for certification as an investment consistent with the target industries no more than 60 days after receipt of the request. If the request is not denied within 60 days, the request is deemed to be granted. The bill passed the legislature and was signed into law by Governor Bobby Jindal.

<http://www.legis.state.la.us/billdata/byinst.asp?sessionid=09rs&billtype=HB&billno=753>

Vermont: Vermont Recovery and Reinvestment Act of 2009, H.B. 313

Focus: Economic Development

Type: Other

House Bill 313 is Vermont's version of stimulus legislation. The bill seeks to:

- preserve and create jobs and promote economic recovery; assist those most impacted by the recession;
- provide opportunities for investments needed to increase economic efficiency, entrepreneurship, and business growth in traditional and emerging sectors; and
- provide oversight and guidance for the expenditure of ARRA funds to ensure that the benefits of the federal stimulus extend to the broadest geographic and demographic range of Vermont businesses and individuals.

The Vermont Office of Economic Stimulus and Recovery (VOESR) is created to provide support to applicants and recipients of federal stimulus funds to develop unified proposals, and priority shall be given to those programs that achieve multiple economic development goals simultaneously and demonstrate broad geographic benefits. Among the bill's other provisions is a section creating the Entrepreneurs' Seed Capital Fund dedicated to increasing the amount of investment capital provided to new or existing Vermont firms or to existing firms for expansion. The fund must invest at least 40 percent of its total capital in initial investment in firms that have annual gross sales of less than \$1 million in the 12 months preceding the date of the funding commitment.

The bill also contains a section directing a study of possible tools to promote the success of IDAs and the microbusiness development program. The study will evaluate innovative microenterprise development funding models to identify ways to fill existing gaps in start-up capital, a guarantee program or interest buy-down program that encourages private banks to make longer-term, lower-interest fixed rate loans to CDFIs, and a tax credit to businesses and individuals that donate funds to microenterprise development programs or IDA matched savings and financial education programs, under which the department of economic development would administer tax credits totaling 75 percent of the value of each donation. The Vermont stimulus legislation was signed into law on June 1, 2009.

<http://www.leg.state.vt.us/docs/2010/Acts/ACT054.pdf>

Pending Legislation

California: Native American Business Revolving Loan and Guarantee Program Account, S.B. 358

Focus: Economic Development

Type: Loan Guarantee

Senate Bill 358 creates the Native American Business Revolving Loan and Guarantee Program Account within the California Small Business Expansion Fund to provide business loans and loan guarantees to qualified Indian tribes. The fund will contain state, federal, or local government moneys, other public or private money, and tribal government contributions, which will be continuously appropriated. The bill would specify the maximum amount of a loan or loan guarantee granted under the program and would require a tribe applying for a loan to provide matching funds of one-half the amount of the loan requested.

Loans and loan guarantees must be for nongaming business and shall be used to start, acquire, or expand a business or to supply working capital to a business. Eligible applicants for a loan or loan guarantee under the program include a qualified Indian tribe with a business, or a qualified Indian tribe that intends to begin a business, located either on Native American lands of a federally recognized tribe that is also a qualified Indian tribe or on property within the state. All direct loans must have a federal guarantee, with a maximum loan guarantee of 90 percent of the loan amount, not to exceed \$900,000.

The bill also creates the Native American Business Finance Council, consisting of nine members to provide policy and program guidance regarding the development and operation of the program. Senate Bill 358 is still pending in the Senate Appropriations Committee.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0351-0400/sb_358_bill_20090413_amended_sen_v98.html

California: An Act to Amend the Health and Safety Code Relating to Community Development, A.B. 1556

Focus: Economic Development

Type: Amendment to Code

This bill changes the definition of qualified financial intermediary for the purposes of grant funding under the federal CDBG program. This bill would define the term qualified financial intermediary for purposes of this program. Qualified financial intermediary means a nonprofit organization certified by the department or a financial development corporation with direct lending experience to administer small business land and grant programs for one or more eligible city or county jurisdictions. The bill is still pending in the Assembly Committee on Housing and Community Development.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1551-1600/ab_1556_bill_20090506_amended_asm_v97.html

**California: California Urban Communities Collaborative Initiative Act of 2009,
A.B. 177**

Focus: Economic Development

Type: Strategic Initiative

This bill would, through January 1, 2016, enact the California Urban Communities Collaborative Initiative Act of 2009. The bill would create the California Urban Communities Collaborative Initiative a voluntary initiative that includes various pilot projects intended to, among other things, facilitate collaboration among state and local government agencies, community-based organizations and the private sector, for the purpose of identifying, accessing, and coordinating delivery of public and private resources to at-risk urban communities within specified metropolitan areas. The goal is to stabilize the social structure, increase the living standards and the overall economic performance, and improve the health of designated project areas in at-risk communities.

As part of the initiative, the bill would establish an Inter-Agency Initiative Workgroup, partnership, and local committees for designated project areas and assign these entities specified duties with respect to coordinating and improving government efforts for at-risk urban communities, as defined. The bill would require the workgroup to report annually to the Governor and Legislature on its activities.

Upon funds becoming available, the partnership is to establish and operate a program to distribute matching grants to designated project areas that can be used as seed grants to leverage private sector and nonprofit contributions to support activities in the designated project areas. The bill is currently pending in the Assembly Committee on Jobs, Economic Development and the Economy.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0151-0200/ab_177_bill_20090423_amended_asm_v97.html

**Iowa: An Act Relating to Creating a Grow Iowa Values Financial Assistance Program,
H.F. 656**

Focus: Economic Development

Type: Amendment to Code

The bill makes organizational changes to the administration of the Grow Iowa Values Fund, legislation that passed 2008, and the programs funded with money appropriated to it. House File 656 creates the Grow Iowa Values Fund and specifies that the fund consists of moneys from the following sources:

- an annual \$50 million appropriation;
- interest, loan repayments, and grant recaptures of fund moneys;
- funds accruing to the department from the following repealed programs:
 - The community economic betterment program;
 - The entrepreneurial ventures assistance program;
 - The value-added agricultural products and processes;
 - The physical infrastructure assistance program;

- The loan and credit guarantee program established; and
- interest earned on money appropriated to the fund.

The bill is in the Iowa legislature pending the outcome of a study of its potential fiscal impact on the state.

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=BillInfo&Service=Billbook&qa=83&menu=text&hbill=HF656>

Massachusetts: An Act to Create the Community Development Partnership Program, S.B. 1239

Focus: Economic Development

Type: Tax Credit

This legislation would authorize annually, for the five-year period beginning January 1, 2008 and ending December 31, 2012, a tax credit for qualified community investment activity under this section an amount not to exceed \$5 million per year. The tax credit is capped at \$500,000 per taxable year for investors, with a total allocation authority of \$5 million per year. The credits are only granted for qualified community investments of \$5,000 or more.

A community partner (defined as a community development corporation) may receive a qualified investment for a certified community investment activity directly from a taxpayer or the administering department may make an allocation of a qualified investment from the Community Partnership Fund to the community partner. No community partner can receive more than \$200,000 worth of contributions in qualified investments in any one tax year.

Community Investment Activities are defined as those activities carried out in furtherance of community preservation and revitalization in an low- or moderate-income(LMI) community to improve the housing and economic conditions of the community, including without limitation, initiatives, projects, programs, and plans to:

- foster the preservation, rehabilitation and construction of housing affordable to low- or moderate-income households, including planning, outreach and design of affordable housing, home improvement, lead abatement, pre-purchase and post-purchase home buyer counseling and related activities;
- increase the business activity within the neighborhood including the provision of assistance to small business entities;
- increase the income and labor force participation of low- or moderate-income community residents, including provision of education and training programs;
- increase the financial assets of LMI households through financial literacy programs, IDAs, and other programs;
- undertake community-based planning activities that help low and moderate income communities develop strategies for community improvement; combat crime and increase public safety;
- increase, preserve, and maintain open space, including the purchase of land for open or conservation space; and

- undertake measures to involve youth in job training, education, or community development activities. Investments in real estate purchase or construction are not eligible.

The bill is pending in the Joint Committee on Revenue.

<http://www.mass.gov/legis/bills/senate/186/st01/st01239.htm>

Michigan: Amending the Income Tax Act and the Michigan Business Tax Act, H.B. 4175, 4176, 4178

Focus: Economic Development

Type: Tax Credit

These bills would provide tax incentives for certain investments made in low-income communities, and is modeled after the federal New Markets Tax Credit program. Generally, under the bills, taxpayers are eligible to claim a credit for investments made in community development entities (CDEs), which use these investments to make investments in qualified low-income communities. The tax credit would be available against the Income Tax (H.B. 4175), the Michigan Business Tax (H.B. 4176), and the insurance retaliatory tax (H.B. 4178) beginning with the 2009 tax year. The total amount of the credit, under all three taxes, is limited to \$20 million annually. The bills passed the House, and are currently pending in the Senate Finance Committee.

[http://www.legislature.mi.gov/\(S\(0mwzab55qfg5iimztxied255\)\)/mleg.aspx?page=getObject&objectName=2009-HB-4176](http://www.legislature.mi.gov/(S(0mwzab55qfg5iimztxied255))/mleg.aspx?page=getObject&objectName=2009-HB-4176)

New York: Rural New York Smart Sites, A.B. 977

Focus: Rural Development

Type: Strategic Initiative

Assembly Bill 977 creates Rural New York Smart Sites within the Rural Revitalization Program of the State Urban Development Corporation to stimulate new and existing business development in rural New York by establishing technology-based service facilities that offer trained workers, high speed bandwidth and state of the art technological services to the global business community. Each Smart site is to be community driven and directed by a local smart site team. Each smart site team shall have as members: local economic development staff, elected officials, public and private technology training partners, high-speed Internet service providers and representatives of the Department of Labor, small business development centers, local colleges and technology-based business partners. The bill is pending in the Assembly Committee on Corporations, Authorities and Commissions.

<http://assembly.state.ny.us/leg/?bn=977>

North Carolina: An Act to Conform Certain North Carolina Tax Credits to the Federal New Markets Tax Credit, H.B. 1227

Focus: Economic Development

Type: Tax Credit

House Bill 1227 expands the 40 percent tax credit for qualified rehabilitation expenditures to include expenditures made in an additionally distressed area if the tax credit is taken for income-generating property, or 40 percent of the rehabilitation expenses for non income-producing

property. Under current North Carolina law, a taxpayer who is allowed a tax credit for making qualified rehabilitation expenditures of at least \$3 million for rehabilitation of an eligible site is allowed a credit equal to a percentage of the expenditures that qualify for the federal credit.

The bill defines additionally distressed area as an area in a census tract with a poverty rate greater than 30 percent, a census tract with median family income of less than 60 percent of statewide median family income in a non-metropolitan area; or less than 60 percent of the greater of the statewide median family income or the metropolitan area median family income in a metropolitan area, or in a census tract with an unemployment rate of at least 1.5 times the national average. If the area has a poverty rate greater than 20 percent, it is an additionally distressed area if one of the following criteria applies:

- it is in a census tract with median family income of less than 70 percent of the statewide median income in a non-metropolitan area or less than 70 percent of the greater of the statewide median family income or the Metropolitan area median family income in a Metropolitan Area, or the tract has an unemployment rate at least 1.25 times the national average;
- it is a federally designated Empowerment Zone, Enterprise Community, or Renewal Community;
- it is designated as a HUB Zone by the US Small Business Administration;
- it is a brownfield site; or
- it is in a development tier one or two area, or an urban progress zone.

The bill is currently still pending in the House Committee on Finance, and will be taken up in the 2010 legislative session.

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2009&BillID=HB1227>

Inactive Legislation

Connecticut: An Act Establishing a Connecticut Economic Recovery Program, S.B. 996

Focus: Economic Development

Type: Strategic Initiative

Senate Bill 996 establishes a two-year Connecticut Economic Recovery Program. The program provides funding for strategic capital investment projects to maintain and create jobs, improve state infrastructure, and to enable the state to compete effectively in the future. The program's strategic components are: housing, clean water, clean energy and energy conservation, higher education, transportation, a municipal block grant, a regional block grant, and a pool for projects sponsored by nonprofit entities. The bill authorizes separate bonding levels for each of the components and, for some components, specifies projects to be funded: up to \$643.7 million in general obligation (GO) bonds and \$302.8 million in special tax obligation (STO) bonds for program projects. The program is effective from July 1, 2009 through June 30, 2011.

The bill also requires the state agencies providing project funding to prioritize projects based on their readiness to start construction, capacity to retain or create jobs, and geographic distribution. Project sponsors must award contracts within 90 days after a funding allocation and start construction within 60 days after awarding contracts, with the option for one 14-day extension. This bill died in the House Committee on Appropriations and Revenue Committee.

<http://www.cga.ct.gov/2009/BA/2009SB-00996-R000890-BA.htm>

Hawaii: An Act Relating to New Markets Tax Credits, H.B. 1340

Focus: Economic Development

Type: Tax Credit

In this legislation, Hawaii introduces its own version of the federal New Markets Tax Credit Program. The bill, which mirrors the federal legislation, allows a taxpayer who holds a qualified equity investment to claim a credit against the taxpayer's net income tax liability. The amount of the credit is equal to the applicable percentage of the amount paid to the qualified community development entity for the investment at its original issue. The total amount of credits taken under this section shall not exceed an undisclosed amount per taxable year. The allocation of tax credits under this section may be made by the director of taxation to qualified community development entities on a first-come, first-served basis. The bill did not pass the legislature in this session.

<http://www.capitol.hawaii.gov/session2009/Bills/HB1340 .HTM>

Kentucky: Kentucky New Markets Development Program, H.B. 511

Focus: Economic Development

Type: Tax Credit

House Bill 511 is Kentucky's state version of the federal New Markets Tax Credit program. Under this bill, a person or entity making a qualified equity investment earns a tax credit of 39 percent of the purchase price of the qualified equity investment made by the person or entity claiming the credit. Any tax credit that a taxpayer may not utilize during a particular year may be carried forward for use in any subsequent tax year and an insurance company claiming a tax credit

against the insurance premium tax is not required to pay additional retaliatory tax. The bill died in the House Appropriations & Revenue.

<http://www.lrc.ky.gov/record/09RS/HB511.htm>

Louisiana: An Act Relative to Tax Credits Louisiana Community Development Financial Institution Act, H.B. 668

Focus: Economic Development

Type: Tax Credit

This bill extends the Louisiana Community Development Financial Institution tax credit program until July 1, 2011. The original legislation increased the tax credit amount from \$5 million to \$10 million annually; however that provision was stricken from the legislation in amendments proposed by the House Committee on Ways and Means.

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=656069>

Missouri: Amending the Missouri New Markets Development Program, H.B. 240

Focus: Economic Development

Type: Amendment to Code

House Bill 240 extends the date for which qualified equity investments can be made under the New Markets Tax Credit Program beyond Fiscal Year 2010 through FY 2012. This bill also increases the program's tax credit allocation authority from \$15 million to \$27.5 million per fiscal year. The bill died in the House Committee on Job Creation and Economic Development.

<http://www.house.mo.gov/content.aspx?info=/bills091/bills/hb240.htm>

Missouri: Amending the Linked Deposit Loan Program, H.B. 1028

Focus: Economic Development

Type: Amendment to Code

House Bill 1028 changes the laws regarding the Linked Deposit Loan Program. The bill expands the program to include eligible alternative energy consumers and eligible governmental entities.²³ The bill also revises the definition of eligible job enhancement business to limit the amount of the linked deposit to not exceed \$50,000 per job created or retained, plus the initial cost of the physical expansion, renovation, or capital outlay when an applicant can demonstrate the significant costs associated with the physical expansion, renovation, or modernization of a facility or equipment and allows businesses with less than 100 employees eligible to be considered small businesses under the law.

Finally, the bill specifies that the total amount of tax credits available for qualified investments in Missouri small businesses cannot exceed \$30 million; at least \$20 million of that amount must be for the manufacturing of alternative power generation equipment. Currently, the total amount of tax credits cannot exceed \$13 million. This bill was withdrawn during the session, and replaced with House Bill 978, which also died during the legislative session.

<http://www.house.mo.gov/billtracking/bills091/biltxt/intro/HB1028I.htm>

²³ Eligible alternative energy consumer is defined as an individual who wishes to borrow moneys for the purchase, installation, or construction of facilities or equipment related to the production of fuel or power primarily for their own use from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass.

Oregon: Oregon New Markets Development Program, S.B. 878

Focus: Economic Development

Type: Tax Credit

This bill creates the Oregon New Markets Development Program, designed to augment the federal New Markets Tax Credit program with additional credits for investors working in low-income communities. For the duration of a qualified community development entity's investment in, or loan to, a qualified active low-income community business the business should continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan. The maximum amount of qualified low-income community investments that may be made in a qualified active low-income community business and all of its affiliates is \$10 million, whether made by one or several qualified community development entities. The bill died in committee when the session ended.

<http://www.leg.state.or.us/cgi-bin/searchMeas.pl>

Texas: An Act Relating to Required Community Investment by Certain Insurers, S.B. 148

Focus: Economic Development

Type: Regulatory Change

Senate Bill 148 requires insurers to make safe and sound investments in low-income communities in order to maintain certification to operate in the state. Insurers that offer life, health, or accident insurance must invest a minimum of one percent of their annual direct written premiums, the gross amount of premiums paid by policyholders for issuance of policies of insurance insuring risks located in this state. All other insurers must invest one-half of one percent of their annual direct written premiums.

The amount that an insurer is required to invest will be reduced by \$1 for each \$1 that the insurer invests in economically targeted investments that are loans to or equity investments in community development corporations that promote small or microenterprise business opportunities for low-income or very low-income individuals or loans to or equity investments in small businesses or farms with gross annual revenues of less than \$1 million. Economically targeted investments may be made directly by insurers, through intermediaries, or through partnerships, consortia, or other entities organized by insurers or other financial institutions. The bill died in the Senate Commerce and Business Committee.

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=SB148>

Texas: An Act Relating to Tax Credits for Qualified Low-Income Community Investments, H.B. 1593

Type: Tax Credit

Focus: Economic Development

This bill establishes a tax credit analogous to the New Markets Tax Credit program at the federal level. It provides tax credits for the maximum amount of investment that a qualified community development entity, on an aggregate basis with all of its affiliates, may allocate to a single qualified active low-income community business on a collective basis with all of its affiliates is \$15 million. A qualified community development entity is defined as an entity that has entered

into an allocation agreement with the CDFI Fund and does not include a qualified community development entity that entered into an allocation agreement solely as part of a Gulf Opportunity (GO) zone allocation. Under House Bill 1593, the tax credit authority may not exceed \$14 million per state fiscal year. It also allows the comptroller the authority to prescribe procedures by which the comptroller may allocate credits by rule.²⁴ The bill died in the House Ways and Means Committee.

<http://www.legis.state.tx.us/BillLookup/history.aspx?LegSess=81R&Bill=HB1593>

Texas: Texas Rural Development Fund, H.B. 1715

Focus: Economic Development

Subfocus: Rural Development

Type: Fund

House Bill 1715 creates the Texas Rural Development Fund, which can be used for implementing and maintaining the following programs:

- Rural Entrepreneurship and Business Innovation program to assist in the development and expansion of businesses in rural areas, assist entrepreneurs in rural areas, and recruit out-of-state businesses to locate and transact business in rural areas;
- Rural Area Regional Planning and Implementation Matching Grant program to foster regional collaboration for community and economic development in rural areas;
- Rural Capacity and Leadership Enhancement Program to assist municipalities and unincorporated communities in rural areas to develop leadership capacity, improve the business practices of municipal government; increase awareness of the benefits of renewable energy, identify community assets that can be used to enhance community and economic development, and provide assistance for emergency services districts; and
- Rural Community Asset Study Matching grant program to assist communities in rural areas in identifying community assets.

It also creates the Texas Rural Youth Corps Program to encourage youth participation in civic improvement activities in rural areas. The program seeks to provide youth in rural areas with opportunities to acquire job skills while participating in community service activities; and create opportunities for youth that allow rural communities to enhance existing community resources and improve economic conditions. The bill died when the legislative session ended.

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB1715>

²⁴ The comptroller is allowed this authority, provided the procedures include the following two provisions detailed in the legislation: They must provide for allocating the credits on a pro rata basis based on the investment history of the issuer, and must provide that the maximum credit allocation an entity may receive is \$4 million if, before the date of the allocation, the issuer of the qualified equity investment or any affiliate of the issuer made a qualified equity investment in Texas under the federal New Market Tax Credit Program.

Texas: Texas Rural Investment Fund, H.B. 1911**Focus: Economic Development****Subfocus: Rural Development****Type: Fund**

This bill would create the Texas Rural Investment Fund, to be administered by the Department of Agriculture, to provide grants or loans to public or private entities for projects in rural communities²⁵ that have strong local support, provide positive return on the state's investment, and stimulate one or more of the following:

- local entrepreneurship;
- job creation or retention;
- new capital investment;
- strategic economic development planning;
- individual economic and community development leadership training;
- housing development; or
- innovative workforce education.

The bill died in the House Agriculture and Livestock Committee.

<http://www.capitol.state.tx.us/Search/DocViewer.aspx?K2DocKey=odbc%3a%2f%2ftlo%2ftlo.dbo.vwCurrBillDocs%2f81%2fR%2fH%2fB%2f01911%2f1%2fB%40ToCurrBillDocs&QueryText=1911&HighlightType=1>

Texas: Nonborder Colonia Fund, H.B. 2308**Focus: Economic Development****Subfocus: Rural Development****Type: Fund**

House Bill 2309 creates the Nonborder Colonia Fund to be administered by the Office of Rural Community Affairs (ORCA). The account is to be funded from amounts allocated to the state under the federal CDBG non-entitlement program of up to \$7.5 million each year that exceeds the amount provided to the state under that program. The funding is to be appropriated to ORCA only for the benefit of counties and municipalities eligible to receive CDBG money for housing initiatives for nonborder colonias located in those counties and municipalities, including infrastructure associated with new construction, rehabilitation, or improvements, and the improvement of the housing conditions in those colonias.

House Bill 2308 also authorizes any additional funds to also be made available to for-profit organizations provided that at least 45 percent of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million is made available to nonprofit organizations for certain purposes. The remaining portion of the funding is to be distributed to nonprofit organizations, for-profit organizations, and other eligible entities. The bill passed the House but died in the Senate.

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB2308#>

²⁵ Rural community means a municipality with a population of less than 50,000 people or a county with a population of less than 200,000 people.

West Virginia: Targeted Minority Economic Development Fund, H.B. 2387

Focus: Economic Development

Type: Fund

House Bill 2387 creates a Targeted Minority Economic Development Fund to address economic issues of minorities and minority communities. The fund would fund projects that:

- continue to support and expand small business incubator programs, including programs at institutions of higher education in the state targeting minority enterprises;
- encourage new and minority small business development;
- undertake initiatives to encourage minority business ownership similar to those efforts used to encourage greater rates of business ownership among women;
- assist community, faith-based and economic development corporations to provide effective technical and business advisory services to minority-owned and -operated enterprises;
- encourage industry, banks and other private businesses to target hiring of African-Americans and other minority persons;
- encourage governmental agencies and bodies and businesses to be more aggressive in establishing diversity-conscious practices as employers and for their operations;
- enlist traditional and nontraditional lending institutions to be more creative and favorable to lending in minority communities and to minority persons, especially for business enterprises;
- encourage small business start-up and expansion and provide funding to assist minority vendors to meet bid bonding requirements;
- encourage workforce investment boards to be accountable for educating poor and minority persons for higher paying jobs; and
- any other targeted project or activity intended to address economic conditions of minorities and minority communities.

The bill died in the House Energy, Industry and Labor, Economic Development and Small Business Committee.

http://www.legis.state.wv.us/bill_status/bills_history.cfm?year=2009&sessiontype=rs&btype=bill

Mortgage Lending

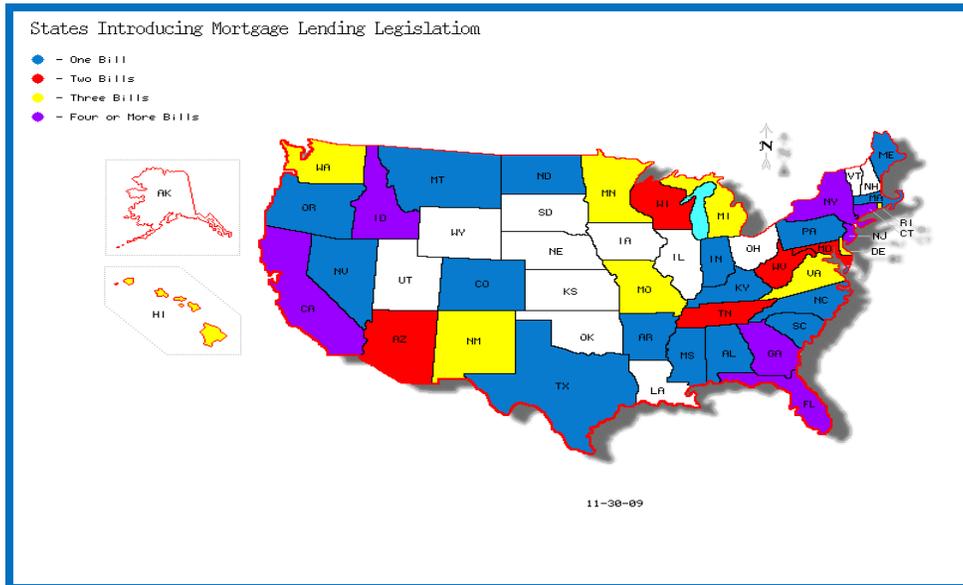
Mortgage lending legislation comprised the largest percentage of the bills in this guide. More than one-third of the bills tracked this year related to mortgage lending. While the housing market is slowly stabilizing, many homeowners are still struggling to make their mortgage payments every month. States are making an effort to assist these homeowners, and potential homeowners, by reining in unscrupulous lending practices.

Mortgage lending legislation seeks to alter the mortgage lending process in a manner that is more beneficial to the consumer. These bills may impose strict regulations on a lender's ability to charge certain fees, such as prepayment penalties, or prohibits certain activities, such as not verifying borrower's ability to repay the loan. There were 107 mortgage lending bills tracked in 37 states during the 2009 legislation session.

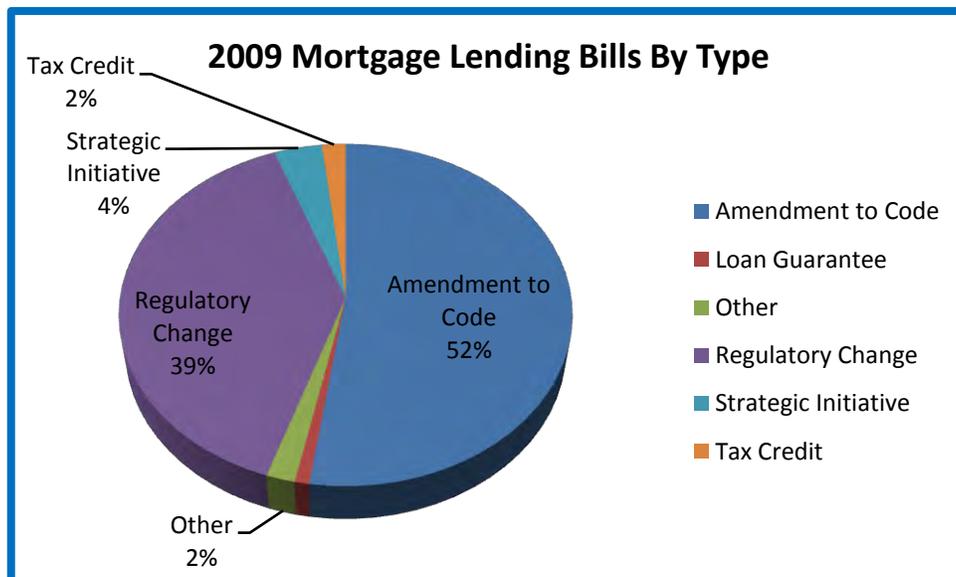
Many of the bills tracked were bills to mitigate or prevent foreclosures. A report by CBS news found the worst of the trouble is still concentrated in California, Nevada, Arizona and Florida, which accounted for 44 percent of new foreclosures in the country. Nearly 13 percent of all loans in Florida were in foreclosure. These foreclosures create devastating ripple effects on families, communities, and local governments. Of the 107 mortgage lending bills, 30 were bills to stem the rising tide of foreclosures.

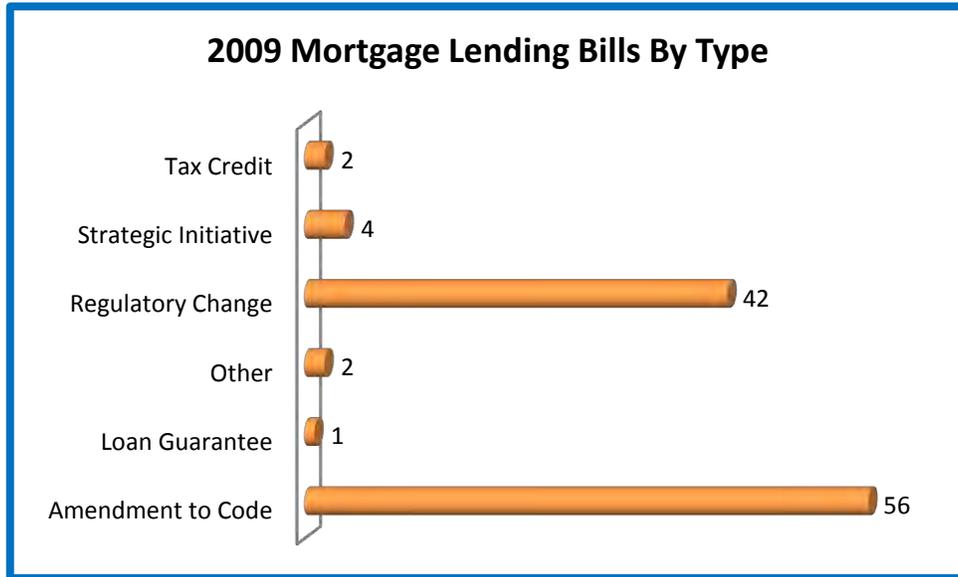
The map shows the states that introduced mortgage lending legislation this year in color: states in blue introduced one bill, states in red introduced two, states in yellow introduced three, and states in purple introduced four or more mortgage lending bills. States harder hit by the economic downturn and collapse in the housing market, such as California and Florida, introduced more mortgage lending bills than other states.

- One Bill: Alabama, Arkansas, Colorado, Idaho, Indiana, Kentucky, Maine, Massachusetts, Mississippi, Montana, Nevada, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Texas
- Two Bills: Arizona, Maryland, Tennessee, West Virginia, Wisconsin
- Three Bills: Hawaii, Michigan, Minnesota, Missouri, Rhode Island, Virginia, Washington
- Four or More Bills: California, Connecticut, Georgia, Florida, New York, New Jersey

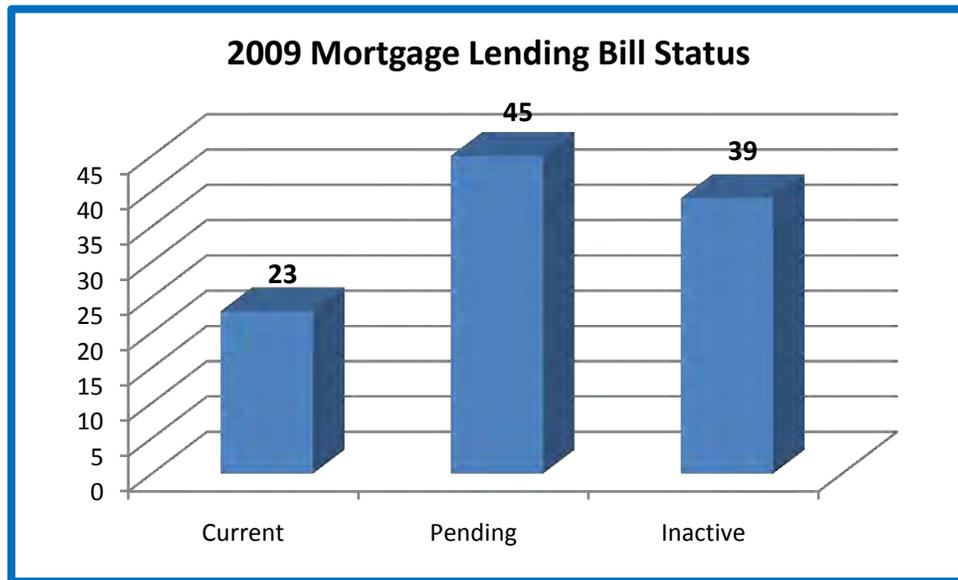


Nearly all of the mortgage-lending bills tracked in this guide are amendments to state codes and regulatory changes, which comprised 91 percent of the mortgage lending bills introduced during the 2009 session. There were 56 amendments to code this session totaling 52 percent of the mortgage lending legislation. An additional 42 bills, or 39 percent of legislation, were regulatory changes. There were two tax credit bills introduced this session: California A.B. 902, and Minnesota H.F. 2341, and four strategic initiatives. One loan guarantee bill was introduced this session, Connecticut House Bill 5201, which did not pass the legislature.





There were 23 mortgage lending bills that passed their legislatures this session. Eleven of these bills were regulatory changes, another 11 were amendments to the state code, and one bill, Washington S.B. 6033, a strategic initiative, also passed. An additional 45 bills are still pending in their state legislatures, and 39 did not pass during the session.



Current Legislation

California: An Act to Amend the Business and Professions Code, the Civil Code, and the Financial Code, Relating to Lending, A.B. 260

Focus: Mortgage Lending

Type: Regulatory Change

Assembly Bill 260 enacts provisions relating to higher-priced mortgage loans that are originated on or after July 1, 2010. Specifically, this bill prohibits a licensed person from making any false, deceptive, or misleading statement or representation and prohibits a mortgage broker from steering a borrower to a higher-priced mortgage loan. It requires a mortgage broker to receive the same compensation for providing mortgage brokerage services whether paid by a lender, borrower, or a third party.

The bill would also, for higher-priced mortgage loans originated on or after July 1, 2010, prohibit a licensed person from making a higher-priced mortgage loan that contains a provision for negative amortization, and limit prepayment penalties to two percent the first year and one percent the second year. The bill passed the Assembly and the Senate, and became law on October 11, 2009.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0251-0300/ab_260_bill_20090723_status.html

California: Buyers Choice Act, A.B. 957

Focus: Mortgage Lending

Type: Regulatory Change

This bill prohibits a seller of residential real property from requiring a buyer to purchase title insurance or escrow services, in connection with the sale of a property, from a company chosen by the seller. The legislation is limited to properties containing four or fewer dwelling units purchased at a foreclosure sale.

Assembly Bill 957 does not prohibit a buyer from agreeing to accept the services of a title insurer or an escrow agent recommended by the seller if written notice of the right to make an independent selection of those services is first provided to the buyer.

Any seller who violates the bills provisions is liable to a buyer in an amount equal to three times all charges made for the title insurance, escrow service, or Natural Hazard Disclosure Statement. In addition, any person who violates this section is deemed to have violated the license law and will be subject to discipline by the licensing entity. The provisions of the bill sunset on January 1, 2015. The bill was signed into law by Governor Schwarzenegger on October 11, 2009.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0951-1000/ab_957_bill_20090817_amended_sen_v94.html

California: An Act to Amend the Business and Professions Code Relating to Mortgages, S.B. 36

Focus: Mortgage Lending

Type: Regulatory Change

Senate Bill 36 brings California in compliance with the provisions of the Mortgage Licensing S.A.F.E Act of 2008²⁶ and establishes standards, requirements, and prohibitions for mortgage loan originators operating under the real estate law in order to comply with S.A.F.E.

The bill also prohibits any individual from engaging in the business as a mortgage loan originator without first obtaining and maintaining a loan originator's license or license endorsement and registering with the Nationwide Mortgage Licensing System and Registry. Senate Bill 36 was signed into law by Governor Schwarzenegger on October 11, 2009.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sb_36_bill_20081218_introduced.html

California: An Act to Amend the Business and Professions Code, the Civil Code, and the Financial Code, Relating To Mortgage Loans, S.B. 94

Focus: Mortgage Lending

Type: Regulatory Change

Senate Bill 94 prohibits individuals or corporations from charging advance fees to borrowers in connection with a loan modification, and requires those who wish to charge a fee for loan modification services to provide a notice to borrowers regarding other options available to the borrower. Specifically, the bill:

- requires that the notice be provided in 14 point type and that a translated copy be provided to borrowers in cases where the loan modification is negotiated in Spanish, Korean, Vietnamese, Tagalog, or Chinese;
- provides that a violation of the advanced fee and notice requirements is a public offense, punishable by a fine not exceeding \$10,000 for an individual or \$50,000 for a corporation, or by imprisonment in a county jail for up to one year, or by both a fine and imprisonment;
- authorizes the Department of Real Estate (DRE) to enforce violations of the sections of the Civil Code relating to mortgages; and
- prohibits any California Finance Lender Law licensee from making a materially false or misleading statement or representation to a borrower about the terms or conditions of that borrower's loan, when making or brokering the loan.

The bill passed the Assembly and the Senate, and became law on October 11, 2009.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0051-0100/sb_94_bill_20090723_amended_asm_v92.html

²⁶ See page 1 for more information on the Mortgage Licensing S.A.F.E. Act of 2008.

Colorado: An Act Concerning a Delay in the Foreclosure of Residential Property For Eligible Borrowers, H.B. 1276

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This bill allows an eligible borrower to defer a foreclosure sale on a residential property for 90 days. The borrower must contact a foreclosure counselor within 20 days after the notice of election and demand, the document that starts the foreclosure process, is received by the public trustee of the county in which the property is located. Eligible foreclosure counselors are housing counselors employed by an agency approved by the United States Department of Housing and Urban Development, including housing counselors affiliated with the Colorado Foreclosure Hotline and the Hope for Homeowners Hotline.

According to House Bill 1276, if a loan holder receives notice that a borrower is eligible for a loan deferment, the loan holder must defer the foreclosure for 90 days. The bill identifies criteria that a foreclosure counselor must consider when determining whether a borrower is eligible for a loan deferment. The borrower is required to make payments during the 90-day deferment period equal to two-thirds of the monthly payment due prior to delinquency, plus one-twelfth of the annual amount due for taxes and insurance. The bill contains a sunset provision date of June 30, 2011. House Bill 1276 was signed into law on June 2, 2009.

<http://www.leg.state.co.us/Clics/CLICS2009A/csl.nsf/BillFoldersHouse?OpenFrameSet>

Connecticut: An Act Concerning Mortgage Practices, S.B. 949

Focus: Mortgage Lending

Type: Regulatory Change

This bill creates the crime of residential mortgage fraud, and provides that a person who commits a single act of residential mortgage fraud is guilty of a class D felony with penalties of up to \$5,000, up to five years in prison, or both. A person who commits two or more acts of residential mortgage fraud is guilty of a class C felony, which carries a penalty of up to a \$10,000 fine, up to 10 years in prison, or both. The bill also extends the Banking Commissioner's authority to adjust interest rate parameters for nonprime loans for one year and modifies the interest rate that makes a home loan nonprime. The legislation was signed into law on July 7, 2009.

<http://www.cga.ct.gov/2009/BA/2009SB-00949-R01-BA.htm>

Delaware: An Act to the Amend Delaware Code Relating to Compensation Received by Mortgage Loan Brokers and Licensed Lenders for Mortgage Loan Modification Services, H.B. 149

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 149 limits compensation received by mortgage loan brokers and licensed lenders who engage in mortgage loan modification services for homeowners. The legislation defines mortgage loan modification services as services provided as an intermediary between an individual and one or more mortgage loan creditors for the repayment of a mortgage loan on terms more favorable to the individual than the terms of the original mortgage loan, an arrangement to delay, prevent,

remedy, eliminate or discharge any default on the terms of a mortgage loan, or the sale of any property incident to a foreclosure or other judicial proceeding based on a mortgage loan.

The bill prohibits a licensee from receiving any compensation for mortgage loan modification services prior to the execution of a written contract that describes in detail the services that the licensee will perform and all compensation that the licensee will receive for those services, which is limited to \$250. The bill passed both houses and was signed into law on July 8, 2009.

<http://legis.delaware.gov/LIS/LIS145.NSF/vwLegislation/HB+149?OpenDocument>

Indiana: An Act to Amend the Indiana Code Concerning Trade Regulation, H.B. 1176

Focus: Regulatory Change

Type: Mortgage Lending

House Bill 1176 prohibits prepayment penalties on first lien mortgage transactions or a home loan that was closed after June 30, 2009 and has an interest rate that is subject to change during the term of the loan. The bill also provides that the annual report provided by the Mortgage Lending and Fraud Prevention Task Force to the Legislative Council must include the following information for the most recent state fiscal year:

- the number of complaints or reports received by the Attorney General's Homeowner Protection Unit concerning suspected violations of the prohibition against corrupting or improperly influencing a real estate appraiser or an appraisal;
- a breakdown of the sources of the complaints or reports, based on the complainants' interest in or relationship to the real estate transactions upon which the complaints or reports are based; and
- a description of any disciplinary or enforcement actions taken, or criminal prosecutions pursued, in connection with the complaints or reports received.

The bill sets forth certain penalties and enforcement procedures for violations of the provisions concerning real estate appraisals.

<http://www.in.gov/legislative/bills/2009/HE/HE1176.1.html>

Kentucky: An Act Relating to Mortgages, H.B. 106

Focus: Mortgage Lending

Type: Regulatory Change

This legislation changes the licensing requirements for certain mortgage lenders in the state. It amends the Kentucky Code to create definitions for compliance with the federal S.A.F.E. Mortgage Licensing Act of 2008 and establishes new requirements for mortgage loan companies and mortgage loan brokers. The bill also establishes licensing requirements for mortgage loan originators and mortgage loan processors and prohibits transaction of business in Kentucky as a mortgage loan company or mortgage loan broker without the required licensing unless specifically exempted. This bill was signed into law March 27, 2009.

<http://www.lrc.ky.gov/record/09RS/HB106.htm>

Maine: An Act to Conform State Mortgage Laws to Federal Laws, L.D. 1439

Focus: Mortgage Lending

Type: Amendment to Code

Legislative Draft 1439 conformed Maine mortgage lending laws with federal laws in order to bring the state into compliance with the federal S.AF.E laws. The bill was signed into law on June 11, 2009.

http://www.mainelegislature.org/legis/bills/bills_124th/billtexts/SP052301.asp

Maryland: An Act Concerning Credit Regulation and Mortgage Loans, H.B. 1535

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 1535 prohibits lenders from making mortgage loans without giving due regard the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses. Lenders must consider the borrower's debt to income ratio, including existing debts and other obligations and verify the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

The bill exempts mortgage loans that are approved for government guaranty by the Federal Housing Administration, the Veterans Administration, the United States Department Of Agriculture, the Maryland Department of Housing and Community Development, or the Community Development Administration, or that refinances an existing mortgage loan if the refinanced mortgage loan is offered under the Federal Homeowner Affordability and Stability Plan and is made available by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association. The bill passed the Maryland legislature and was signed into law on April 14, 2009.

<http://mlis.state.md.us/2009rs/bills/hb/hb1535t.pdf>

Montana: An Act to Prohibit Real Property Insurance in Amount Greater Than Value of Improvements, S.B. 375

Focus: Mortgage Lending

Type: Amendment to Code

Senate Bill 375 prohibits a state bank, credit union, or mortgage lender from requiring a borrower, as a condition of obtaining or maintaining a loan secured by real property, to provide insurance on improvements to real property in an amount that exceeds the reasonable replacement value of the improvements. The bill was signed into law April 20, 2009.

<http://data.opi.mt.gov/bills/2009/billhtml/SB0375.htm>

New Jersey: Reform of the New Jersey Licensed Lender Act, A.B. 3816

Focus: Mortgage Lending

Type: Regulatory Change

This bill represents a reform of the licensed lending activities currently regulated under the New Jersey Licensed Lenders Act covering mortgage loans and consumer loans of \$50,000 or less. The reforms are largely focused on mortgage activities, and undertaken in response to new federal law requirements set forth under the S.A.F.E. Mortgage Licensing Act of 2008. Specifically, this federal law mandates the establishment of new state licensing standards, business practices, and oversight for individuals acting as mortgage loan originators, and applies to loan activities in both the primary and secondary mortgage loan markets.

Assembly Bill 3816 revises and supplements the current New Jersey Licensed Lenders Act, creating two separate regulatory schemes, with one part dedicated to mortgage activities, titled the New Jersey Residential Mortgage Lending Act, and the other reorganizing those remaining provisions which concern non-mortgage lending activities, titled the New Jersey Consumer Finance Licensing Act.

The bill also addresses licensing standards, business practices, and oversight for the newly designated residential mortgage lenders, residential mortgage brokers, and mortgage loan originators. The bill was signed into law May 4, 2009.

<http://www.njleg.state.nj.us/2008/Bills/AL09/53 .HTM>

New Mexico: New Mexico Mortgage Loan Originator Licensing Act, H.B. 316

Focus: Mortgage Lending

Type: Regulatory Change

This legislation prohibits mortgage loan originators, loan processors, and underwriters who operate as independent contractors in New Mexico from conducting business without annually obtaining and maintaining annually a license, based on the standards set forth by the federal S.A.F.E Mortgage Licensing Act of 2008. In order to meet the pre-licensing education requirement of the New Mexico Mortgage Loan Originator Licensing Act, an individual must complete at least 20 hours of education:

- three hours of federal law and regulations;
- three hours of ethics, including instruction on fraud, consumer protection and fair lending issues;
- two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
- three hours of New Mexico law and administrative rules.

The bill was signed into law April 6, 2009.

<http://legis.state.nm.us/lcs/ session.aspx?Chamber=S&LegType=B&LegNo=342&year=09>

New Mexico: No Mobile home Purchase Prepayment Penalty, H.B. 862

Focus: Mortgage Lending

Type: Amendment to Code

House bill 862 amends the New Mexico code relating to loan prepayment penalties. The bill adds loans on mobile homes, and other purchase contracts, as additional types of lending in which prepayment penalties are not enforceable. It also includes prepayment of an installment payment in the current law which pertains to prepayment of the balance of the loan. The bill was signed into law during the legislative session. The bill was signed into law April 7, 2009.

<http://legis.state.nm.us/LCS/session.aspx?Chamber=H&LegType=B&LegNo=862&year=09>

Nevada: An Act Related to Mortgage Lending, H.B. 151

Focus: Mortgage Lending

Type: Regulatory Change

House Bill 151 requires a financial institution offering nontraditional mortgage loan products to make certain written disclosures to a borrower with respect to a nontraditional loan secured by a lien on real property and to certify to the Commissioner of Financial Institutions that the disclosures have been made.

Under the bill, the financial institution must contract with a nonprofit or government-operated consumer credit counseling or housing counseling agency or a nonprofit or government-operated legal services agency to make the required certifications. A financial institution that fails to comply is guilty of a misdemeanor.

The legislation also requires a mortgage broker to include a license number on each loan secured by a lien on real property for which he engages in activity as a mortgage broker. If a mortgage broker fails to comply, the Commissioner of Mortgage Lending may impose an administrative fine of up to \$10,000 and may place conditions on the license of the mortgage broker or suspend or revoke the license. In addition, a mortgage broker who fails to comply is guilty of a misdemeanor. The bill was signed into law May 29, 2009.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=319>

North Carolina: An Act to Update the Rate Spread and High Cost Home Loans Statutes, H.B. 1222

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This bill makes several changes to the definitions of rate spread and high cost home loans in the North Carolina statute. A rate spread home loan is defined as a loan that is not an equity line of credit, a construction loan, a reverse mortgage transaction, or a bridge loan with a term of 12 months or less, such as a loan to purchase a new dwelling where the borrower plans to sell a current dwelling within 12 months.

A high-cost home loan is defined as a loan whose annual percentage rate exceeds each of the following:

- the average prime offer rate for a comparable transaction²⁷ by one and one-half percentage points or more, if the loan is secured by a first lien mortgage or deed of trust or three and one-half percentage points or more, if the loan is secured by a subordinate lien mortgage or deed of trust;
- the conventional mortgage rate by one and three-quarters percentage points or more, if the loan is secured by a first lien mortgage or deed of trust, or three and three-quarters percentage points or more, if the loan is secured by a subordinate lien mortgage or deed of trust; and
- the yield on U.S. Treasury securities having comparable periods of maturity by three percentage points or more, if the loan is secured by a first lien mortgage or deed of trust, or five percentage points or more, if the loan is secured by a subordinate lien mortgage or deed of trust.

The bill prohibits a lender making a rate spread home loan to a borrower based on the value of the borrower's collateral without due regard to the borrower's repayment ability, including the borrower's current and reasonably expected income, employment, assets other than the collateral, current obligations, and mortgage related obligations. The determination of repayment ability must be made using the methodology and standards for the determination of a borrower's repayment ability set forth in Title 12 of the Code of Federal Regulations and the Federal Reserve Board's Official Staff Commentary on Regulation Z. The bill was signed into law August 7, 2009. <http://www.ncleg.net/Sessions/2009/Bills/House/HTML/H1222v5.html>

Oregon: An Act Relating to Mortgage Transactions, H.B. 2188

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 2188 prohibits a mortgage banker, mortgage broker or loan originator from negotiating or making negative amortization loan without regard to the borrower's repayment ability at the time the loan is made, including the borrower's current and reasonably expected income, employment, assets other than the collateral, current obligations and mortgage related obligations. The mortgage banker, mortgage broker or loan originator must verify the income and assets of the borrower that will be relied on to evaluate the borrower's repayment ability. The lender agrees to permit a borrower from time to time to borrow money, with the maximum limit on the amount of each borrowing established by the loan agreement.

The bill also states that a negative amortization loan may not contain a prepayment penalty beyond the first 24 months after the date on which the loan is made, and a creditor may not collect a prepayment penalty on an existing negative amortization loan in return for or as a consequence of refinancing or providing funds to refinance the negative amortization loan. Finally, it details disclosure requirements for a mortgage banker, mortgage broker or loan originator. The bill passed both Houses and was signed by Governor Ted Kulongoski on June 9, 2009.

<http://www.leg.state.or.us/09reg/measures/hb2100.dir/hb2188.en.html>

²⁷ As of the date the interest rate for the loan is set.

South Carolina: Enacting the South Carolina Mortgage Lending Act, S.B. 673

Focus: Mortgage Lending

Type: Regulatory Change

House Bill 3790 requires the licensing of a mortgage lender, loan originator, or someone acting as a mortgage lender and establishes qualifications for licensure and grounds for revocation, suspension, renewal, and termination. The bill, among other provisions, requires licensees to enroll in certain professional courses, have an additional year of work experience, and submit to a fingerprint check for mortgage brokers and loan originators.

The bill also authorizes the South Carolina Department of Consumer Affairs to prescribe administrative penalties including fines and injunctions and a criminal penalty, require certain reports and filings, and provide for participation in a nationwide mortgage registry. The legislation passed the House and Senate and became law without the Governor's signature.

http://www.scstatehouse.gov/sess118_2009-2010/bills/3790.htm

Virginia: Mortgage Lender and Broker Act, H.B. 1776/ S.B. 1020

Focus: Mortgage Lending

Type: Regulatory Change

This legislation prohibits a mortgage broker from failing to use reasonable skill, care, and diligence in exercising the broker's duty to make reasonable efforts to secure a mortgage loan that is in the best interests of the applicant, considering the applicant's circumstances and loan characteristics. A borrower who suffers a loss as a result of a breach of such duty may bring an action to recover actual damages. The Senate version of the bill is identical. House Bill 1776 was signed into law March 27, 2009.

<http://leg1.state.va.us/cgi-bin/legp504.exe?091+sum+HB1776S>

Washington: Prevent or Reduce Owner-Occupied Foreclosure Program (PROOF), S.B. 6033

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Strategic Initiative

Senate Bill 6033 authorizes the excess funds available for the Smart Homeownership Choices Program to be used for the Prevent or Reduce Owner-Occupied Foreclosure Program (PROOF). The program was created to assist borrowers facing foreclosure by helping to keep borrowers in their homes. Qualified borrowers are those who live in Washington State with emphasis on those with incomes up to and including 140 percent of the county median income level. The PROOF program provides a pool of unpaid volunteers from relevant professions, such as accountants, bankers, and attorneys, who provide advice to borrowers in the mortgage work-out process. Although The Governor vetoed the requirement that the Housing Finance Commission establish an oversight committee, the bill passed the legislature in early June.

<http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session%20Law%202009/6033.SL.pdf>

Washington: An Act Relating to Foreclosures on Deeds of Trust, H.B. 1942/S.B. 5810

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

House Bill 1942 requires a mortgagee or beneficiary, before filing a notice of default, to contact the borrower and assess the borrower's financial situation and explore alternatives to foreclosure, unless the borrower has either surrendered the property, contracted with an entity or person whose primary business is advising people who have decided to leave their homes on how to extend the foreclosure process and avoid paying their mortgage, or the borrower has filed for bankruptcy. In addition to the existing timeframes under the Deeds of Trust statutes, a mortgagee, trustee, beneficiary, or authorized agent may not file a notice of default until 30 days after contacting, or attempting in due diligence to contact, the borrower.

The borrower must be provided the toll-free number of a housing counseling agency certified by the U.S. Department of Housing and Urban Development. The borrower may designate a housing counseling agency, attorney, or other advisor to discuss options with the mortgagee, beneficiary, or agent. Any deed of trust modification or workout plan offered at the meeting must be approved by the borrower. The bill also allows tenant of residential property that was sold in foreclosure the right to 60 days written notice before the tenant may be removed from the property. The bill passed and was signed into law on April 30, 2009. The provisions went into effect on July 26, 2009.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=5810&year=2009>

West Virginia: A Bill to Amend the Code of West Virginia, H.B. 3065/S.B. 425

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 3065 amends the Virginia Code to prohibit a non-revolving consumer loan or consumer credit sale secured by residential real estate from being refinanced or consolidated with a new loan secured by residential real estate unless the new loan has a reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and the refinanced loans, the cost of the new loan and the borrower's circumstances. The reasonable, tangible net benefit must be documented in writing on a form prescribed by the commissioner and maintained in the loan file. The bill was signed into law by the Governor on May 8, 2009.

http://www.legis.state.wv.us/bill_status/bills_text.cfm?billdoc=hb3065%20intr.htm&yr=2009&sesstype=RS&i=3065

Pending Legislation

Arkansas: An Act to Provide Residential Tenants Relief from Foreclosure and Eviction Proceedings, H.B. 2218

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

House Bill 2218 states that a tenant may not be evicted from the property under a law of this state for 90 days following a foreclosure sale of the residential real property if the tenant is not in default under a lease of the property. Under this bill, if the lien creditor does not negotiate with the tenant in good faith, then the tenant is entitled to remain in possession of the property by continuing to pay the monthly rent to the lien creditor. The bill was recommended for study in the Interim (time between odd-numbered year legislative sessions) by the Joint Interim Committee on Public Health, Welfare, and Labor.

<http://www.arkleg.state.ar.us/assembly/2009/R/Bills/HB2218.pdf>

California: An Act to Amend the Business and Professions Code, the Civil Code, and the Financial Code, Relating to Lending, A.B. 2

Focus: Mortgage Lending

Type: Regulatory Change

This bill, which was introduced in a special legislative session, establishes higher-priced mortgage loans as a new category of regulated loans. According to the legislative digest prepared by the state, the bill would, among other things, limit prepayment penalties and prohibit provisions for negative amortization. The bill would also prohibit a licensed person from making false, deceptive, or misleading statements or representations in connection with higher-priced mortgage loans and prohibit a mortgage broker who arranges higher-priced mortgage loans with prepayment penalties from receiving a compensation that exceeds certain amounts.

Assembly Bill 2 also makes a violation of the provisions regulating higher-priced mortgage loans a violation of the licensing law, and authorizes a licensing agency or the Attorney General to enforce the provisions regulating higher-priced mortgage loans. The bill would authorize civil penalties in an amount up to \$10,000 against a licensed person who willfully and knowingly violates the provisions regulating higher-priced mortgage loans, nullifies prepayment penalties or yield spread premiums that violate these provisions, makes a licensed person who violates these provisions liable to the borrower in the amount of the borrower's actual damages, and authorizes the court to award court costs and attorney's fees to a prevailing plaintiff.

Finally, the bill establishes specified duties for mortgage brokers performing mortgage brokerage services for higher-priced mortgage loans. The bill's provisions would apply to higher-priced mortgage loans originated on or after July 1, 2010. The bill is still pending in the Assembly.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/abx2_2_bill_20090205_introduced.html

California: An Act Relating to Mortgage Lending, A.B. 34

Focus: Mortgage Lending

Type: Regulatory Change

This bill establishes a system of supervision, regulation, and enforcement of the mortgage lending industry, including the following:

- the authority to issue licenses to conduct business under this act, including the authority on the part of the administering agency to promulgate rules and regulations or adopt procedures necessary to the licensing of persons covered under this act;
- the authority to deny, suspend, condition, or revoke licenses;
- the authority to examine, investigate, and conduct enforcement actions as necessary to carry out the intended purposes of this act, including the authority to subpoena witnesses and documents, enter orders, including cease and desist orders, order restitution and monetary penalties, and order the removal and ban of individuals from office or employment; and
- participation by the Department of Corporations and the Department of Real Estate in the Nationwide Mortgage Licensing System and Registry.

The bill passed the Assembly but is still pending in the California Senate.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ab_34_bill_20081201_introduced.html

California: An Act to Add to the Civil Code, Relating to Real Property, A.B. 331

Focus: Mortgage Lending

Type: Regulatory Change

Assembly Bill 331 requires a landlord to disclose any of the following circumstances to a prospective tenant before the execution of a rental agreement:

- any outstanding notice of default, or notice of trustee's sale;
- any pending suit to foreclose a mortgage, trust deed, or vendor's lien under a contract of sale;
- any pending declaration of forfeiture or suit for specific performance of a contract of sale; or
- any pending proceeding to foreclose a tax lien.

This bill would exempt apartments by limiting disclosure to a rental agreement for a single-family or multifamily dwelling unit, not to exceed four units. It also would allow a tenant to recover twice the actual damages or twice the monthly rent, whichever is greater, and all pre-paid rent, if their tenancy terminates as the result of a circumstance that the landlord was required to disclose but did not. The bill passed the Assembly and is pending in the Senate Judiciary Committee.

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_331&sess=CUR&house=B&author=hall

California: An Act to Amend, Repeal, and Add Sections of the Revenue and Taxation Code, A.B. 902

Focus: Mortgage Lending

Type: Tax Credit

Assembly Bill 902 allows a credit for the purchase as a primary residence of a foreclosed dwelling by a taxpayer whose annual gross income is equal to or less than 120 percent of the area median income for taxable years beginning on or after January 1, 2009, and before January 1, 2012. The credit is limited to \$3,000, which is otherwise equal to two percent of the amount paid or incurred for a qualified residence that is a principal residence. The bill is pending in the Assembly Committee on Revenue and Taxation.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0901-0950/ab_902_bill_20090414_amended_asm_v98.html

Georgia: A Bill Relating to the Offense of Residential Mortgage Fraud, H.B. 42

Focus: Mortgage Lending

Type: Regulatory Change

This bill makes mortgage fraud a criminal offense in the state of Georgia. A person commits the offense of residential mortgage fraud when he or she:

- knowingly makes, uses, or facilitates the use of any deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
- receives any proceeds or any other funds in connection with a residential mortgage closing that such person knew resulted from a violation the statute
- files or causes to be filed with the official registrar of deeds of any county of this state any document such person knows to contain a deliberate misstatement, misrepresentation, or omission; or
- knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation, or omission for the purpose of obtaining remuneration from a homeowner where such homeowner's residence is subject to the mortgage foreclosure process and in reliance upon such deliberate misstatement, misrepresentation, or omission, the homeowner pays such person any amount to prevent or forestall the foreclosure when, in fact, such person is not reasonably able to prevent or forestall the foreclosure.

The bill is still pending in the House of Representatives.

http://www.legis.state.ga.us/legis/2009_10/fulltext/hb42.htm

Georgia: An Act to Amend the Georgia Fair Lending Act, H.B. 54

Focus: Mortgage Lending

Type: Regulatory Change

The Georgia Fair Lending Act makes all home loans subject to several limitations and prohibited practices. Lenders are prohibited from using a home loan to finance, directly or indirectly any credit life, credit accident, credit health, credit personal property, or credit loss-of-income

insurance, debt suspension coverage or debt cancellation coverage that provides for cancellation of all or part of a borrower's liability in the event of loss of life, health, personal property, or income or in the case of accident written in connection with a home loan.

Creditors and loan servicers are also prohibited from recommending or encouraging default on an existing loan or other debt prior to and in connection with the closing or planned closing of a home loan that refinances all or any portion of such existing loan or debt and charging a borrower a late payment charge unless the loan documents specifically authorize the charge, the charge is not imposed unless the payment is past due for ten days or more, and the charge does not exceed five percent of the amount of the late payment.²⁸ The bill also prohibits loan flipping, and defines the term.²⁹

The bill also contains provisions regulating high cost home loans, and prevents:

- prepayment fees or penalties not provided for in the loan documents for a high-cost home loan charged to the borrower after the last day of the 24th month following the loan closing or which exceed in the aggregate in the first 12 months after the loan closing, more than two percent of the loan amount prepaid; or more than one percent of the amount prepaid in the second 12 months after the loan closing;
- a scheduled payment that is more than twice as large as the average of earlier scheduled payments;³⁰
- payment terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due;
- provision that increases the interest rate after default. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness; and
- terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

The bill is still pending in the Senate Banking and Financial Institutions Committee.

http://www.legis.state.ga.us/legis/2009_10/sum/sb54.htm

²⁸ A late payment charge may not be imposed more than once with respect to a single late payment and no late payment charge may be charged with respect to any subsequent payment that would have been a full payment but for the previous default or the imposition of the previous late payment charge.

²⁹The home loan refinancing transaction shall be presumed to be a flipping where a covered home loan refinances an existing home loan that was consummated within the prior five years and that is a special mortgage originated, subsidized, or guaranteed by or through a state, tribal, or local government or a nonprofit organization, which either bears a below-market interest rate at the time the loan was originated or has nonstandard payment terms beneficial to the borrower, such as payments that vary with income, are limited to a percentage of income, or where no payments are required under specified conditions and where, as a result of the refinancing, the borrower will lose one or more of the benefits of the special mortgage.

³⁰ This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

Georgia: A Bill Relating to Conveyances to Secure Debt In General, H.B. 264

Focus: Mortgage Lending

Type: Amendment to Code

Georgia House Bill 264 makes prepayment premiums, prepayment charges, and prepayment fees in residential mortgages void and unenforceable. In addition, the bill prohibits negative amortization and makes any amount of indebtedness in a promissory note that is secured by a residential mortgage that is derived from negative amortization void and unenforceable.

Lenders are further prohibited from offering residential mortgage loans unless the borrower's ability to repay the indebtedness is independently verified by the loan originator. Finally, the originator of the loan secured by a residential mortgage may not receive any compensation in the form of a yield spread premium, yield differential, or service release fee. The bill is pending in the House of Representatives.

http://www.legis.state.ga.us/legis/2009_10/sum/hb264.htm

Georgia: An Act Relating to Property, H.B. 340

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

This bill prohibits a sheriff or deputy from evicting any debtor or tenant from any residential property upon the demand of a secured creditor exercising a power of sale contained in a mortgage, deed, or other lien contract without proof that the tenants or debtors were given at least 30 days prior to the date of eviction. The bill is pending in the House of Representatives.

http://www.legis.ga.gov/legis/2009_10/fulltext/hb340.htm

Georgia: Stop Mortgage Foreclosure Rescue Fraud Act of 2009, H.B. 508

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

House Bill 508 details the disclosure forms that rescue programs must offer, and includes an example. The agreement must include the name and address of the person providing foreclosure-related rescue services, the exact nature and specific detail of each service to be provided, the total amount and terms of charges to be paid by the homeowner for the services, and the date of the agreement.

Further, the bill states that in the course of offering or providing foreclosure-related rescue services, a foreclosure-rescue consultant may not engage in or initiate foreclosure-related rescue services without first executing a written agreement, or solicit, charge, receive, or attempt to collect or secure payment for foreclosure-related rescue services before completing or performing all services contained in the agreement for foreclosure-related rescue services. A person who violates any provision of this section commits an unfair and deceptive trade practice and violates the Fair Business Practices Act, and may be subject to a penalty of up to \$30,000 per violation. The bill is still pending in the House of Representatives.

http://www.legis.state.ga.us/legis/2009_10/fulltext/hb508.htm

Georgia: An Act Relating to the Georgia Fair Lending Act, S.B. 57

Focus: Mortgage Lending

Type: Amendment to Code

This bill amends the Georgia Fair Lending Act to include mortgage brokers as creditors regulated under the act, and subjects certain types of home loans to limitations. All home loans shall be subject to the following limitations and prohibited practices:

- no creditor shall make a home loan that finances, directly or indirectly:
 - any credit life, credit accident, credit health, credit personal property, or credit loss-of-income insurance, debt suspension coverage, or debt cancellation coverage, whether or not such coverage is insurance under applicable law, that provides for cancellation of all or part of a borrower's liability in the event of loss of life, health, personal property, or income or in the case of accident written in connection with a home loan; or
 - any life, accident, health, or loss-of-income insurance without regard to the identity of the ultimate beneficiary of such insurance; although any premiums or charges calculated and paid on a monthly basis are not be considered financed directly or indirectly by the creditor.

A creditor or servicer also may not charge a borrower a late payment charge unless the loan documents specifically authorize the charge, the charge is not imposed unless the payment is past due for ten days or more, and the charge does not exceed five percent of the amount of the late payment. Prepayment penalties, negative amortization, and yield spread premiums are also prohibited. The bill passed the Senate but is still pending in the House.

http://www.legis.state.ga.us/legis/2009_10/versions/sb57_LC_29_3879S_hss_8.htm

Hawaii: An Act Relating to Foreclosures, H.B. 304

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This legislation amends the Hawaii Statutes in order to allow more time to a defaulting mortgagor facing foreclosure. The bill would allow courts to halt foreclosures for an undetermined number of days, as well as changes the number or days before a foreclosed property can be put up for sale. The bill was held over until the 2010 legislative session.

http://www.capitol.hawaii.gov/session2009/Bills/HB304_.HTM

Hawaii: An Act Relating to Real Property, H.B. 331/S.B. 704

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

House Bill 304 requires any person who forecloses on any rental housing property to notify, by way of certified or registered mail, any tenants or subtenants residing in the rental housing property. The bill details the language that must be contained within the notice advising the tenant of their rights should the property be sold in foreclosure. The bill also requires the new

property owners to give tenants either a new lease or rental agreement, or a 60-day eviction notice. The bill was held over until the 2010 legislative session.

http://www.capitol.hawaii.gov/session2009/lists/measure_indiv.aspx?billtype=HB&billnumber=331

Hawaii: An Act Relating to the Residential Landlord-Tenant Code, H.B. 525

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

House Bill 525 subjects the mortgagee in possession or the purchaser of the rental unit to the rental agreement between the former landlord and tenant until the agreement expires. The bill was held over until the 2010 legislative session.

http://www.capitol.hawaii.gov/session2009/lists/measure_indiv.aspx?billtype=HB&billnumber=525

Illinois: An Act Concerning Financial Regulation, H.B. 537

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 537 amends the Residential Mortgage License Act of 1987 by prohibiting any licensee from making, providing, or arranging a mortgage loan with a prepayment penalty. The Act previously allowed prepayment penalties under certain conditions. The bill is pending in the Senate Committee on Assignments.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=HB&DocNum=537&GAID=10&LegID=40919&SpecSess=&Session=>

Illinois: An Act Concerning Financial Regulation, H.B. 856

Focus: Amendment to Code

Type: Mortgage Lending

House Bill 856 also amends the Residential Mortgage License Act of 1987, though it amends a different section than House Bill 537. The bill adds a section requiring a licensee seeking to transfer or sell the servicing of a residential mortgage to retain a 25 percent interest in the servicing of the residential mortgage. The bill is currently pending in the House Rules Committee.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=HB&DocNum=856&GAID=10&LegID=42372&SpecSess=&Session=>

Illinois: An Act Concerning State Government, H.B. 1094

Focus: Mortgage Lending

Type: Strategic Initiative

House Bill 1094 amends the Illinois Housing Development Act. Under this bill, the Illinois Housing Authority must use at least \$1 billion of its borrowing authority to refinance residential adjustable-rate mortgages with increased interest rates that take effect within five years after the effective date of this bill. It also states that the Authority must work with entities in the private sector to make and manage the loans. The bill is pending in the House Rules Committee.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=HB&DocNum=1094&GAID=10&LegID=42773&SpecSess=&Session=>

Illinois: An Act Concerning Business, H.B. 2084

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 2084 amends the High Risk Loan Act in reference to ability to repay. The bill states that a creditor or broker may not transfer, deal in, offer, or make a high risk home loan if the creditor or broker does not believe at the time the loan is consummated that the borrower will be able to make the scheduled payments to repay the obligation based upon a consideration of his or her current and expected income, current obligations, employment status, and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan).

Under this bill, a borrower is presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment, in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance, and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50 percent of the borrower's monthly gross income. The bill is pending in House Rules Committee.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=HB&DocNum=2084&GAID=10&LegID=43844&SpecSess=&Session=>

Illinois: An Act Concerning Employment, H.B. 3751

Focus: Mortgage Lending

Type: Strategic Initiative

House Bill 3751 amends the Illinois Worker Adjustment and Retraining Notification Act. The legislation provides that, if an employer orders a mass layoff, relocation, or employment loss and fails to notify employees, the employee may suspend interest payments on a home mortgage for 180 days and pay the deferred interest in equal installments over the remaining term of the mortgage loan. The bill was re-referred to the House Rules Committee when the session ended, where it is still pending.

<http://www.ilga.gov/legislation/96/HB/09600HB3751.htm>

Illinois: An Act Concerning Financial Regulation, S.B. 251

Focus: Mortgage Lending

Type: Amendment to Code

Senate Bill 251 amends the Residential Mortgage License Act of 1987 and the Residential Real Property Disclosure Act provisions concerning borrower income verification. The bill provides that stated income should be accepted only if there are mitigating factors that clearly minimize the need for direct verification of ability to repay or the licensee is originating the loan directly for a federally insured financial institution that is subject to applicable federal regulation. Loans qualified to be processed through the automated underwriting system of Fannie Mae or Freddie Mac or that are a refinance of a FHA loan which only reduces the interest rate and reduces the loan payment for the borrower without additional borrower cost are exempt from the provisions in the legislation. The bill is still pending in the Illinois Senate.

<http://www.ilga.gov/legislation/billstatus.asp?DocNum=251&GAID=10&GA=96&DocTypeID=SB&LegID=40893&SessionID=76>

Massachusetts: An Act Relative to Preserving Homeownership, S.B. 471

Focus: Mortgage Lending

Type: Amendment to Code

Senate Bill 471 requires a mortgagee or mortgage servicer to accept a partial payment from a borrower to apply to mortgage debt, if the mortgage loan has high points, fees or interest or is a mortgage loan having the following characteristics:

- adjustable rate loans with an introductory period of three years or less;
- a debt-to-income ratio in excess of 50 percent of recurring debt under the fully indexed rate;
- the loan was approved on a stated income basis;
- interest only loans;
- the loan-to-value ratio is 100 percent; or
- the loan carries pre-payment penalties of greater than three months interest.

The partial payment is to be applied in the following priority order: interest, principal, and any taxes and insurance that the mortgagee or mortgage servicer is obligated to pay on the mortgage loan on behalf of the borrower. The bill restricts the ability of borrowers to make partial payments to no more than two partial payments in a 12-month period, and the partial payments may not be made in consecutive months. Finally, the bill prohibits late fees in connection with a partial payment or deficiency payment. Senate Bill 471 is currently pending in the Joint Committee on Financial Services.

<http://www.mass.gov/legis/bills/senate/186/st00/st00471.htm>

Michigan: Consumer Mortgage Protection Act, H.B. 4585

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 4585 amends the Consumer Mortgage Protection Act. Under this bill, a creditor may not directly or indirectly finance any points or fees in excess of two percent of the loan amount in connection with a high-cost home loan or include in the loan documents for a high-cost home loan or charge a borrower in a high-cost home loan any prepayment fees or penalties.

The bill further prohibits a high-cost home loan from containing a scheduled payment that is more than twice as large as the average of earlier scheduled payments, unless payment schedule is adjusted to the seasonal or irregular income of the borrower, include payment terms under which the outstanding principal balance or accrued interest will increase at any time over the course of the loan because the regularly scheduled periodic payments do not cover the full amount of interest due, nor include terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower. A high-cost home loan also may not contain a provision that increases the interest rate after default, except interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, if the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

This legislation also prohibits a creditor from making a high-cost home loan without first receiving certification from a counselor from an independent nonprofit organization approved by the United States Department of Housing And Urban Development, a state housing financing agency, or the regulatory agency that has jurisdiction over the creditor. A counselor or counseling agency that is affiliated with a mortgage broker or mortgage lender is not considered an independent nonprofit organization.

Creditors are also prohibited from paying a contractor under a home-improvement contract from the proceeds of a high-cost home loan, unless the instrument is payable to the borrower or jointly to the borrower and the contractor or, at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the creditor, and the contractor before the disbursement. A creditor also cannot charge a borrower a fee or other amount to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan.

Finally, a high-cost home loan document that creates a debt or an interest in property to secure a debt shall include the following notice, printed conspicuously on the face of the document:

Notice: This is a high-cost home loan subject to special rules under state law. A purchaser or assignee of this high-cost home loan may be liable for all claims and defenses of the borrower with respect to the home loan. The bill is pending in the House Banking and Financial Services, where it will remain until the second half of the biennium begins in 2010.

<http://www.legislature.mi.gov/documents/2009-2010/billintroduced/House/htm/2009-HIB-4585.htm>

Michigan: Borrowers Bill of Rights, H.B. 4586

Focus: Mortgage Lending

Type: Amendment to Code

This bill also amends the Consumer Mortgage Protection Act, with respect to the Borrower's Bill of Rights. House Bill 4586 states that at the time a person applies home loan, a creditor must provide the applicant the following document:

1. You have the RIGHT to shop for the best loan for you and compare the charges of different mortgage brokers and lenders.
2. You have the RIGHT to be informed about the total cost of your loan including the interest rate, points, and other fees.
3. You have the RIGHT to obtain a Good Faith Estimate of all loan and settlement charges before you agree to the loan or pay any fees.
4. You have the RIGHT to know what fees are nonrefundable if you decide to withdraw your loan application.
5. You have the RIGHT to ask your mortgage broker to explain exactly what the mortgage broker will do for you.
6. You have the RIGHT to know how much the mortgage broker is getting paid by you and the lender for your loan.
7. You have the RIGHT to ask questions about charges and loan terms that you do not understand.

8. You have the RIGHT to a credit decision that is not based on your race, color, religion, national origin, sex, marital status, age, or whether any income is derived from public assistance.
9. You have the RIGHT to know the reason if your loan application is turned down.

House Bill 4586 is still pending in the House Committee on Banking and Financial Services where it will remain until the second half of the biennium begins in 2010.

<http://www.legislature.mi.gov/documents/2009-2010/billintroduced/House/htm/2009-HIB-4586.htm>

Michigan: A Bill to Amend the Consumer Mortgage Protection Act, H.B. 4587

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 4587 also amends the Consumer Mortgage Protection Act. This bill prohibits a creditor from directly or indirectly financing any credit life, credit disability, or credit unemployment insurance in which the creditor is named as a beneficiary, any other life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract.

Further, a creditor may not knowingly or intentionally make a home loan to a borrower that refinances an existing home loan if the new loan does not have reasonable, tangible net benefit to the borrower considering all of the circumstances, as defined in the legislation, nor can a creditor recommend or encourage default or encourage a borrower to stop making payments on an existing loan or other debt before and in connection with the closing or planned closing of a home loan that refinances all or any portion of that existing loan or debt.

Finally, a creditor may not charge a borrower a late payment fee unless the loan documents specifically authorize the fee, the fee is not imposed unless the payment is past due for ten days or more, and the fee does not exceed five percent of the amount of the late payment. Creditors also may not charge more than one late payment fee with for any single late payment. House Bill 4587 is still pending in the House Committee on Banking and Financial Services where it will remain until the second half of the biennium begins in 2010.

<http://www.legislature.mi.gov/documents/2009-2010/billintroduced/House/htm/2009-HIB-4587.htm>

Minnesota: Home Values Guarantee Pilot Program, H.F. 2279

Focus: Mortgage Lending

Type: Loan Guarantee

House File 2279 creates the Home Values Guarantee Pilot Program to provide a five-year guarantee from the state against declining property values in certain areas of the state. Eligible participants may apply for enrollment of their property in the program. The property must:

- be located in one of the pilot program areas;
- be purchased or to be purchased between July 1, 2009, and June 30, 2011, by a buyer who intends to occupy the property as the buyer's single-family homestead;

- be in a physical condition that complies with all applicable building and housing codes, as documented in a home inspection report conducted by a disinterested, qualified inspector;
- be suitable for residential use only and not suitable for business or commercial use, including agriculture;³¹
- have an appraised value of no less than \$75,000 nor more than \$300,000, or no less than \$30,000 nor more than \$74,999 if the average property value for the municipality in which the property is located is between \$30,000 and \$74,999, based on an appraisal by a licensed and bonded professional appraiser with no conflict of interest with the potential owner of the property; and
- be purchased or proposed for purchase without a mortgage loan, or with a mortgage loan made by a lender licensed to make residential mortgage loans in this state, that includes an interest rate and monthly payment that are fixed for the full term of the loan³² and a downpayment of at least three and one-half percent and no more than \$25,000, by a borrower who meets mortgage loan underwriting criteria required for loans guaranteed by the Federal Housing Administration.

The bill is still pending in the House Finance Committee, where it will remain until the second half of the biennium session begins in 2010.

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=ceH2279.1.html&session=ls86>

Minnesota: An Act Providing a Tax Credit Advance Loan Program and Establishing a First-Time Homebuyer Tax Credit Advance Loan Account, H.F. 2341

Focus: Mortgage Lending

Type: Tax Credit

House File 2341 authorizes the Minnesota Housing Finance Agency (MHFA) to develop and implement a tax credit advance loan program for first-time homebuyers. The tax credit advance loan is to be secured with a second mortgage on the home. To receive a loan, first-time homebuyers must:

- be eligible for the federal first-time homebuyer credit;³³

³¹ The bill specifies that this provision does not disqualify a property used for home-based businesses that complies with local zoning laws.

³² The requirement that the monthly mortgage payment be fixed does not apply to charges for escrowed property taxes, homeowner's insurance, flood zone status monitoring, or similar charges required by the mortgage lenders that may vary over the course of the loan.

³³ The American Recovery and Reinvestment Act of 2009 expanded the first-time homebuyer credit by increasing the credit amount to \$8,000 for purchases made in 2009 before Dec. 1. The new Worker, Homeownership and Business Assistance Act of 2009 extended the deadline further so taxpayers who have a binding contract to purchase a home before May 1, 2010, are still eligible for the credit. Buyers must close on the home before July 1, 2010. For home purchased in 2009, the credit does not have to be paid back unless the home ceases to be the taxpayer's main residence within a three-year period following the purchase. Homebuyers who purchased a home in 2008, 2009 or 2010 may be able to take advantage of the first-time homebuyer credit. The credit applies only to homes used as a taxpayer's principal residence. The tax credit is fully refundable, meaning the credit will be paid out to eligible taxpayers, even if they owe no tax or the credit is more than the tax owed.

- have annual income less than 115 percent of the greater of the state or area median income, as determined by the U.S. Department of Housing and Urban Development;
- use the loan in conjunction with a 30-year fixed rate home mortgage loan; and
- agree to apply for the federal first-time homebuyer credit and use the credit refund to repay the loan.

The maximum loan amount is \$6,750 or eight and one-half percent of the purchase price of the home, whichever is less. The bill also authorizes the MHFA to recapture revenue for first-time homebuyers who fail to repay tax credit advance loans. The loan program remains in effect while the federal first-time homebuyer credit is in effect. The bill is still pending in the House Finance Committee, where it will remain until the second half of the biennium session begins in 2010. <http://www.legislature.mi.gov/documents/2009-2010/billintroduced/House/htm/2009-HIB-4587.htm>

New Jersey: Teaser Rate Protection Act, A.B. 1764

Focus: Mortgage Lending

Type: Regulatory Change

Assembly Bill 1764 amends the New Jersey Homeownership Security Act of 2002 to include the Teaser Rate Protection Act, an income verification provision. It prohibits creditors from making home loans to borrowers without verifying and documenting the borrower's reasonable ability to pay the scheduled loan payments, which includes a reasonable inquiry concerning the borrower's current and expected income, financial obligations, and employment. For loans in which the interest rate may vary, the reasonable ability to pay shall be determined based on a fully indexed rate³⁴ and a repayment schedule that achieves full amortization over the life of the loan. The bill is pending in the Assembly Financial Institutions and Insurance Committee.

http://www.njleg.state.nj.us/2008/Bills/A2000/1764_I1.HTM

New Jersey: An Act Concerning Mortgage Disclosures, A.B. 1879/S.B. 2561

Focus: Mortgage Lending

Type: Amendment to Code

The bill prohibits a creditor from making a home loan unless the creditor has delivered to the borrower, at least seven days prior to the closing of the loan, a statement in writing, showing in clear and distinct terms the amount and length of the loan, final maturity date, initial annual percentage interest rate, the amount of the initial monthly payment, including principal, interest, taxes, and insurance, and the amount of this payment expressed as a percentage of the borrower's annual gross income, and total points and fees to be paid.

If the home loan provides for the possibility of an increase in the annual percentage interest rate, the creditor must also include on the statement the following items:

- maximum possible annual percentage interest rate;
- date the annual percentage interest rate could increase;

³⁴The bill defines fully indexed rate as the index rate prevailing at the time the home loan is originated, plus the margin that will apply after the expiration of an introductory interest rate.

- frequency with which the annual percentage interest rate and monthly payment could increase;
- maximum possible amount of monthly principal and interest payment, based on a fully indexed rate, and the amount of this payment expressed as a percentage of the borrower's annual gross income; and
- maximum possible amount of monthly payment, including principal, interest, taxes, and insurance premiums, based on a fully indexed rate, and the amount of this payment expressed as a percentage of the borrower's annual gross income.

The bill is still pending in the New Jersey Assembly.

http://www.njleg.state.nj.us/2008/Bills/A2000/1879_I1.HTM

New Jersey: An Act Concerning the Mortgage Interest Liability of Persons Affected by Certain Plant Closings, Transfers and Mass Layoffs, A.B.2934/S.B.1956

Focus: Mortgage Lending

Type: Amendment to Code

This bill allows an aggrieved employee or former employee of an employer who has been found to be in violation of the Millville Dallas Airmotive Plant Job Loss Notification Act, also more commonly referred to as the plant closing law, or the NJ WARN Act, to request a suspension of the payment of interest on a mortgage loan that was secured by the person before entry of the court order finding a violation of that act. The suspension would remain in effect for 180 days from the date of the order and interest that was incurred during that time shall be paid, after the expiration of the suspension, in equal installments over the remaining term of the mortgage loan.

To obtain the suspension, a person would submit to the mortgagee a written request which must include a copy of the court order finding a violation of the plant closing law and an affidavit stating that the person is an aggrieved employee or former employee of the employer named in the order and further that the person is a mortgagor of the mortgage loan with respect to which the request is being made. The bill applies only to persons domiciled in New Jersey and mortgages securing a primary residence located in the state.

http://www.njleg.state.nj.us/2008/Bills/A3000/2934_I1.HTM

New Jersey: An Act Concerning Residential Mortgage Lender and Broker Fees, A.B. 3927

Focus: Mortgage Lending

Type: Amendment to Code

This bill, as amended, increases and clarifies the permissible categories of fees chargeable by residential mortgage lenders and residential mortgage brokers created under the provisions of the New Jersey Residential Mortgage Lending Act. A licensed residential mortgage lender is authorized to charge only the following fees in connection with any mortgage loan transaction not involving a secondary mortgage loan:

- credit report fee;
- appraisal fee;

- application fee, except that a residential mortgage lender shall not charge a application fee if a residential mortgage broker charges an application fee in connection with the loan;
- commitment fee;
- warehouse fee;
- fees necessary to reimburse the residential mortgage lender for charges imposed by third parties;
- discount points, disclosed as a percentage of the loan amount or a fraction thereof, payable to reduce the interest rate on that loan;
- lock-in fee; and
- origination fee, or alternatively, points, disclosed as a percentage of the loan amount or a fraction thereof.

The fees may be disclosed as a percentage of the loan amount or a fraction thereof, or as a flat fee, and a portion of which may be disclosed as an origination fee to meet Federal Housing Administration or Veterans Benefits Administration loan requirements, and which shall be payable only at closing. The bill is pending in the Assembly.

<http://assembly.state.ny.us/leg/?bn=A00257&sh=t>

New Jersey: An Act Concerning Mortgages, S.B.1619

Focus: Mortgage Lending

Type: Regulatory Change

Senate Bill 1619 increases regulatory oversight and consumer protections concerning certain mortgage products, mortgage lending, and mortgage foreclosure practices. This legislation prohibits a mortgage banker, mortgage broker, or mortgage solicitor from engaging in the secondary mortgage loan business or the consumer loan business without first obtaining a license.³⁵

The bill details parties that are exempt from the licensing requirement and the fee structure for license applicants. It outlines penalties for violation of the act, as well as remediation strategies for the affected parties. In addition, licensees must attend 24 hours of live classroom instruction. Any person who violates any provisions of this act shall be subject to a penalty of \$1,000 for the first offense and not more than \$5,000 for the second and each subsequent offense. The bill is pending in the Senate Commerce Committee.

http://www.njleg.state.nj.us/2008/Bills/S2000/1619_I1.HTM

New York: An Act to Amend the Banking Law, A.B. 257/S.B. 2367

Focus: Mortgage Lending

Type: Amendment to Code

Assembly Bill 257 authorizes the Superintendent of Banks to develop, post on the Departments website, print, and distribute in sufficient numbers to every licensed mortgage lenders and banking organization a mortgage bill of rights pamphlet. A copy of the pamphlet must be given to

³⁵ A person licensed as a mortgage banker may act as a mortgage broker or mortgage solicitor, and a person licensed as a mortgage broker may act as a mortgage solicitor.

each person inquiring about a mortgage loan. Furthermore, no licensed mortgage lender or banking organization may accept an application for a residential mortgage until applicant has signed a statement that he or she has read and understands the mortgage bill pamphlet. The bill passed the Assembly and is pending in the Senate Codes Committee.

<http://assembly.state.ny.us/leg/?bn=A00257&sh=t>

New York: An Act to Amend the Banking Law, In Relation to Enacting the Disclosure in Lending Act, A.B. 1240

Focus: Mortgage Lending

Type: Amendment to Code

This bill amends the Banking Law by adding a new section which would require mortgage brokers and mortgage originators to provide borrowers with a clear written depiction of the true costs of a proposed loan, including monthly payments based on original and reset rates, estimated taxes and insurance, as well as the generally accepted recommended monthly income which a borrower should have to afford the loan.

The bill also directs the New York State Banking Department (NYSBD) to establish pages on its website with a mortgage affordability calculator and a warning on the risks of subprime mortgage, and requires lenders and brokers engaging in subprime lending to maintain a link on their own websites to the NYSBD subprime lending website pages, and provides remedies for enforcing these provisions. The bill is pending in the Assembly Banking Committee, where it has been since its introduction in January.

<http://assembly.state.ny.us/leg/?bn=A01240&sh=t>

New York: An Act to Amend the General Business Law, A.B. 3197

Focus: Mortgage Lending

Type: Amendment to Code

This bill amends the general business law to require any entity that provides mortgages to inform its customers of the potential adverse effect mortgage rate shopping may have on the customer's credit ratings. Under this bill, any entity that provides mortgages to consumers is required to notify any consumer of the effect of mortgage rate shopping prior to such entity requesting a credit report on such customer. The entity must inform the consumer that mortgage rate shopping may adversely affect the consumer's credit rating. The consumer must be given the option of canceling his or her request to the entity. The legislation is pending in the Committee on Consumer Affairs and Protection.

<http://assembly.state.ny.us/leg/?bn=A03197&sh=t>

New York: Home Equity Fraud Act, A.B. 3386

Focus: Mortgage Lending

Type: Amendment to Code

Assembly Bill 3386 enacts the Home Equity Fraud Act to control improper activities by home improvement contractors and finance companies. The bill prohibits mortgage brokers or agents from acting as home improvement contractors and provides additional protections for mortgagors and home owners.

This bill institutes a series of changes in statute to prohibit mortgage lending to borrowers who cannot afford the terms of the mortgage. It would also limit the fees that mortgage bankers and brokers can charge on refinancing and would limit the enforceability of loans and mortgages made in violation of the various provisions of this bill.

The bill also requires bankers and brokers to disclose whether the loan will be sold and if so to whom it will be sold and thereafter prohibits any sale of the loan until 30 days after the disclosures are made. It also requires bankers and brokers to give all borrowers a notice setting forth their right to designate a third party to receive copies of all written communications regarding the loan.

The bill prohibits the inclusion of a provision allowing for balloon payments, negative amortizations and increased interest after default in any mortgage which refinances a primary residence and it prohibits licensed lenders from accepting any money from home improvement contractors without fully disclosing their relationship and getting the customer's permission, limits the fees they can charge for financing or refinancing of home equity loans, and restricts mortgage flipping.

Assembly Bill 3386 further requires all defendants in foreclosure actions be served with a notice stating clearly that the action may result in the loss of their home and listing certain defenses that may be available. It also adds a section requiring that a plaintiff in a foreclosure action to affirmatively plead compliance with all the relevant provisions of the banking law. It also creates certain affirmative defenses to a mortgage foreclosure action, namely that at the time of the origination of the loan the mortgagor did not have the ability to afford the loan and the financial institution making the loan knew or should have known this, that the lender violated the banking law and that the mortgage document contains a provision prohibited by the real property law. Employment status, fixed income, receipt of public assistance and payments in excess of 50 percent of income are all factors that can be considered by the court. In addition, the court may award reasonable attorney fees to the defendant in such foreclosure action. The bill is pending in the Assembly Committee on Banks.

<http://assembly.state.ny.us/leg/?bn=A3386>

New York: An Act Establishing the Urban Homeowners Assistance Program, S.B. 126

Focus: Mortgage Lending

Type: Other

Senate Bill 126 establishes the Urban Homeowner Assistance Program and appropriates \$2 million to provide assistance to neighborhood preservation companies to provide homeownership assistance activities.³⁶ The bill defines neighborhood preservation company as a corporation

³⁶ Homeownership assistance activities means counseling for default and foreclosure prevention, budget management, debt reduction planning, credit repair, refinancing options, in the recognition of predatory lenders, consumer scams, homeowner basics and the hiring of contractors and all such other activities as may be deemed essential to ensuring the prevention of foreclosure.

organized under the provisions of the nonprofit corporation law which has been primarily engaged in one or more neighborhood preservation activities.

Contracts with neighborhood preservation companies are limited to one year in duration, and \$45,000 per year. Prior to renewing or extending a contract, or entering a succeeding contract with a neighborhood preservation company, the company must meet the following criteria:

- the company has substantially completed the homeownership activities specified in the contract to be renewed or succeeded;
- the company has received the funds specified in the bill; and
- the activities carried out by the company pursuant to its contract shall have resulted in a significant impact on the needs of the at risk existing and potential homeowners in the service area.

The bill, which was originally assigned to the Assembly Finance Committee, was recommitted and is currently pending in the Assembly Committee on Housing, Construction and Community Development.

<http://assembly.state.ny.us/leg/?bn=S00126&sh=t>

New York: An Act to Amend the Private Housing Finance Law, in Relation to Establishing the Rural Homeowners Assistance Program, S.B. 127

Focus: Mortgage Lending

Type: Other

Senate Bill 127 is similar to Senate Bill 126 except it contains a provision establishing the Rural Homeowners Assistance Program. In this bill, residents are defined as individuals or families with incomes not exceeding 90 percent of median income residing in rural areas, either currently in residence or with evidence of forthcoming residency in the service area. The bill is pending in the Assembly Committee on Housing, Construction and Community Development.

<http://assembly.state.ny.us/leg/?bn=S00127&sh=t>

North Carolina: Homeowner and Homebuyer Protection Act, H.B. 1060

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

House Bill 1040 enacts the Homeowner and Homebuyer Protection Act to prohibit home foreclosure rescue scams and offer protections in land installment sales. The bill makes it unlawful for a person other than the transferor to engage in, promise to engage in, arrange, offer, promote, solicit, participate in, assist with, or carry out a foreclosure rescue transaction for financial gain or with the expectation of financial gain.

A foreclosure rescue transaction is defined as a transfer of residential real property, including a manufactured home, which includes all of the following features:

- the real property is the principal residence of the transferor;

- the transferor is in default, or at imminent risk of being in default, on a mortgage loan obligation which is secured by the transferor's principal residence;
- the transferor follows representations by the transferee, an agent of the transferee, or others acting in concert with the transferee, that the transfer of the residential property will enable the transferor to prevent, postpone, or reverse the effect of foreclosure and to remain in the residence; and
- by written or oral agreement, the transferor retains an interest in the property conveyed, including a tenancy interest, an interest under a lease-purchase agreement, an option to reacquire the property, or any other legal, equitable, or possessory interest in the property conveyed.

The bill exempts foreclosure rescue transactions in which the transferee is a member of the transferor's family, a nonprofit organization that regularly provides financial, housing, or social services to individuals, or a state, federal, or local government agency or organization. A violation of the bill is deemed an unfair trade practice, and carries penalties. The bill is pending in the Committee on Financial Institutions.

<http://www.ncleg.net/gascripts/BillLookup/BillLookup.pl?Session=2009&BillID=h1060&submitButton=Go>

Pennsylvania: Amending the Pennsylvania Consolidated Statutes, Further Providing For Requirements For Open-End Loans, S.B. 937

Focus: Mortgage Lending

Type: Amendment to Code

This bill amends the Pennsylvania Banks and Banking statute to include a provision concerning open-end home equity loans to prohibit a mortgage lender from reducing the available line of credit on a home equity open-end loan unless the lender pays for and provides a copy to the homeowner of a full written appraisal of the home completed within 30 days of written notice to the homeowner of the proposed reduction of the available line of credit.

Senate Bill 937 also contains a provision requiring the lender to consider any contrary appraisal evidence presented by the homeowner in writing at least ten days prior to the proposed reduction date. The lender may also forgo the full written appraisal by providing written notice to the homeowner at least 180 days prior to the date of the proposed reduction of the available line of credit and consider any appraisal evidence presented by the homeowner in writing at least ten days prior to the proposed reduction date. The bill is pending in the Senate Committee on Banking and Insurance.

<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2009&sessInd=0&billBody=S&billTyp=B&billNbr=0937&pn=1104>

Rhode Island: Save Rhode Island Homes Act Of 2009, H.B. 5557

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

House Bill 5557 requires creditor to provide a series of written notices to eligible borrowers prior to the interest rate reset date on a variable interest rate mortgage loan at 60 day and 30 day intervals prior to the date the introductory interest rate resets.

The bill also contains a provision requiring a creditor to provide eligible borrowers a three year extension period on the introductory rate of the mortgage loan provided the eligible borrower completes and returns a certification of extension to the creditor in accordance with the provisions of this section. The legislation also details the requirements of the extension process for both the lender and borrower.

The bill also provides for penalties for violation of the provisions. Any creditor who violates any provision must pay damages of no less than \$10,000 to the affected borrower, plus reasonable attorneys fees and costs. A civil action against the violating creditor may be taken by the affected borrower or by the Rhode Island Attorney General's office. The State Department of Business Regulation is to enforce the provisions of the bill. The bill is pending, as the House Judiciary Committee recommended it held for further study.

<http://www.rilin.state.ri.us/BillText/BillText09/HouseText09/H5557.htm>

Rhode Island: An Act Relating to Financial Institutions, H.B. 5781

Focus: Mortgage Lending

Type: Regulatory Change

House Bill 5781 changes the regulation of adjustable rate mortgages. Under this bill, any financial or regulated institution that administers or otherwise maintains any account on behalf of the state of Rhode Island, or any department, agency or quasi-agency is required to modify the interest rate of all its residential adjustable rate mortgages issued in the state and due to adjust within three years of the effective date of the bill.

The loan interest rate must be modified to a fixed interest rate, the lesser of the interest rate in effect at the time of modification or five percent. In the event a financial or regulated institution fails to comply with bill provisions will have its relationship with the state or any applicable department, agency or quasi-agency terminated. The bill is pending, as the House Corporations Committee recommended it held for further study.

<http://www.rilin.state.ri.us/BillText09/HouseText09/H5781.pdf>

South Carolina: A Bill to Amend the Code of Laws of South Carolina, H.B. 3049

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 3049 states that lenders requiring private mortgage insurance in connection with a consumer home loan must terminate the requirement and discontinue acceptance of the portion of the mortgage payment representing the mortgage premium on the first day of the month immediately following the date that the borrower repaid the loan in the amount of 80 percent of the current value of the property securing the loan.

Further, if the lender established an escrow account to accommodate payment of the mortgage insurance premiums, the lender must return all unearned private mortgage insurance premiums to the borrower within 45 days after termination of private mortgage insurance coverage. If the lender fails to return premiums within 45 days, then on the 46th day, the lender must pay the borrower the unearned premiums plus the legal rate of interest. The bill is pending in the House Committee on Labor, Commerce and Industry.

http://www.scstatehouse.gov/sess118_2009-2010/bills/3790.htm

Washington: An Act Relating to Nontraditional Mortgages, H.B. 1586

Focus: Mortgage Lending

Type: Regulatory Change

House Bill 1586 direct the Department of Financial Institutions to apply the Interagency Guidance on Nontraditional Mortgage Product Risks³⁷ and the Statement on Subprime Mortgage Lending³⁸ to interest-only mortgages, adjustable rate mortgages, and subprime loans made by financial institutions in the state. This bill does not apply to adjustable rate mortgages made, purchased, guaranteed, or insured by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, and the Federal Veteran's Association. The bill is pending in the House Committee on Financial Institutions and Insurance.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1586#documents>

Wisconsin: An Act Relating to Protections for Tenants in Foreclosure Actions, A.B. 107

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

Assembly Bill 107 requires the plaintiff in a foreclosure action against residential rental property to provide the tenants of the property with notice that a foreclosure action has been filed, notice that the plaintiff has been granted judgment, along with notice of the date on which the redemption period ends, and notice of the date and time of the hearing to confirm the sale of the property.

The bill also requires a landlord to notify any prospective tenant in writing that a foreclosure action has been commenced and, if judgment has been entered, the date on which the redemption period ends. Any rental agreement entered into during the pendency of a foreclosure action must include a separate statement, signed by the tenant, that the landlord has provided the required notices, or it is voidable at the option of the tenant.

A tenant may recover \$250 in damages if a notice is not given. In addition, the bill allows a tenant to remain in the rental unit for up to two months after the end of the month in which the

³⁷ The Interagency Guidance on Nontraditional Mortgage Product Risks means the guidance document issued in September 2006 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office Of Thrift Supervision, and the National Credit Union Administration, and the guidance on nontraditional mortgage product risks released in November 2006 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

³⁸ The Statement on Subprime Mortgage Lending means the guidance document issued in June 2007 by the agencies mentioned in the previous footnote.

sale of the property is confirmed, and may withhold rent in the amount of the security deposit for the last period during which the tenant actually retains possession of the rental unit. The bill is pending in the Assembly Committee on Consumer Protection.

<http://www.legis.state.wi.us/2009/data/AB-107.pdf>

Wisconsin: An Act Relating to Delaying Certain Mortgage Foreclosure Actions, A.B. 160

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

This bill requires the court in a foreclosure action to delay the action for foreclosure of a mortgage for 90 days. Under the bill, the court must delay the action only if the mortgagor shows that all of the following conditions apply:

- the mortgagor owns the real estate subject to the mortgage and the property is his or her principal residence;
- the mortgagor does not own any other real estate; and
- the real estate subject to the mortgage is improved with a residential building containing less than six dwelling units.

The bill is pending in the Assembly Committee on Housing.

<http://www.legis.state.wi.us/2009/data/AB-160.pdf>

Inactive Legislation

Alabama: Mortgage Brokers Licensing Act, H.B. 305

Focus: Mortgage Lending

Type: Amendment to Code

The Mortgage Brokers Licensing Act establishes procedures, provides for exceptions, prohibits certain conduct, and provides for penalties regarding licensure of mortgage brokers. Under existing law, insurance companies and those affiliated with insurance holding companies along with certain mortgagees, certain mortgage brokers, and certain securities brokers are excluded from licensing requirements. This bill would no longer allow certain exclusions from the licensure requirements, and would require mortgage loan originators to be licensed or registered in accordance with the Alabama Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act. The bill died when it was indefinitely postponed in the House Banking and Insurance Committee.

<http://alisondb.legislature.state.al.us/acas/ViewBillsStatusACASLogin.asp?BillNumber=HB305>

Arizona: An Act Relating to Mortgage Brokers, H.B. 2216

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 2216 bill amends the Arizona Statute section dealing with mortgage lending. It contains provisions stating that a mortgage broker shall not:

- make, provide or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the scheduled payments of principal, interest, real estate taxes, homeowner's insurance, assessments and mortgage insurance premiums. For loans with variable interest rates, the reasonable ability to pay is determined based on a fully indexed rate and a repayment schedule that achieves full amortization over the life of the loan. For all residential mortgage loans, the borrower's income and financial resources must be verified by tax returns, payroll receipts, bank records or other similarly reliable documents;
- engage in churning by knowingly or intentionally making, providing or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan and the borrower's circumstances;
- make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage broker will obtain title to the property through foreclosure;
- make, provide or arrange for a residential mortgage loan that is of a lower investment grade if the borrower's credit score or comparable underwriting data indicates that the borrower may qualify for a residential mortgage loan available from or through the mortgage broker that is of a higher investment grade unless the borrower is informed that the borrower may qualify for a higher investment grade loan with a lower interest

- rate or lower discount points or both a lower interest rate and lower discount points and consents in writing to receive the lower investment grade loan;
- charge a fee for a product or service if the product or service is not actually provided or misrepresent the amount charged by or paid to a third party for a product or service; and
- compensate, whether directly or indirectly, coerce or intimidate an appraiser to influence the independent judgment of the appraiser regarding the value of real estate covered by a residential mortgage or that is being offered as security according to an application for a residential mortgage loan.

The bill states that the provisions above do not limit a mortgage brokers or exempt person's ability to rely on criteria other than the borrower's income and financial resources to establish the borrower's reasonable ability to repay a residential mortgage loan, except that the other criteria must be verified through reasonably reliable methods and documentation. A statement by the borrower to the mortgage broker or exempt person of the borrower's income and resources is not sufficient to establish the existence of the income or resources when verifying the borrower's reasonable ability to pay. The bill was held in committee when the session ended, effectively rendering it dead.

<http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/49leg/1r/bills/hb2216p.htm>

Arizona: Amending the Arizona Residential Landlord and Tenant Act, H.B. 2269

Focus: Mortgage Lending

Subfocus: Foreclosure Mitigation and Prevention

Type: Amendment to Code

House Bill 2269 amends the Arizona foreclosure statutes regarding single family residences with a number of provisions, including requiring the trustee to mail a copy of the notice of sale of a single family residence to the property address. The major provision of the legislation requires a landlord or seller who enters into a lease purchase agreement or other form of rental to ownership conversion with a tenant or buyer to provide a bond, escrow account, or similar form of financial guarantee to secure the amount of money paid by a tenant or buyer for a downpayment, option to purchase fees and any prepaid closing costs. It also requires those monies to be returned to the tenant or buyer if the property is foreclosed. The bill passed the House, but died in Senate.

<http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/49leg/1r/bills/hb2269h.htm>

California: An Act Relating to Mortgages, A.B. 603

Focus: Mortgage Lending

Subfocus: Foreclosure Mitigation and Prevention

Type: Regulatory Change

Assembly Bill 603 seeks to ensure that rent-paying tenants living in a foreclosed rental property will not be evicted by the acquiring owner without a period of at least 90 days from the time ownership was acquired through the foreclosure sale. This 90-day period conforms California law

with provisions contained in the recent Protecting Tenants at Foreclosure Act³⁹ (PTFA), signed into law by President Obama on May 19, 2009.

Under this bill, if the term of the tenancy has been specified by the parties (typically through a lease), then the tenant has the right to stay in the rental property through the end of the lease term, but no less than 90 days if the remaining term of lease is less than 90 days. On the other hand, if there is a month-to-month tenancy or no lease, then the tenant may remain in the rental property for at least 90 days after the date the owner acquired ownership. The new owner of a qualified rental unit would also be permitted to evict any tenant when the owner or his or her family sought to occupy the residence. In addition, the owner would be allowed to evict any tenant for good cause, including when the tenant fails to pay the rent or violates a condition of the tenancy, commits waste, causes a nuisance, or uses the premises for an illegal purpose.

This bill goes beyond the tenant protections provided by the federal PTFA by requiring the newly acquiring owner to be responsible for ensuring uninterrupted utility services if the prior owner was responsible for maintaining those utilities. It specifies the civil liability of a landlord to a tenant in a civil action for violations of these provisions, including all of the following: actual damages incurred by tenant, and a minimum of \$250 per cause of action, with up to an additional \$100 for each day the landlord remains in violation. Finally, the bill establishes a sunset date of January 1, 2013. The bill died when it was sent to the Assembly inactive file.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0601-0650/ab_603_bill_20090602_amended_asm_v96.html

California: An Act to Amend the Business and Professions Code and the Civil Code, Relating To Real Estate Brokers, A.B. 764

Focus: Mortgage Lending

Type: Regulatory Change

Assembly Bill 764 would prohibit any person who performs loan modification services to claim, charge, receive, or collect a fee paid for by the borrower for loan modification agreements until the terms of the loan have been modified. The violation of those restrictions would be a public offense and subject the violator to a fine, imprisonment, or both. This bill would additionally:

- subject attorneys to discipline if they collect a fee in violation of the above prohibition;
- require a notice to be provided, prior to entering into a loan modification agreement, that informs individuals that it is not necessary to pay a third party to arrange a loan modification; and
- revise provisions in existing law regarding advance fee agreements for licensees of the California Department of Real Estate.

³⁹ Protecting Tenants at Foreclosure Act of 2009 requires, in the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of the bill, any immediate successor in interest in such property pursuant to the foreclosure to give any existing no less than 90 days notice to vacate. The bill also details the tenant's right to occupy the property until the lease has ended.

The bill passed the Assembly and the Senate, but was vetoed by Governor Schwarzenegger on October 11, 2009.

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_764&sess=CUR&house=B&author=nava

Connecticut: An Act Providing Relief to Homeowners in Foreclosure, A.B. 5201

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Loan Guarantee

House Bill 5201 authorizes the Connecticut Housing Finance Authority to develop a 50 percent mortgage guaranty program to guarantee, on a pro-rata basis, 50 percent of the value of first mortgage loans held by Connecticut banks and granted to eligible homeowners that enter foreclosure proceedings during the period beginning July 1, 2009, and ending on June 30, 2012. Eligible homeowners must meet the following criteria:

- the lender has initiated a foreclosure action on the homeowner's first mortgage during the period commencing on July 1, 2009, and ending on July 1, 2012;
- the lender has agreed to adjust the interest rate on the homeowner's first mortgage to be equal to the prevailing United States Treasury rate for mortgages of a similar term plus two and one-half percent;
- the lender is a Connecticut bank; and
- the homeowner meets all of the eligibility requirements for the authority's mortgage assistance programs for low or moderate income families or individuals, except the homeowner is not required to be a first-time home buyer, and the current foreclosure action shall not be considered when determining the homeowner's creditworthiness or credit score.

The bill died in the Assembly Committee on Banks.

<http://www.cga.ct.gov/2009/TOB/H/2009HB-05201-R01-HB.htm>

Connecticut: An Act Concerning Protections for a Tenant Whose Landlord is Subject to a Foreclosure Action, A.B. 6143

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This bill enhances protections for certain tenants who live in foreclosed property by removing foreclosure as a ground for terminating a lease agreement that predates it, with certain exceptions. Assembly Bill 6143 also prohibits people who take title to foreclosed property from evicting or bringing an action in ejectment against bona fide tenants, limits the grounds for ejecting and evicting bona fide tenants after foreclosure, and limits the people subject to an ejectment or foreclosure to transferees and lienors bound by a foreclosure judgment by virtue of a lis pendens.⁴⁰

⁴⁰Lis pendens is a notice filed on local land records, which advises that a lawsuit is pending against the owner of the designated property and involving the property.

The bill also makes the holder of a first mortgage on residential real property who initiates a foreclosure action on the property responsible for making emergency repairs to it during the pending foreclosure proceedings if the owner fails to do so. The owner is liable for the cost of the repairs. The bill died when the legislative session ended.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=6143&which_year=2009&SUBMIT1.x=0&SUBMIT1.y=0&SUBMIT1=Normal

Connecticut: An Act Concerning Mortgage Practices, H.B. 6367

Focus: Mortgage Lending

Type: Regulatory Change

House Bill 6367 details the penalties for committing mortgage fraud. Under this bill, a person commits residential mortgage fraud when he or she, for financial gain and with the intent to defraud:

- knowingly makes or attempts to make any material misstatement, misrepresentation or omission during the mortgage lending process with the intention that a mortgage lender, mortgage correspondent lender or mortgage broker, a borrower or any other person that is involved in the mortgage lending process will rely on such misstatement, misrepresentation or omission;
- knowingly uses or facilitates the use or attempts to use or facilitate the use of any misstatement, misrepresentation or omission during the mortgage lending process;
- receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew or should have known resulted from an act or acts constituting residential mortgage fraud; or
- conspires with or solicits another to engage in an act or acts constituting residential mortgage fraud.

Under the legislation, a person who commits a single act of residential mortgage fraud is guilty of a class C felony, and a person who commits two or more acts of residential mortgage fraud is guilty of a class B felony. The bill died in the Joint Committee on Banks.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=6367&which_year=2009&SUBMIT1.x=0&SUBMIT1.y=0&SUBMIT1=Normal

Connecticut: An Act Concerning Relief for Families Facing Foreclosure, H.B. 6378

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 6378 expands eligibility for the Connecticut Housing Finance Authority's (CHFA) Emergency Mortgage Assistance Program (EMAP) which provides short-term loans to homeowners experiencing financial hardships beyond their control to help them pay their mortgages.⁴¹ The program covers one-to-four family owner-occupied homes, including single-

⁴¹ By law, eligible applicants may receive an EMAP loan to assist in paying a mortgage until they can afford to repay the EMAP loan based on their housing expenses. Specifically, when a mortgagor's total housing expense is less than or equal to 35 percent of his or her family's total income, he or she must pay CHFA the difference between 35 percent aggregate

family units in a condominium, cooperative, or other common interest community. Under current law, homeowners are eligible for EMAP if they lose 25 percent or more of total family income for specific reasons beyond their control or experience a significant increase in mortgage payments. The bill makes eligible people who lose less than 25 percent of their income due to an unanticipated rise in housing or other expenses unrelated to credit or installment debt accumulated for recreational or nonessential items.

The bill also expands eligibility for a CHFA mortgage refinancing program. Under current law, CHFA's Connecticut Families home mortgage refinancing program is for people with adjustable rate mortgages. The bill expands the program to include all homeowners facing financial hardships that affect their ability to make their monthly payments. The bill requires an applicant to provide CHFA satisfactory proof of the unanticipated rise in expenses and CHFA to adopt written procedures specifying the criteria for evidence that a mortgagor must submit to determine if a reduction of less than 25 percent is valid.

Homeowners qualify for EMAP if the hardship cannot be alleviated by selling assets and income reduction is due to:

- unemployment or underemployment of one or more of the mortgagors;
- a loss, reduction, or delay in receiving benefits from a government or private entity;
- divorce or a loss of support payments;
- disability, illness, or death of a mortgagor; or
- uninsured damage to the mortgaged property that affects liveability and necessitates costly repairs; or expenses related to the disability, illness or death of a mortgagor's family member.

The law requires homeowners also to meet other eligibility criteria, such as the likelihood of being able to resume full mortgage payments within five years. A homeowner does not qualify for EMAP if the hardship is related to installment debt for recreational or nonessential items accumulated before the alleged circumstances beyond the mortgagor's control occurred and that debt would have caused the mortgagor's total debt service to exceed 60 percent of aggregate family income at that time.

Further, the law states that a lender must comply with the EMAP statute if it wants to foreclose on a mortgage on a one-to-four family, owner-occupied residence that is not insured by the Federal Housing Administration (FHA) and the borrower has not mortgaged the property for commercial or business purposes, has not previously received EMAP assistance (except if the person has reinstated the mortgage and has not been delinquent for six consecutive months

family income and the total housing expense, unless the authority determines otherwise after examining the person's financial circumstances and ability to repay the EMAP loan. But when the mortgagor's total housing expense is greater than 35 percent, CHFA defers repayment until that expense drops to 35 percent or less of the family's total income. Under the bill, if the EMAP loan repayment pushes a family's housing expenses above 35 percent, CHFA must defer repayment.

since the reinstatement), and is not in default except for the monetary delinquency. The bill failed to pass the legislature this session.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=6378&which_year=2009&SUBMIT1.x=0&SUBMIT1.y=0&SUBMIT1=Normal

Connecticut: An Act Concerning Emergency Mortgage Relief, H.B. 6484

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This bill allows any party to an action to foreclose an eligible mortgage on an eligible home may, before the entry of judgment of foreclosure, to move the court to grant emergency mortgage relief from October 1, 2009, to June 30, 2012. The court may order the borrower and adult members of the borrower's family who occupy the eligible home to submit to the court under sworn affidavit evidence of the gross income earned and expenses incurred during the month in which the appraiser is appointed and each of the previous three months. The lender must also submit to the court under sworn affidavit evidence of the original principal of the eligible mortgage being foreclosed and the unpaid balance owed by the borrower on such mortgage, and a history of all debits and credits with respect to the balance owed by the borrower on such mortgage. After considering all of the financial evidence, the court will determine:

- the present fair market value of the eligible home;
- the outstanding balance on the note owed by the borrower and secured by the eligible mortgage;
- the average monthly income that the borrower and the adult members of the borrower's family would reasonably be assumed to earn during the foreseeable future;
- the sum available for debt service; and
- the monthly debt service for a mortgage note in a principal amount equal to the fair market value of the eligible home, as determined by the court, if the note were amortized over a 30-year term at an interest rate equal to the interest rate currently being offered to qualified owner-occupants of one-to-four family homes.

If the court determines that the sum available for debt service would be sufficient to pay the monthly debt service calculated by the court the court shall order emergency mortgage relief and require that the existing promissory note signed by the borrower and secured by the eligible mortgage be divided into two notes. Assembly Bill 6484 died in the Joint Committee on Banks.

<http://www.cga.ct.gov/2009/TOB/H/2009HB-06484-R00-HB.htm>

Connecticut: An Act Concerning Foreclosure Procedures, S.B. 619

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This bill makes the Foreclosure Mediation Program mandatory, rather than optional. No judgment of strict foreclosure or foreclosure by sale can be entered before July 1, 2010 unless the

mediation period has expired or otherwise terminated, whichever is earlier. The bill does not alter the current law provision that closes the program to new participants on and after July 1, 2010.

The bill also requires that some funds the Banking Department receives or collects from assessments or fees from Connecticut credit unions and banks pay to fund the department be used to fund the mediation program and requires the Office of Policy and Management secretary to allocate enough of the money in the State Banking Fund to the Judicial Department and the State Comptroller for the program. The bill did not pass the legislature this session.

<http://www.cga.ct.gov/2009/BA/2009SB-00619-R010911-BA.htm>

Connecticut: An Act Concerning Foreclosure Procedures, S.B. 1158

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This bill permits strict foreclosure judgments to be reopened under certain circumstances and authorizes that court to reopen the judgment after title vests if:

- all parties to the foreclosure agree;
- it is reopened within four months after title has vested; and
- all rights and interests of the parties are restored to the status that existed on the date of the judgment.

The bill also makes a technical change regarding the service of process in a mortgage foreclosure on residential real estate by specifying that the required notice concerning the foreclosure mediation program be attached to the front of the writ, summons, and complaint that is served on the property owner in a foreclosure. The bill died when the legislative session ended.

<http://www.cga.ct.gov/2009/TOB/S/2009SB-01158-R02-SB.htm>

Delaware: An Act to Amend the Delaware Code Relating to Real Property and Mortgages, S.B. 40

Focus: Mortgage Lending

Type: Amendment to Code

Senate Bill 40 requires certain mortgage lenders to provide a homeowner with six months written notice of a change in the interest rate on a mortgage on the homeowner's principal residence. The interest rate on the mortgage cannot be changed to a higher rate until the notice is provided, and the lender may not recover from the homeowner any sums that would have been owed if the lender complied with this legislation. The notice must state in plain language the current interest rate on the mortgage, how the new interest rate on the mortgage will be calculated, and the date the new interest rate will go into effect. The notice must also contain good faith estimates of the interest rate at the time the change will go into effect and the amount of the new monthly payment for principal and interest on the mortgage.

The bill does not apply to the following regulated entities, including their subsidiaries affiliates and employees: banking organizations, bank holding companies, national banks, federal savings

banks, or any bank, trust company, savings bank, or savings and loan association organization organized under the laws of the United States or any state. The bill died in the Senate Banking Committee.

[http://legis.delaware.gov/LIS/lis145.nsf/vwLegislation/SB+40/\\$file/legis.html?open](http://legis.delaware.gov/LIS/lis145.nsf/vwLegislation/SB+40/$file/legis.html?open)

Delaware: An Act to the Delaware Code Relating to Real Property and Mortgages, S.B. 51

Focus: Mortgage Lending

Type: Amendment to Code

Senate Bill 51 requires certain mortgage lenders to provide a homeowner with a written notice containing information about how to reinstate the loan, within five business days after the mortgage loan becomes 60 days delinquent. The bill exempts state and federally chartered banks, their affiliates, and subsidiaries, as they are already subject to significant regulation of their mortgage practices. In addition to any notice required to be given by other provisions of the Delaware Code, the holder of a mortgage on a residence must give the written notice to the homeowner of the property before filing an action to foreclose a mortgage or deed of trust.

The legislation details the requirements of the notification to the homeowner, including stating that the holder of the mortgage intends to file an action to foreclose the mortgage or deed of trust. The notice must also contain a statement printed in at least 14 point boldface type that includes the name and telephone number of a contact person the homeowner may call to obtain specific instructions on how to reinstate the mortgage loan, and contain an additional standardized statement written in the legislation. The legislation died in the Senate Banking Committee.

[http://legis.delaware.gov/LIS/lis145.nsf/vwLegislation/SB+51/\\$file/legis.html?open](http://legis.delaware.gov/LIS/lis145.nsf/vwLegislation/SB+51/$file/legis.html?open)

District of Columbia: Tenant Opportunity to Purchase Exemption Clarification Amendment Act of 2009, B18-242

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

This legislation amends the Rental Housing Conversion and Sale Act of 1980 to require that, if the tenant opportunity to purchase a housing accommodation is not provided under the foreclosure exemption, the owner must provide each tenant and the Mayor with a Notice of Transfer.

The bill also seeks to clarify that the existing exemption for a transfer pursuant to a court order or court-approved settlement applies only where an actual contract exists, each affected tenant or tenant organization has received written notice of the opportunity to participate in the action, and the court determines that approval of the exemption under the totality of the circumstances is not contrary to the purposes of the legislation. The bill died in the legislature this session.

<http://dccouncil.washington.dc.us/lims/searchbylegislation.aspx>

Florida: Mortgage Foreclosure Diversion Pilot Programs, H.B. 205/S.B. 1058/S.B. 2202

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

These bills authorize each judicial circuit to establish a Mortgage Foreclosure Diversion Pilot Program, and details the requirements for the program. The bill states that the defendant, immediately upon receipt of the case management order, contact a housing counseling agency approved by the United States Department of Housing and Urban Development serving the area in which the property is located.

The bill also states that in a judicial circuit in which a mortgage foreclosure diversion pilot program exists, after a complaint in a foreclosure proceeding has been filed concerning an owner-occupied residential property, a conciliation conference must be held before an order of foreclosure may issue within 45 days of the filing of the complaint. The bills died in the Civil Justice & Courts Policy Committee.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=40026&SessionIndex=-1&SessionId=61&BillText=&BillNumber=205&BillSponsorIndex=0&BillListIndex=0&BillStatuteText=&BillTypeIndex=0&BillReferredIndex=0&HouseChamber=H&BillSearchIndex=0>

Florida: An Act Relating to Statements of Nonforeclosure or Pending Foreclosure of Residential Property, H.B. 401/S.B. 454

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

House Bill 401 and its companion Senate Bill 454 require the lessor of a residential dwelling unit to notify each lessee the status of the residential dwelling unit that is the subject of the rental agreement with respect to foreclosure or short sale and whether the mortgage lender intends to initiate foreclosure proceedings or short-sale procedures within the next 12 months. The bill requires each residential rental agreement entered into on and after July 1, 2009, to include in the rental agreement, or in a written agreement separate from the rental agreement, notice of the requirement. A lessor who fails to comply with the requirements of this section is liable to any lessee for actual damages sustained, a civil penalty of up to \$10,000, and reasonable attorney's fees and costs. The bill died in the Insurance, Business & Financial Affairs Policy Committee.

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0401.xml&DocumentType=Bill&BillNumber=0401&Session=2009>

Florida: Foreclosure Bill of Rights, H.B. 653/S.B. 2524

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

House Bill 653 allows, in any action to foreclose a mortgage on homestead property, a defendant to file and serve a notice to invoke the Foreclosure Bill of Rights. Within 45 days after the filing and service of the notice to invoke, the plaintiffs must provide for a new appraisal of the property

in foreclosure. The plaintiffs must make a good faith effort to negotiate a settlement, including efforts to renegotiate the loan at a principal equivalent to the actual market value of the property. All actions to foreclose a mortgage would be subject to court-ordered mediation. The bill died in the Civil Justice and Courts Policy Committee.

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName= h0653 .xml&DocumentType=Bill&BillNumber=0653&Session=2009>

Florida: Termination of a Rental Agreement at Foreclosure, H.B. 1093

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

House Bill 1093 prohibits a landlord from terminating rental agreement without a specified period of prior notice and requires a landlord to notify each tenant that foreclosure proceedings have been initiated against the tenant's rental unit. The bill requires the tenant to pay rent as long as the tenant remains in the dwelling unit, but also authorizes the tenant to terminate a rental agreement before the end of the specified rental agreement period. The bill died in the Civil Justice & Courts Policy Committee.

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName= h1093 .xml&DocumentType=Bill&BillNumber=1093&Session=2009>

Florida: Relating to Landlord-Tenant Relations, S.B. 1646

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Amendment to Code

Senate Bill 1646 requires a property owner to give written notice to the mortgagee of the property that the property is being rented as a dwelling unit within 30 days of a rental agreement being signed. The landlord or the landlord's agent must also notify the mortgagee of any change in the rental agreement no later than 14 days after learning of the change.

The bill also requires that once the landlord receives a notice of foreclosure, the landlord must pay the tenant's deposit money into the registry of the court no later than 14 days after receipt of the notice of a foreclosure proceeding. The bill provides that purchasers of a foreclosed property must wait 60 days after the tenant has been given written notice of the foreclosure to take possession of the property. The bill provides that a landlord or the landlord's agent who rents a premises that is subject to a note or mortgage must inform a prospective or current tenant if the premises is in foreclosure proceeding or whether there are problems that may cause the premises to be subject to a foreclosure action. The bill died in the Senate Judiciary Committee.

http://www.flsenate.gov/session/index.cfm?Mode=Bills&SubMenu=1&BI_Mode=ViewBillInfo&BillNum=1038&Year=2009&Chamber=Senate#Analysis

Florida: An Act Relating to the Termination of a Rental Agreement at Foreclosure, S.B. 2070

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Regulatory Change

Senate Bill 2070 is similar to H.B. 1093, but contains an extra provision that makes the landlord subject to a civil penalty for violating the act. This bill also died in the Senate Judiciary Committee.

http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2009&billnum=2070

Florida: State Housing Initiatives Partnership Program, S.B. 2230

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Strategic Initiative

Senate Bill 2230 creates the State Housing Initiatives Partnership Program to provide funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships. The goal of these housing partnerships is to the expand production and preservation affordable housing, further the housing element of the local government comprehensive plan specific to affordable housing, and increase housing-related employment.

A county or an eligible municipality may expend a portion of the local housing distribution to provide a one-time relocation grant to income eligible residents of the State Housing Initiatives Partnership Program who are facing eviction from rental property located in the county or eligible municipality due to the foreclosure of the rental property. In order to receive a grant, a person must provide the county or eligible municipality with the following items:

- proof of meeting the income requirements of a very-low-income household, a low-income household, or a moderate-income household;
- a notice of eviction; and
- proof that the rent has been paid for at least three months before the date of eviction, including the month that the notice of eviction was served.

Relocation assistance under this paragraph is limited to a one-time grant of not more than \$5,000 and is not limited to persons who are subject to eviction from projects funded under the State Housing Initiatives Partnership Program. The bill contains a sunset date of July 1, 2010. The bill died in the Senate Committee on Community Affairs.

http://www.flsenate.gov/cgi-bin/view_page.pl?Tab=session&Submenu=1&FT=D&File=sb2230.html&Directory=session/2009/Senate/bills/billtext/html/

Idaho: An Act Relating to Trust Deeds, H.B. 234

Focus: Mortgage Lending

Type: Amendment to Code

This legislation restricts a lender from pursuing the judicial collection of a debt secured by a deed of trust until the borrowers, co-obligors and guarantors have been given an opportunity to voluntarily make a public auction sale of the real estate collateral. House Bill 234 also clarifies that any proceeds from the sale of foreclosed properties of deeds of trust, regardless of when that sale takes place, must be applied to reduce the outstanding loan balance and reduce the liability of borrowers, co-obligors, and guarantors. The bill died in the Judiciary Committee.

<http://www.legislature.idaho.gov/legislation/2009/H0234.pdf>

Maryland: An Act Concerning Credit Regulation ,Mortgage Lending, Borrower's Ability to Repay Loan, H.B. 232

Focus: Amendment to Code

Type: Mortgage Lending

Maryland House Bill 232 clarifies an existing law that prohibits a lender from making a mortgage loan without giving due regard to the borrower's ability to repay the loan. This bill states that the specific provisions of law that prohibit a lender from making a secondary mortgage loan without giving due regard to the borrower's ability to repay the secondary mortgage loan do not apply to a secondary mortgage loan for real property located in Maryland that is held primarily for rental, investment, or the generation of income through any commercial or industrial purpose.

<http://mlis.state.md.us/2009rs/bills/hb/hb0232f.pdf>

Mississippi: An Act to Provide Consumer Protections from Certain Mortgage Lending Practices, S.B. 2346

Focus: Mortgage Lending

Type: Amendment to Code

Senate Bill 2346 restricts high cost home loans. Under this legislation, a high-cost home loan may not contain a provision for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments, unless the balloon payment becomes due no less than 60 months after the date of the loan. This prohibition does not apply if the payment schedule is adjusted to account for the seasonal or otherwise irregular income of the borrower or if the loan is a bridge loan in connection with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

The bill also prohibits negative amortization by prohibiting a high-cost home loan from containing a payment schedule with regular periodic payments that cause the principal balance to increase as a consequence of a temporary forbearance, a bridge loan, or loan restructure sought by the borrower. Lenders are further prohibited from making high-cost home loans containing a prepayment penalty.

Finally, a lender may not make a high-cost home loan without first receiving certification from an approved counselor that the borrower has received counseling on the advisability of the loan

transaction and the appropriate loan for the borrower. The bill died in the Committee on Business and Financial Institutions.

<http://billstatus.ls.state.ms.us/documents/2009/html/SB/2300-2399/SB2346IN.htm>

Missouri: An Act Relating to Prepayment Loan Penalties, H.B. 524

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 524 prohibits lenders from imposing a fine, fee, or penalty for the prepayment on any loan issued in the state, and defines a lender as any bank, savings and loan association, credit union, corporation, partnership, or any other person or entity that makes loans. The bill died in the House Committee on Financial Institutions.

<http://www.house.mo.gov/content.aspx?info=/bills091/bills/hb524.htm>

Missouri: An Act to Amend the Missouri Code Relating to Consumer Protection for Homeowners, S.B. 282

Focus: Mortgage Lending

Type: Regulatory Change

Senate Bill 282 prohibits certain unfair or deceptive practices relating to home improvement loans to the consumer. Specifically, the bill prohibits:

- the extension of mortgage credit secured by the consumer's dwelling without regard for the consumer's repayment ability;
- payment under a home improvement contract from amounts extended as credit under a mortgage, except in the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or at the election of the consumer, by a third party escrow agent in the form of a written agreement signed by the consumer, creditor, and contractor before the date of payment; and
- the sale or assignment of certain mortgages without the provision of a notice stating that the mortgage is subject to special rules pursuant to the federal Truth in Lending Act.

A third party is not liable under this bill unless there was an agency relationship between the party who engaged in the home solicitation and the third party or the third party had actual knowledge of or participated in the unfair or deceptive transaction.

This legislation also prohibits home solicitations where a home improvement loan is made encumbering the person's home to pay the loan and where the practice violates federal law. Violation of this provision constitutes a Class A misdemeanor. The bill died in the Senate Commerce, Consumer Protection, Energy and the Environment Committee.

http://www.senate.mo.gov/09info/BTS_Web/BillText.aspx?SessionType=R&BillID=682675

Missouri: An Act to Amend the Missouri Code Relating to Residential Mortgage Loans, S.B. 541

Focus: Mortgage Lending

Type: Regulatory Change

Senate Bill 541 regulates residential mortgage lending. Under the bill, creditors are barred from knowingly or intentionally making a residential mortgage loan that refinances an existing residential mortgage loan when the new loan does not have reasonable, tangible benefit to the borrower. Lenders are also required to verify the borrower's reasonable ability to pay the scheduled payments, and are barred from making subprime loans containing prepayment penalties.

Residential mortgage loans are prohibited from financing property, life, or health insurance premiums, debt cancellation or suspension agreements, or products that are not related to the loan closing such as auto club memberships or the monitoring of credit reports. In addition, lenders may not make false, deceptive, or misleading statements or advertisements in connection with a residential mortgage loan.

Lenders found in violation are liable for punitive, actual, and consequential damages, court costs, damages equal to two times the amount of all lender and broker fees. The bill died in the Senate Financial and Governmental Organizations and Elections Committee.

http://www.senate.mo.gov/09info/BTS_Web/BillText.aspx?SessionType=R&BillID=968242

New Mexico: Loan Document Prepayment Disclosure, H.B. 501

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 501 creates a new section to the New Mexico Code which deals with money, interest, and usury. The new section will require that loan prepayment penalties must be disclosed in writing and provided to the borrower by the lender. The borrower must acknowledge by signature in writing, both receipt of the disclosure document and acceptance of the provisions of the prepayment penalty. Failure to obtain the signature of the borrower acknowledging these items results in the prepayment penalty becoming unenforceable by the lender or an assignee of the lender. The bill died in the Senate Judiciary Committee.

<http://legis.state.nm.us/LCS/session.aspx?Chamber=H&LegType=B&LegNo=501&year=09>

North Dakota: An Act Relating to Rescission Periods for Mortgages, H.B. 1319

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 1319 authorizes a borrower to rescind a transaction to provide a mortgage on a principal dwelling transaction until midnight of the third business day following the consummation of the transaction by notifying the creditor of the borrower's intention to rescind. The creditor is required to disclose clearly and conspicuously the rights of the borrower, as well as provide with appropriate forms to exercise the borrower's right to rescind the transaction. A finance charge or other charge may not begin to accrue on any transaction covered under this bill until the

termination of the rescission period. The bill died after failing to pass a vote in the House in January.

<http://www.legis.nd.gov/assembly/61-2009/bill-text/JAHC0100.pdf>

Rhode Island: An Act Relating to Mortgages of Real Property, S.B. 348

Focus: Mortgage Lending

Type: Amendment to Code

Senate Bill 348 would allow the full payment of mortgage loans to be made at any time without penalty. It removes the current provision in the Rhode Island Code that allowed prepayment penalties during the first year of the mortgage agreement and provided further, that during the first year, penalty or other charges for prepayment must not exceed two percent of the balance due at date of the pay-off. The bill died in the Senate.

<http://www.rilin.state.ri.us/BillText09/SenateText09/S0348.pdf>

Tennessee: An Act to Amend the Tennessee Code Relative to Certain Mortgages, H.B. 704/ S.B. 2016

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 704 prohibits a person, firm, or corporation from engaging in the business of making adjustable rate mortgage loans, unless they are an authorized lender. The bill states that prior to accepting an application for an adjustable rate mortgage loan, an authorized lender must refer the borrower to a counselor and must receive certification from the counselor that all borrowers have received counseling. Any adjustable rate mortgage loan that does not contain certification from a counselor may be invalidated and converted to a fixed rate loan at the prime interest rate at a competing financial institution at the time of the invalidation of the mortgage. The bill died when the session ended.

<http://www.capitol.tn.gov/Bills/106/Bill/HB0704.pdf>

Tennessee: Amending the Tennessee Home Loan Protection Act, H.B. 1926/S.B. 749

Focus: Mortgage Lending

Type: Amendment to Code

House Bill 1926 prohibits lenders from making a high cost home loan without first verifying that the borrower received appropriate housing counseling from third-party nonprofit organizations approved by the U.S. Department of Housing and Urban Development, a housing financing agency of this state, or the regulatory agency that has jurisdiction over the lender. The bill died in the Commerce Committee in late April.

<http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB1926>

Texas: Foreclosure Prevention Program, H.B. 2675

Focus: Mortgage Lending

Subfocus: Foreclosure Prevention and Mitigation

Type: Strategic Initiative

House Bill 2675 creates the Foreclosure Prevention Program to make financing and refinancing education and assistance available to the public and provide financial assistance to homeowners

facing foreclosure or whose income is adversely affected by circumstances such as unemployment, a reduction of wages or hours of employment, illness, or the death of a spouse or other person contributing to the income of a homeowner.

The Texas Department of Housing and Community Affairs, which would have administered the program, is to investigate and implement methods for disseminating to homeowners and homebuyers information designed to reduce and prevent foreclosures on homes in this state, including information concerning:

- mortgage financing and refinancing options;
- home equity practices;
- predatory lending practices;
- comparison of any financing or refinancing terms being offered to an individual and terms otherwise available to the individual; and
- establish eligibility requirements for homeowners to receive financial assistance under the program.

The bill died in the House Urban Affairs Committee.

<http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2675>

Texas: An Act Relating to the Liability of a Lender in Relation to Certain High-Cost Home Loans, H.B. 3252

Focus: Mortgage Lending

Type: Regulatory Change

H.B. 3252 amends the Finance Code to make a lender who knowingly violates provisions relating to high-cost home loans liable to a borrower for actual damages, injunctive relief, and reasonable attorney's fees. The bill died in the House Committee on Pensions, Investments, and Financial Services.

<http://www.capitol.state.tx.us/tlodocs/81R/billtext/html/HB03252H.htm>

Virginia: A Bill to Amend the Virginia Code, Relating to the Duty Of Persons Making Mortgage Loans to Provide Homeownership Education, H.B. 1787

Focus: Mortgage Lending

Type: Regulatory Change

Virginia House Bill 1787 prohibits licensed mortgage lenders and mortgage brokers and certain other persons exempt from the licensing requirements of the Mortgage Lender and Broker Act from committing to make a high-risk mortgage loan unless the prospective borrower has completed a homeownership education course that has been approved by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the Bureau of Financial Institutions, or the Virginia Housing Development Authority.

The bill defines a high-risk mortgage loan as a mortgage loan that is made to a borrower who is a first-time home buyer and used for the purchase of real property that is secured by a first lien and is either an adjustable or fixed-rate mortgage loan that bears interest at an initial rate four or

more percentage points greater than the Federal National Mortgage Association required net yield for 30-year fixed rate mortgages, 60-day delivery as of the date of interest rate lock-in or an adjustable rate mortgage loan that has an initial fixed interest rate period of three years or less and has a prepayment penalty. The required homeownership education course must contain the following:

- information on such topics as credit, obtaining a mortgage loan, working with the lender, preparing to close on the mortgage loan, the differences between types of loans, an explanation of such terms as points, fees, and APR, and what a monthly payment does and does not include;
- information on the repayment terms and obligations of the borrower under each high-risk mortgage loan that the person offers to the prospective borrower;
- approval by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the Commission's Bureau of Financial Institutions, or the Virginia Housing Development Authority; and
- be conducted by a person not affiliated with the originating mortgage lender or mortgage broker, unless the course is conducted in a classroom setting with two or more prospective borrowers in attendance and the affiliated person conducts the course in conjunction with instructors who are not affiliated with such lender or broker.

The bill exempts certain entities from the legislation including nonprofit corporations making mortgage loans to promote homeownership or improvements for the disadvantaged and lenders making three or fewer mortgage loans in any period of 12 consecutive months. The bill died in the House Commerce and Labor Committee.

<http://leg1.state.va.us/cgi-bin/legp504.exe?091+ful+HB1787>

Virginia: A Bill to Amend the Code of Virginia, Relating to Mortgage Lending and Brokering Practices, Including Subprime Loans, Negative Amortization, Special Loans, and Residential Mortgage Fraud, S.B. 991

Focus: Mortgage Lending

Type: Regulatory Change

Senate Bill 991 makes it unlawful for a mortgage broker knowingly to make, use, or facilitate the use any deliberate and material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process. The bill also prohibits mortgage brokers from providing or arranging for: a subprime loan containing a provision requiring or permitting the imposition of a prepayment penalty, a residential mortgage loan, other than a reverse mortgage, if the borrower's compliance with any repayment option will result in negative amortization during any six-month period, and a mortgage loan that will pay off a special mortgage unless the borrower has obtained a written certification from an authorized independent loan counselor on the advisability of the loan transaction.⁴²

⁴² A special mortgage is defined as a residential mortgage loan originated, subsidized, or guaranteed by or through an agency of the Commonwealth, a locality, or a nonprofit organization that has one or more nonstandard payment terms that substantially benefit the borrower.

Violations of this bill are punishable as a Class One misdemeanor. The bill also gives borrowers a private right of action for violations of certain prohibited practices under the Mortgage Lender and Broker Act, which allow the borrower to seek recovery of actual damages, statutory damages equal to the amount of all lender fees included in the amount of the principal of the mortgage loan, punitive damages, costs, and reasonable attorney fees. The bill died in the Senate Commerce and Labor Committee.

<http://leg1.state.va.us/cgi-bin/legp504.exe?091+ful+SB991>

West Virginia: A Bill to Amend the Code of West Virginia Relating To the Prevention of Predatory Mortgage Lending Practices, H.B. 3097/S.B. 709

Focus: Mortgage Lending

Type: Amendment to Code

This bill prohibits taking an interest in land as security arising out of credit sale, consumer loan or rent-to-own agreement in which:

- the loan, agreement or sale is not underwritten to determine whether the borrower can afford to repay consistent with the terms of the loan or sale;
- the loan does not include the obligation to engage in comprehensive loss mitigation;
- the consumer refinances an existing home-secured loan without achieving a net tangible benefit;
- income verification is not a part of the consumer loan underwriting;
- has a prepayment penalty;
- a trust deed allows for the substitution of the trustee without the consent of both parties, absent the death, disability or other inability to serve of the original agreed upon trustee; or
- the consumer is charged a rate of finance charge higher than that for which the consumer qualifies.

House Bill 3097 died in the House Banking and Insurance Committee.

http://www.legis.state.wv.us/bill_status/bills_text.cfm?billdoc=hb3097%20intr.htm&yr=2009&sesstype=RS&i=3097

Predatory and Payday Lending

Payday loans are small loans provided to consumers who have urgent short term needs for cash. When lenders make these small loans, typically ranging from under \$500 to \$3,000, borrowers receive the funds and must repay in a very short time period, resulting in interest rates of close to 400 percent.⁴³ Research from The Center for Responsible Lending estimates that payday loans strip up to \$5 billion in wealth from communities across the country each year.⁴⁴ Without a federal policy in place to nationally curb payday lending practices that strip wealth from low-income communities through excessive interest rates and contracts that trap consumers, payday lending is regulated at the state level, resulting in a myriad of policies and legislative efforts to curb usurious interest rates and protect vulnerable consumers.

State governments are introducing a variety of tools to combat these lending practices: from imposing stricter licensing requirements for lenders, to limiting the annual percentage rate lenders can charge, to limiting the amount of a payday loan, payday lending regulations vary from state to state in their breadth and the severity of punishments for their violation. This section examines and analyzes the payday lending legislation tracked for the 2009 state guide.

Payday Lending⁴⁵

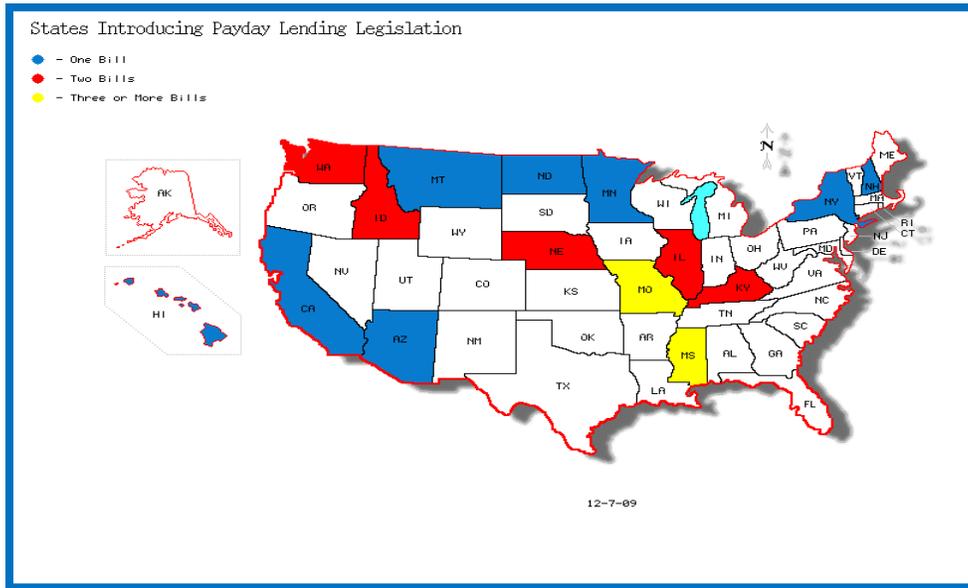
There were 28 predatory lending bills introduced in 15 states during the 2009 legislative session. The map below show the state that introduced payday lending legislation in color: states in blue introduced one bill, states in red introduced two, and states that introduced more than three bills are shown in yellow:

- One Bill: Arizona, California, Hawaii, Minnesota, Montana, New Hampshire, New York, North Dakota, South Dakota
- Two Bills: Idaho, Illinois, Kentucky, Nebraska, Washington
- Three or More Bills: Mississippi, Missouri

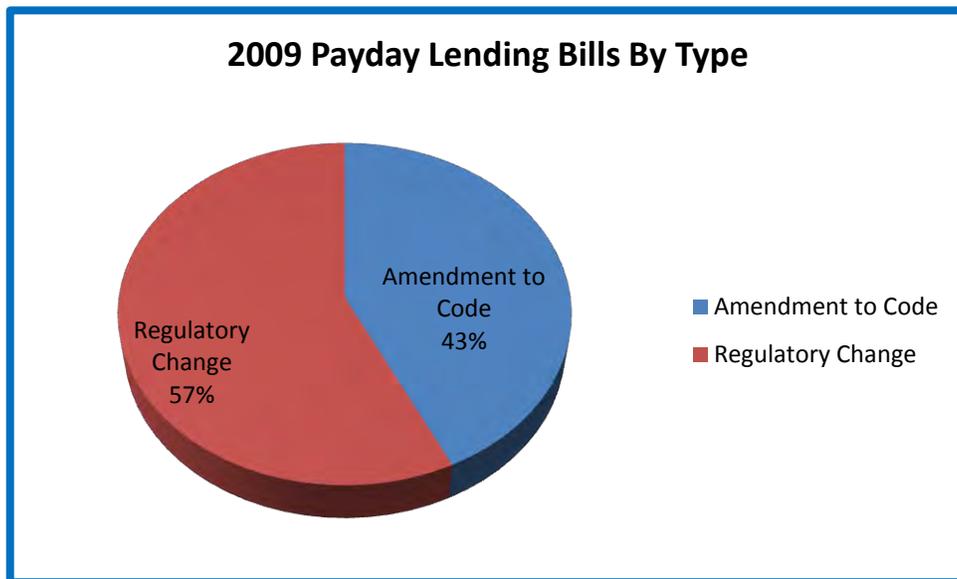
⁴³ Payday Lending Overview. Center for Responsible Lending, <http://www.responsiblelending.org/payday-lending/>, accessed December 1, 2009.

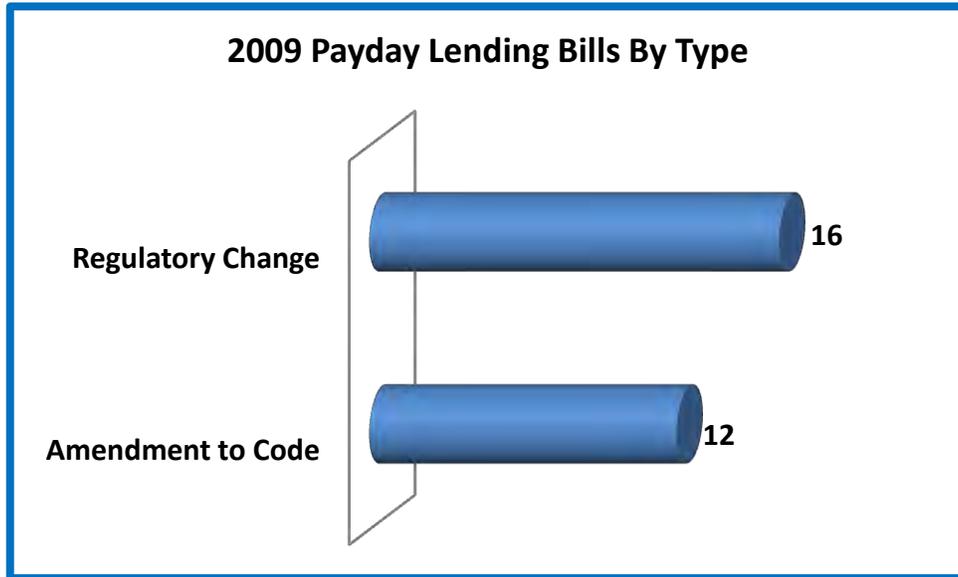
⁴⁴ Ibid.

⁴⁵ Predatory Lending section begins on page 168.

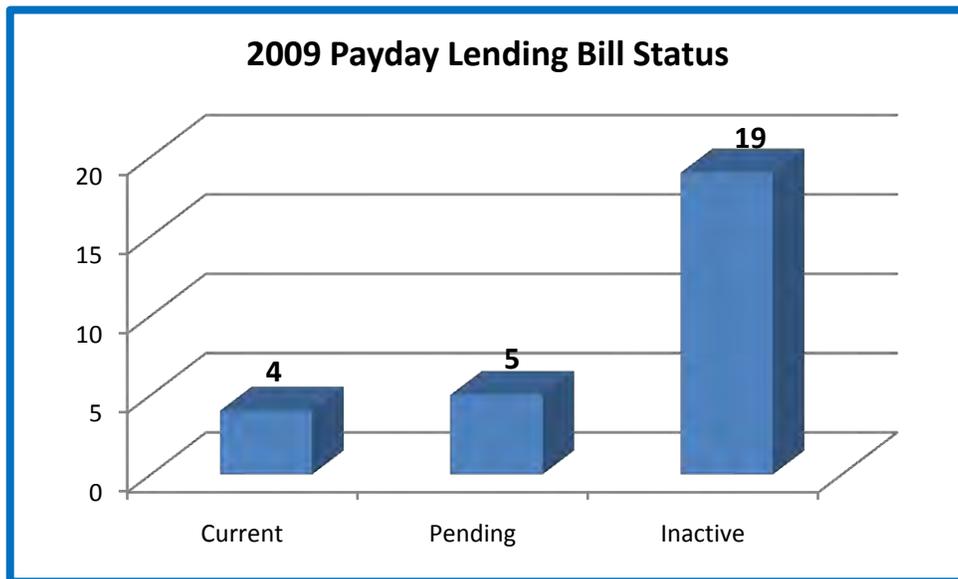


Of the 28 payday lending bills introduced during this session, 43 percent were amendments to code (12 bills), and the other 16 bills were regulatory changes.





Close to 78 percent of payday lending legislation tracked in this guide did not pass the legislature in which it was introduced. Four payday lending bills passed: Kentucky H.B. 44, Minnesota S.F. 806, Nebraska L.B. 327, and Washington H.B. 1621. There are an additional five payday lending bills pending in four state legislatures: one in California, New York, and Washington, and two bills in Illinois.



Current Legislation

Kentucky: An Act Relating to Deferred Deposit Transactions, H.B. 444

Focus: Payday Lending

Type: Regulatory Change

House Bill 444 details licensing requirements for payday lenders, including disclosures about interest rates. Under this legislation, a licensed lender may not have more than two deferred deposit transactions with a customer at any one time and the face amount of the transactions may not exceed \$500. The bill also creates a database of deferred deposit transactions, funded by adding a \$1 fee to borrowers. The bill was signed into law on March 25, 2009.

<http://www.lrc.ky.gov/record/09RS/HB444.htm>

Minnesota: An Act Relating to Regulating Payday Lending, S.F. 806

Focus: Payday Lending

Type: Regulatory Change

This legislation regulates payday lending by changing the consumer short-term loan contract law. Under this legislation, contracts are required to follow Minnesota law and cannot limit class actions against lenders who violate the provisions of the law, including making loans without the required licenses, or which have interest rates, fees, charges, and loan amounts which exceed the allowable amount in the statute. It also makes individuals and organizations that violate these provisions to be held liable for all money received in connection with the loan: specified damages, costs, disbursements, and reasonable attorney fees.

Lenders are required to disclose a copy of the written loan contract to each borrower, and to furnish the Department of Financial Institutions with information about the business activities associated with short-term loans. The bill passed both Houses and was signed into law by Minnesota Governor Tim Pawlenty.

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=S0806.2.html&session=ls86>

Nebraska: An Act Relating to Banking and Finance, L.B. 327

Focus: Payday Lending

Type: Regulatory Change

Legislative Bill 327 changes provisions relating to a disciplinary action under the Delayed Deposit Services Licensing Act, the statute which regulates payday lenders. Under the bill, The Department of Banking and Finance can suspend or revoke any license issued pursuant to the Delayed Deposit Services Licensing Act if:

- a licensee or any of its officers, directors, partners, or members has knowingly violated the act or any rule, regulation, or order of the director;
- a fact or condition existing which, if it had existed at the time of the original application for such license, would have warranted the director to refuse to issue such license;
- a licensee has abandoned its place of business for a period of 30 days or more;

- a licensee or any of its officers, directors, partners, or members has knowingly subscribed to, made, or caused to be made any false statement or false entry in the books and records of any licensee, has knowingly subscribed to or exhibited false papers with the intent to deceive the Department of Banking and Finance, has failed to make a true and correct entry in the books and records of such licensee of its business and transactions in the manner and form prescribed by the department, or has mutilated, altered, destroyed, secreted, or removed any of the books or records of such licensee without the written approval of the department; or
- a licensee has knowingly violated a voluntary consent.

The legislation was signed into law April 8, 2009.

<http://nebraskalegislature.gov/FloorDocs/Current/PDF/Slip/LB327.pdf>

Washington: An Act Relating to Prohibiting Small Loans, H.B. 1709

Focus: Payday Lending

Type: Regulatory Change

This legislation amends the Check Cashers Act to allow a borrower to rescind a loan, on or before the close of business on the next business day at the location where the loan was made. The borrower must return the principal in cash or the original check of the licensee. A licensee may not charge the borrower a fee for rescinding the loan and must return any postdated check taken as security for the loan or any electronic equivalent. In addition, after four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. The bill passed the legislature and was signed into law on May 15, 2009.

The provisions go into effect January 1, 2010.

http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session_percent20Law_percent202009/1709-S.SL.pdf

Pending Legislation

California: An Act Relating to Deferred Deposit Transactions, A.B. 377

Focus: Payday Lending

Type: Amendment to Code

Assembly Bill 377 makes several changes to the California Financial Code in reference to payday loans. This bill also contains provisions concerning notice and licensing-related requirements. First, the bill increases the maximum value of a payday loan from \$300 to \$500 and permits a payday loan customer to rescind the transaction no later than the end of the next business day.

The bill allows a customer to repay a loan using an extended repayment plan which includes at least four installments which would have to be scheduled for dates on or after dates that the customer receives regular income. Further, a customer may prepay an extended payment plan in full at any time without penalty and the payday lender is prohibited from charging any interest or additional fees during the term of the extended payment plan, engaging in any collection activities, or making any additional payday loans to the customer while the customer makes timely payments according to the extended payment plan.

Finally, A.B. 377 requires a lender who provides a payday loan over the Internet to give the required notices and written agreement to a customer electronically and would revise advertising requirements to specify that the restrictions apply also to advertising on the Internet. Payday loan lenders are also required to pay a five-cent fee for each payday loan transaction to the Department of Corporations to be used for financial literacy education programs. The bill passed the Assembly in May and is pending in the Senate Judiciary Committee.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0351-0400/ab_377_bill_20090623_amended_sen_v96.html

Hawaii: A Bill for an Act Relating to Payday Lending, H.B. 447

Focus: Payday Lending

Type: Amendment to Code

House Bill 447 prohibits a check casher from charging interest to a customer who has entered into a payment plan and is not in default for a period of up to 90 days, and prohibits lenders from making another deferred deposit agreement with a customer within 30 days after the completion of any other payment plan with the same customer.

The bill further requires a check casher to offer an interest-free payment plan with a minimum term of 60 days to any customer who is in default. Any collection letter written to a customer in default is to inform the customer of the option of an interest-free payment plan. A check casher must also offer an extended repayment plan option to any customer who has entered into an interest-free payment plan, though the extended repayment plan becomes available only if the customer requests the option before the close of business on the last payment plan due date. Finally the bill authorizes the Director of Commerce and Consumer Affairs to adopt rules necessary to implement the provisions of the bill. The bill passed the House and is pending in the Senate, where it will be taken up in the 2010 legislative session.

http://www.capitol.hawaii.gov/session2009/Bills/HB447_HD1_.HTM

Illinois: Amending the Payday Loan Reform Act, H.B. 3901

Focus: Payday Lending

Type: Amendment to Code

House Bill 3901 amends the Payday Loan Reform Act. The bill changes the definition of payday loan to include any loan with a finance charge exceeding an annual percentage rate of 36 percent and deletes a provision that a certain fee is considered fully earned as of the date the loan is made. The bill also states that no lender may make a payday loan with installment payments unless the installment payments are substantially equal term payments, and when a consumer repays a payday loan in full before its due date, the lender is required to rebate the unearned finance charges to the consumer on a straight-line amortization basis as of the date of repayment.

The bill further requires the licensee, as part of the information that he or she must collect and maintain, to include the total number of lawsuits filed by the licensee or its agent against consumers to collect on payday loans from consumers during the preceding calendar year and prohibits a licensee or a person making payday loans from evading the requirements and prohibitions of the Act. The bill specifically prohibits disguising a payday loan as a different type of transaction, or characterizing a required fee as a purchase of a good or service in connection with a payday loan. The bill is still pending in the House Rules Committee.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=HB&DocNum=3901&GAID=10&LegID=46724&SpecSess=&Session=>

Illinois: An Act to Amend the Consumer Installment Loan Act, S.B. 1376

Focus: Payday Lending

Type: Amendment to Code

Senate Bill 1376 defines the terms Class A loan, Class B loan, Class C loan, and payday loan, and specifies the charges allowed for interest-bearing and precomputed Class A loans and Class B loans. In the provisions concerning Class C loans, the bill sets forth provisions concerning:

- loan amortization;
- use of consumer reporting services in comportment with the Payday Loan Reform Act;
- lenders' prohibited acts;
- protections for members of the military in accordance with the Payday Loan Reform Act;
- allowable fees in the case of a defaulted loan;
- disclosure requirements; and
- controlling terms of the Consumer Installment Loan Act and amending the Payday Loan Reform Act.

The bill prohibits a lender from making a payday loan to a consumer if the loan would result in the consumer being indebted to one or more payday lenders for a period in excess of 56 consecutive days, increased from 45 consecutive days. Further, no lender may charge more than \$17 per \$100 loaned (now \$15.50 per \$100 loaned). The bill allows lenders to seek and be awarded court costs, but not attorney's fees, in the event of a customer default on the

repayment plan, and when a customer is in default and refuses to enter into the repayment plan. The legislation is still pending in the Senate.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=SB&DocNum=1376&GAID=10&LegID=42612&SpecSess=&Session=>

Minnesota: An Act Relating to Financial Institutions, Regulating Payday Lending, and Providing Penalties and Remedies, H.F. 1147

Focus: Payday Lending

Type: Regulatory Change

Minnesota House File 1147 prohibits loan churning and regulates consumer short-term loans, defined as a loan to a borrower which has a principal amount, or an advance on a credit limit, of \$1,000 or less and requires a minimum payment within 60 days of loan origination or credit advance of more than 25 percent of the principal balance or credit advance. Under the bill, a consumer short-term lender may not make a consumer short-term loan to a borrower who has obtained a loan from that lender within the prior six months. A consumer short-term lender must offer a conventional term loan to any such borrower who makes a loan inquiry.

The bill further states that no contract or agreement between a consumer short-term loan lender and a borrower residing in Minnesota may contain the following:

- a mandatory arbitration provision;
- a provision selecting a law other than Minnesota law under which the contract is construed or enforced;
- a provision choosing a forum for dispute resolution other than the Minnesota courts; or
- a provision limiting class actions.

The bill is pending in the House Commerce and Labor Committee.

https://www.revisor.leg.state.mn.us/revisor/pages/search_status/status_detail.php?b=House&f=HF1147&ssn=0&y=2009

New York: An Act to Amend the Banking Law and the General Obligations Law, In Relation to Prohibiting Foreign Banking Corporations from Engaging in High-Cost Payday Loans, A.B. 1484

Focus: Payday Lending

Type: Amendment to Code

Assembly Bill 1484 prohibits a foreign banking corporation from making any payday loan, either directly or indirectly, or making any loan to any other lender for purposes of financing a payday loan or refinancing or extending any payday loan. The bill further states that a creditor may not make a payday loan to any person if the creditor knows or has reasonable cause to believe that the personal check or share draft the creditor receives permission from the person to debit, in exchange for the loan, is a transaction account or share draft account at an insured depository institution or an insured credit union. The bill is pending in the Assembly Banking Committee.

<http://assembly.state.ny.us/leg/?bn=A1484>

Washington: An Act Relating to Restricting and Enforcing Eligibility for Small Loans, H.B. 1685

Focus: Payday Lending

Type: Amendment to Code

House Bill 1685 restricts payday lending activities by capping the combined principal of all outstanding small loan balances at 30 percent of the gross monthly income of a borrower. The bill also authorizes the Department of Financial Institutions to develop and implement a system where a licensee can determine if a small loan can lawfully be made to a borrower. This includes:

- whether a consumer has an outstanding small loan;
- the number of small loans the consumer has outstanding;
- whether the borrower is eligible for a loan; and
- any other information necessary to comply with state law.

The bill is pending in the House Committee on Financial Institutions.

<http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/House %20Bills/1685.pdf>

Inactive Legislation

Arizona: An Act Relating to Payday Loans, H.B. 2225

Focus: Payday Lending

Type: Regulatory Change

House Bill 2225 prohibits small loans of less than \$3,000 from being issued except by a bank or thrift chartered under the laws of the United States, a bank chartered under the laws of another state and insured by the federal deposit insurance corporation or a credit card bank that is not operating in violation of the federal and state laws applicable to its charter. Any person who violates the bill is guilty of a Class One misdemeanor for each loan transaction in violation of the statute. Further, anyone who aids a violation, including any arbiter or arbitration company, is also guilty of a Class One misdemeanor. A person convicted of three or more violations and who commits a subsequent violation is guilty of a Class Six felony. Finally, the bill imposes strict regulations on payday lending, including locations. It also imposes regulations on small loans to military personnel. The bill died in the House Rules Committee.

<http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/49leg/1r/bills/hb2225p.htm>

Idaho: An Act Relating to Payday Loans, H.B. 227

Focus: Payday Lending

Type: Amendment to Code

House Bill 227 makes a payday loan made in the state in violation of the licensing requirement void, uncollectible and unenforceable, and the debtor is not obligated to pay the principal or any fee associated with the loan. Borrowers who pay a part of the principal or fees for a bill in violation of the law have the right to recover the payments from the violator.

The bill also allows a licensee and borrower to agree to a payment plan for a payday loan at any time. A borrower who is unable to repay a payday loan may elect once in any 12-month period to repay the payday loan. To request an extended payment plan, the borrower, before the due date of the outstanding payday loan, must request the plan and sign an amendment to the payday loan agreement that memorializes the plan's terms. The extended payment plan's terms must allow the borrower to repay the outstanding payday loan, including any fee due, in at least four substantially equal installments. Each plan installment must be due on or after a date on which the borrower receives regular income. The borrower may prepay an extended payment plan in full at any time without penalty.

The licensed lender is further prohibited from charging a borrower any other interest or additional fees during the term of the extended payment plan but may charge a borrower an additional fee not to exceed the amount of the original contract fee for the right to enter into an extended payment plan. The payment plan fee may be charged only once per extended payment plan. House Bill 227 died in the House Business Committee.

<http://www.legislature.idaho.gov/legislation/2009/H0227Bookmark.htm>

Kentucky: An Act Relating to Short-Term Loans, H.B. 516

Focus: Payday lending

Type: Regulatory Change

This bill requires payday lenders to be licensed by the state and requires written disclosure of all interest and fees to be charged to the borrower prior to making the short-term loan. House Bill 516 also limits the annual percentage rate to 36 percent for a short-term loan and eliminates the maximum \$15 dollar service fee per \$100 for deferred deposit transactions. A borrower is also limited to one outstanding short-term loan at one time with a face value not to exceed \$500 for a term of no more than 30 days. The bill prohibits renewing, rolling over, refinancing, or consolidating a short-term loan for a fee and requires a licensee to inquire whether a person seeking a short-term loan has obtained a short-term loan within the previous 90 days. The bill died in the Banking and Insurance Committee.

<http://www.lrc.ky.gov/record/09RS/HB516.htm>

Mississippi: Mississippi Alternative Loan Act, H.B. 1544

Focus: Payday Lending

Type: Regulatory Change

House Bill 1544 prohibits any person who advertises for, solicits, or makes loan transactions of less than \$1,000 without holding a valid and subsisting license. Every person engaged in the business of lending money must also have a physical office located in Mississippi. The bill authorizes licensee to charge an acquisition charge for making the loan in an amount up to ten percent of the amount of the principal, and an installment account handling charge in an amount that increases proportionally to the amount of the loan, to a maximum of \$20 on a \$1,000 loan. The bill's provisions do not apply to:

- any person doing business under the authority of, and as permitted by, any law of this state or of the United States relating to banks, trust companies, savings or building and loan associations, credit unions as defined by law;
- any Mississippi licensed small loan, pawnbroker or check-cashing business;
- any person making loans to their tenants engaged in agriculture;
- loans by agricultural suppliers to persons whose principal business is farming;
- agricultural credit corporations or associations organized under an act of the Congress of the United States;
- any business financing the purchase of motor vehicles, refrigerators or other personal property; or
- loans insured or guaranteed by the United States or any of its agencies.

Violations of the act are misdemeanor offenses punishable by a fine of up \$1,000 or imprisonment in the county jail for up to six months, or both a fine and imprisonment. The bill died in the House Banking and Financial Services Committee in February.

<http://billstatus.ls.state.ms.us/2009/pdf/history/HB/HB1544.xml>

Mississippi: Short-Term Lender Law, S.B. 2018

Focus: Payday Lending

Type: Regulatory Change

The Mississippi Short-Term Lender Law requires short-term lenders to be licensed in the state and details the application procedure and bond requirements. The bill also limits the interest rate and fees on short-term loans. The bill authorizes the Commissioner of Banking and Consumer Finance to adopt rules and issue specific orders to enforce and carry out the provisions of the law, as well as provide criminal penalties. Finally, Senate Bill 2018 requires the Commissioner to develop and maintain a statewide database of short-term loans and create a Consumer Finance Education Board. The bill died in the Committee on Business and Financial Institutions.

<http://billstatus.ls.state.ms.us/2009/pdf/history/SB/SB2018.xml>

Mississippi: Credit Enhancement Loan Act, S.B. 2509

Focus: Payday Lending

Type: Regulatory Change

House Bill 2509 creates the Credit Enhancement Loan Act of 2009, a bill that requires licensing of lenders by the Department of Banking and Consumer Finance. This legislation provides a vehicle for banking services and mainstream credit products to build and rebuild credit histories to enable customers in all segments of the financial spectrum, especially the financially underserved and unbanked populations, to improve their credit ratings and qualify for mainstream financial services. It sets forth a minimum set of parameters to establish a credit enhancement loan that other financial institutions may offer to qualified customers and permits a higher interest rate to cover the increased risk associated with offering certain financial products to these underserved populations. The bill died in the Committee on Business and Financial Institutions.

<http://billstatus.ls.state.ms.us/documents/2009/html/SB/2500-2599/SB2509IN.htm>

Mississippi: An Act to Prohibit Payday Lending, S.B. 2890

Focus: Payday Lending

Type: Regulatory Change

Senate Bill 2890 prohibits payday lending, deferred presentment services, advance cash services and other similar activities and details the penalties for a violation of the statute. The bill also declares the site or location of a place of business where payday lending takes place in the state of Mississippi as a public nuisance. The bill died in the Committee on Business and Financial Institutions.

<http://billstatus.ls.state.ms.us/documents/2009/html/SB/2800-2899/SB2890IN.htm>

Missouri: An Act Relating to Payday Loans with Penalty Provisions, H.B. 150

Focus: Payday Lending

Type: Regulatory Change

This bill changes the laws regarding unsecured loans of \$500 or less. In its main provisions, the bill limits the interest and other fees that may be charged on the loans to \$15 per \$100 of principal for the first 30 days of the loan and not more than three percent per month thereafter, which is an annual percentage rate of approximately 36 percent, prohibits repeated renewals of loans to circumvent interest rate restrictions, and grants jurisdiction to the Attorney General to issue cease and desist orders against violators.

The bill allows the Attorney General to sue requesting a circuit court to issue an injunction, restraining order, or declaratory judgment, to impose a civil penalty, or to impose an order of rescission, restitution, or disgorgement against a person or entity who has violated any laws relating to consumer loans. It also specifies that the lending limitations apply to all lenders, whether or not they are properly licensed, and requires the Division of Finance in the Department of Insurance, Financial Institutions and Professional Registration to report annually to the General Assembly various information relating to loans issued by lenders. The legislation died in committee.

<http://www.house.mo.gov/billtracking/bills091/biltxt/intro/HB0150I.htm>

Missouri: An Act Relating to Lenders of Unsecured Loans of Five Hundred Dollars or Less, With a Penalty Provision, H.B. 505

Focus: Payday Lending

Type: Regulatory Change

Beginning August 28, 2009, this bill prohibits any new lenders of unsecured loans of \$500 or less from operating a business within one mile of the main entrance to a military base. The bill died in the Committee on Financial Institutions.

<http://www.house.mo.gov/billtracking/bills091/biltxt/intro/HB0505I.htm>

Missouri: An Act Relating To Unsecured Loans of Five Hundred Dollars or Less, With Penalty Provisions, S.B. 20

Focus: Payday Lending

Type: Regulatory Change

Senate Bill 20 amends the Missouri law relating to unsecured loans of \$500 or less. Under current law, lenders may renew such loans upon the borrower's request. This act prohibits lenders from renewing payday loans and allows the Attorney General to issue a cease and desist order when lenders fail to make a good faith effort to comply with laws relating to consumer loans. The Attorney General may also file an action in any circuit court to enjoin the practice, impose a civil penalty, or to obtain an order of rescission, restitution, or disgorgement.

The bill authorizes a lender to charge interest and fees up to the amount of \$15 per \$100 of principal for the first 30 days of the loan, and not more than three percent per month thereafter, which is an annual percentage rate of approximately 36 percent. The bill also requires the

Division of Finance to report to the General Assembly the number of licenses issued each year. The bill died in the Committee on Financial and Governmental Organizations and Elections.

<http://www.senate.mo.gov/09info/pdf-bill/intro/SB20.pdf>

Montana: An Act Revising the Montana Deferred Deposit Loan Act and the Montana Title Loan Act, H.B. 396

Focus: Payday Lending

Type: Amendment to Code

This legislation maximizes the annual percentage rate on title loans and deferred deposit loans to at 36 percent, not including insufficient funds fees, recording costs, and service charges. The bill died when the legislative session ended.

<http://data.opi.mt.gov/bills/2009/billhtml/HB0396.htm>

Nebraska: The Short-Term Lender Act, L.B. 293

Focus: Payday Lending

Type: Regulatory Change

Legislative Bill 293 repeals the Delayed Deposit Act and creates the Short-Term Lender Act which would be administered by the Department of Banking, and allows the Department to establish rules and regulations for short-term lenders, including qualifications for employees of such establishments, including setting licensing fees for short-term lenders.⁴⁶ The bill establishes conditions for borrowers of short-term loans, including a \$500 maximum loan amount, not to exceed 35 days, with a 36 percent annual percentage rate. It also limits check collection charges and prohibits redepositing checks that have not cleared without the borrower's written permission.

It allows borrowers an optional extended payment plan up to 60 days with no increase in interest, and prohibits disallows loans to borrowers that have had two loans in last 90 days without completion of an approved financial literacy class. Lenders are also prohibited from making more than three loans to the same borrower each year. Finally, the bill states that violations of the bill carries the penalties of Class I misdemeanor. The bill did not pass the legislature this session.

<http://nebraskalegislature.gov/FloorDocs/Current/PDF/Intro/LB293.pdf>

⁴⁶ The fees include a \$200 investigation fee and a \$5,000 licensing fee to be deposited in the Financial Literacy Education Fund, which will be administered by the Department of Banking and will be used to support financial literacy programs for adults developed or approved by the Department of Banking.

New Hampshire: An Act Relative to the Interest Rate on Small Loans and Relative to the Definition of Lender for Purposes of Regulating Such Loans, S.B. 193

Focus: Payday Lending

Type: Amendment to Code

Senate Bill 193 establishes a maximum interest rate on small loans of \$10,000 or less. For any closed-end loan in the amount of \$10,000 or less, a lender may not charge more than 36 percent per annum on the entire principal of the loan for interest, compensation, brokerage, endorsement fees, consideration, expense or any other fees in connection with the loan. The bill passed the Senate but died in the House Commerce and Consumer Affairs committee.

<http://www.gencourt.state.nh.us/legislation/2009/SB0193.html>

North Dakota: An Act to Amend the North Dakota Century Code, Relating to Fees for Deferred Presentment Services; and to Provide a Penalty, H.B. 1421

Focus: Regulatory Change

Type: Payday Lending

House Bill 1421 regulates the fees deferred presentment service transaction providers, or payday lenders, can charge for service, and outlines the penalties for violating the provisions. The bill reduces the permissible fee from 20 to 15 percent of the amount of the loan, and the maximum loan amount from \$500 to \$250 dollars. Further, the allowable aggregate value of all outstanding payday loans to any one customer is reduced from \$600 to \$300. The bill states that before disbursing funds under a deferred presentment service transaction, a licensee shall provide to the customer a clear and conspicuous printed notice indicating:

- that a deferred presentment service transaction is not intended to meet long-term financial need;
- that the customer should use a deferred presentment service transaction only to meet short-term cash needs;
- that the customer will be required to pay additional fees if the deferred presentment service transaction is renewed rather than paid in full when due. If the transaction is renewed, any amount paid in excess of the fee applies to the payoff amount;
- a schedule of fees charged for deferred presentment service; and
- any information required under federal law;

The bill also prohibits the licensee from holding property, titles to any property, or mortgages directly or indirectly as a condition of a deferred presentment service transaction or as a method of collection on a defaulted deferred presentment service transaction without proper civil process. Finally, a licensee or any agent of a licensee who willfully violates this section is guilty of a class A misdemeanor. The bill died when it failed a House vote in February.

<http://www.legis.nd.gov/assembly/61-2009/bill-text/JBIH0100.pdf>

South Dakota: An Act to Prohibit Multiple Payday Loan Transactions with the Same Person or Within a Specified Time Period, and to Provide for a Database to Verify Transactions, H.B. 1168

Focus: Payday Lending

Type: Amendment to Code

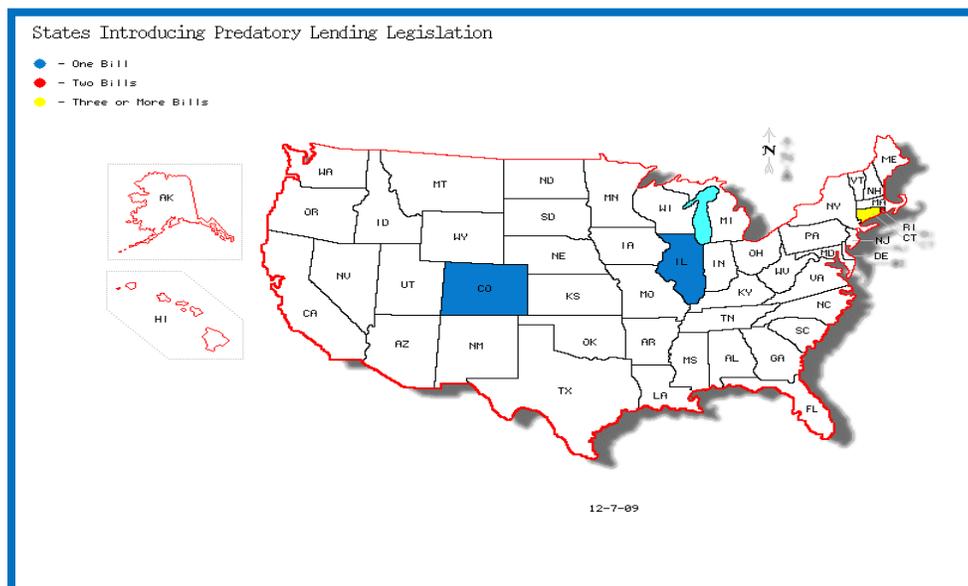
House Bill 1168 prohibits a payday loan provider from entering into any payday loan transaction with any person who has an outstanding payday loan transaction with that provider or with any other payday loan provider, nor with any person whose previous payday transaction with that provider or with any other provider has been terminated for less than 24 hours. The payday loan provider must verify the information by maintaining a common database and shall verify whether the provider has an outstanding payday loan transaction with a borrower or has terminated a transaction with that person within the previous 24 hours. The bill died in the House Commerce Committee.

<http://legis.state.sd.us/sessions/2009/Bill.aspx?File=HB1168P.htm>

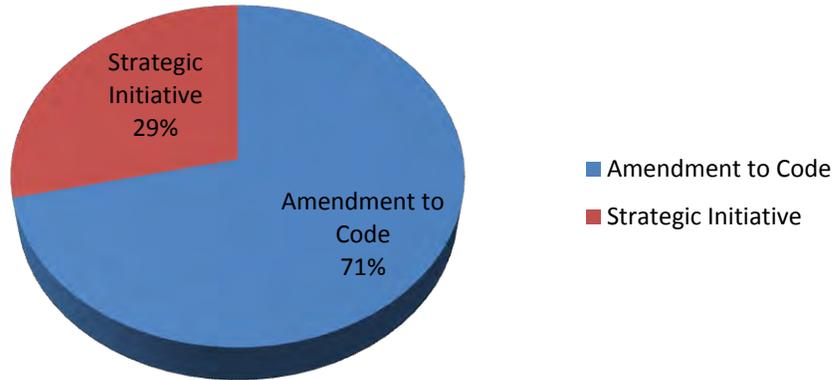
Predatory Lending

There were seven predatory lending bills introduced in four states during the 2009 legislative session. Predatory lending bills are legislation regulating lending practices that are not related to small, unsecured payday loans or mortgage loans. The map below shows the state that introduced predatory lending legislation in color: states in blue introduced one bill, states in red introduced two, and states that introduced more than three bills are shown in yellow:

- One Bill: Colorado, Illinois
- Two Bills: Rhode Island
- Three or More Bills: Connecticut

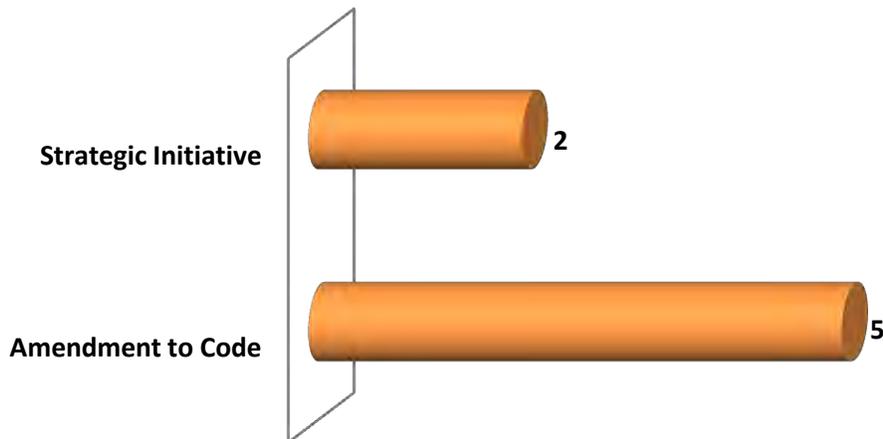


2009 Predatory Lending Bills By Type

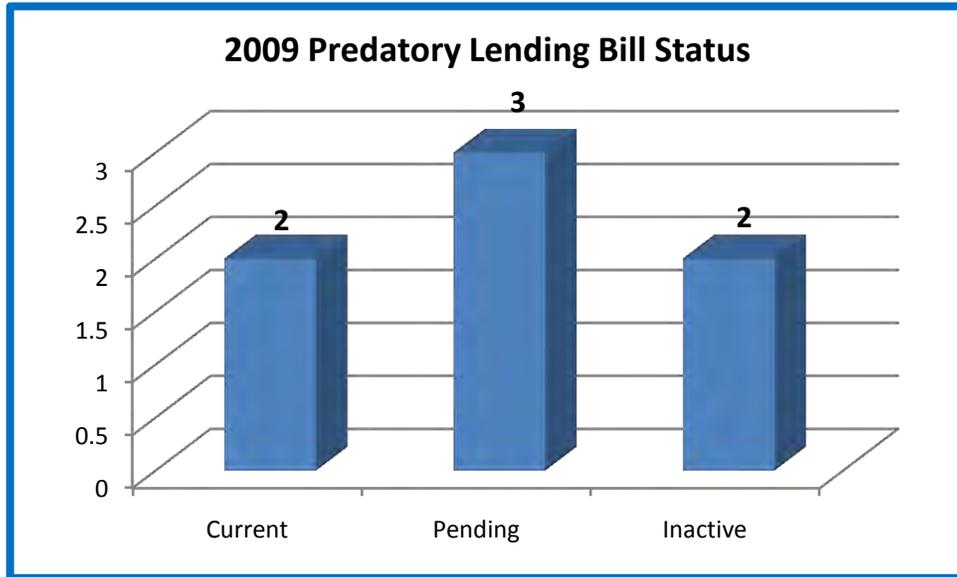


Of the predatory lending bills tracked for the state guide, five bills (71 percent) were amendments to the state code, while two bills, Illinois House Bill 705, the Residential Real Property Disclosure Act and Rhode Island Senate Bill 478, and the Fair Lender Practices Act.

2009 Predatory Lending Bills By Type



Of the seven predatory lending bills introduced during the session, two passed: Colorado H.B. 1141 and Connecticut Senate Bill 950. An additional three bills are still pending: Illinois H.B. 705 and two bills in Rhode Island: H.B. 5900 and Senate Bill 478.



Current Legislation

Colorado: Concerning Laws Enforced by the Administrator of the Uniform Consumer Credit Code, H.B. 1141

Focus: Predatory Lending

Type: Amendment to Code

The bill modifies several provisions of the Uniform Consumer Credit Code (UCCC) and the fees charged by the UCCC administrator, as follows:

- eliminates certain statutory fees;
- allows the UCCC administrator to set certain fees;
- allows the UCCC Cash Fund to retain a fund balance equal to one-third of the previous fiscal year's expenditures, instead of 16.5 percent of the prior year's expenditures;
- makes consumer leases subject to the same fee caps and procedural requirements that apply to the sale of credit insurance and other products;
- includes nonprofit organizations within the definition of a credit services organization;
- updates a disclosure regarding the availability of free credit reports; and
- exempts providers of debt-management services that are subject to the Colorado Foreclosure Protection Act from the Uniform Debt-Management Services Act.

The bill was signed into law on March 20, 2009.

http://www.leg.state.co.us/Clitics/CLICS2009A/csl.nsf/fsbillcont3/CA52969B959C2B318725753D007667C5?Open&file=1141_enr.pdf

Connecticut: An Act Concerning Consumer Credit Licensees, S.B. 950

Focus: Predatory Lending

Type: Amendment to Code

This bill makes a number of changes regarding consumer credit licensees. It specifies how licenses must be surrendered, allows the Banking Commissioner to deny an application for a period after a prior application has been withdrawn, and requires license applicants to provide a history of criminal convictions and allows the Commissioner to deny the application on that basis.

The bill also requires licensed money transmitters to notify the commissioner of certain events, requires contracts between them and their agents, and clarifies the commissioner's enforcement authority. The bill also expands the definition of debt adjustment to include, among other things, short sales, and broadens who can be a licensed debt adjuster. The bill passed and was signed into law on July 7, 2009.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=950&which_year=2009&SUBMIT1.x=0&SUBMIT1.y=0&SUBMIT1=Normal

Pending Legislation

Illinois: Residential Real Property Disclosure Act, H.B. 705

Focus: Predatory Lending

Type: Strategic Initiative

House Bill 705 creates a predatory lending database program in Kane and Will counties in the state of Illinois starting July 1, 2010. The database shall be designed to allow brokers, originators, counselors, title insurance companies, and closing agents to submit information to the database online. Broker and mortgage loan originators must submit the required information into the database within ten days of taking a mortgage application. Within seven days after receipt of the information, the Department shall compare that information to certain housing counseling standards and issue to the borrower and the broker or originator a determination of whether counseling is recommended for the borrower. The borrower may not waive counseling.

If after submitting the information into the database, the broker or originator changes the terms of the loan or issues a new loan, the new information must be input into the database system within five days of the changes. The Department may require re-counseling if the loan terms have been modified to meet another counseling standard, or if the broker has increased the interest rate by more than 200 basis points. The bill is pending in the Senate Assignments Committee.

<http://www.ilga.gov/legislation/BillStatus.asp?DocNum=705&GAID=10&DocTypeID=HB&LegId=41240&SessionID=76&GA=96>

Rhode Island: An Act Relating To Small Loan Lenders, H.B. 5900

Focus: Predatory Lending

Type: Amendment to Code

House Bill 5900 requires businesses operating as or taking part in money transfers or check cashing to provide additional information when submitting their annual license renewal. The additional information includes the net profit for each location listed under their license, whether or not they have a policy to guide their community reinvestment, and if so to provide a copy of such; and, a list of donations made, including amount and to which institutions or organizations. The bill is pending in the legislature.

<http://www.rilin.state.ri.us/BillText/BillText09/HouseText09/H5900.htm>

Rhode Island: Fair Lender Practices Act, S.B. 478

Focus: Predatory Lending

Type: Strategic Initiative

The Fair Lender Practices Act encourages lenders and credit card companies, who provide credit or loans to Rhode Island customers, to adopt fair and equitable lending practices. The director of the department of business regulation shall promulgate rules and regulations necessary and proper to carry out the goals of the bill, consistent with the legislative findings made herein applicable to all lenders and credit card companies subject to the legal authority of the state of Rhode Island. The bill is currently pending in the Senate Corporations Committee.

<http://www.rilin.state.ri.us/BillText09/SenateText09/S0478.pdf>

Inactive Legislation

Connecticut: An Act Concerning Foreclosure Rescue and Debt Reducers, H.B. 5907

Focus: Predatory Lending

Type: Amendment to Code

This bill regulates debt reduction services in the state. Under the act, each contract for a credit clinic or a debt reduction service must contain a complete, detailed list of services to be performed, the costs of such services, and the results to be achieved. A copy of the consumer's current credit report must be attached to the contract with the adverse entries to be modified clearly marked. Each debt reduction service contract must contain a statement certifying that the person offering debt reduction services has reviewed the consumer's debt, and an individualized evaluation of the likelihood that the proposed debt reduction services would reduce the consumer's debt or debt service, or prevent the consumer's residential home from being foreclosed.

The bill further authorizes a consumer to cancel or rescind such contract during the three-day period after the date on which the consumer signed the contract that contains a clear and conspicuous caption reading, Buyer's three-day right to cancel, along with the following statement: If you wish to cancel this contract, you may cancel by mailing a written notice by certified or registered mail to the address specified below. The notice shall state that you do not wish to be bound by this contract and must be delivered or mailed before midnight of the third business day after you sign this contract. The bill died in February.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=5907&which_year=2009

Connecticut: An Act Concerning Debt Reduction Services, S.B. 705

Focus: Predatory Lending

Type: Amendment to Code

This bill contains many of the same provisions as H.B. 5907, but also provides enhanced protections for consumers seeking debt reduction services. The bill defines debt reduction services as the selling, providing, or performing of, or representation that a person can sell, provide, or perform, a service for the express or implied purpose of reducing or eliminating a consumer's debt or reducing the interest rate charges on that debt. The definition includes foreclosure rescue services, but it excludes services performed by any federally or state-licensed or chartered bank or credit union, an existing creditor of the consumer when the service relates solely to the debt the consumer owes that creditor, a debt adjuster licensed under Connecticut law, when performing debt adjustment services under such a license, or an attorney representing a client.

Senate Bill 705 defines foreclosure rescue services as those related to or promising assistance with avoiding or delaying actual or anticipated foreclosure proceedings of residential property or fixing a default or failure to pay a residential mortgage loan obligation on time, including the offer, arrangement, or placement of a residential mortgage loan or other loan when those goods or services are advertised, offered, or promoted in as foreclosure-related services.

Finally, the bill requires that debt reduction services be provided by 501(c)(3) nonprofit organizations and prohibits debt reduction servicers from charging or being paid in advance for their services. The bill was recommitted to the Senate Housing Committee.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=sb705&which_year=2009

Texas: An Act Relating To a Financial Institution's Action Regarding Certain Withdrawals and Deposits, H.B. 2946

Focus: Predatory Lending

Type: Regulatory Change

House Bill 2946 requires banks and credit unions to credit deposits to an account before withdrawals are considered made from the account if the deposit and withdrawal are made on the same business day and prohibits the bank from charging a fee for an overdraft or for insufficient funds if on the day the bank seeks to withdraw funds from the account there are sufficient funds in the account to pay a check drawn on the account, regardless of the date of the check. The bill died in the Pensions, Investments and Financial Services Committee.

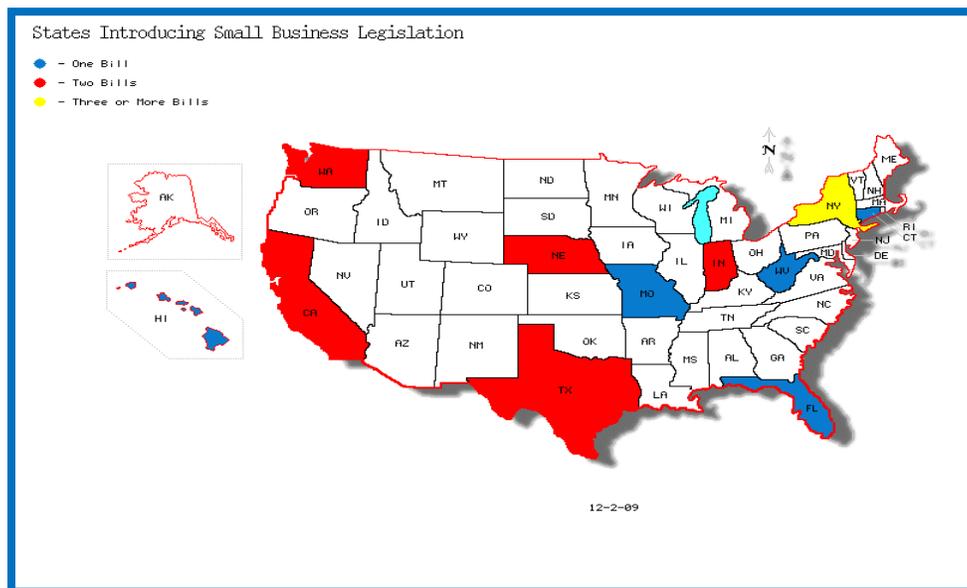
<http://www.capitol.state.tx.us/tlodocs/81R/billtext/html/HB02946I.htm>

Small Business Development

Small businesses have been crippled by economic downturn since the credit markets froze more than two years ago. While financial institutions have scaled back their lending to small businesses, several state governments have ramped up their efforts to provide alternative sources of capital and liquidity. There were 21 bills to support small businesses introduced in 11 states. New York introduced six small business bills during this session, all of which are still pending except New York A.B. 3063, a microenterprise development bill that was vetoed by Governor Patterson.

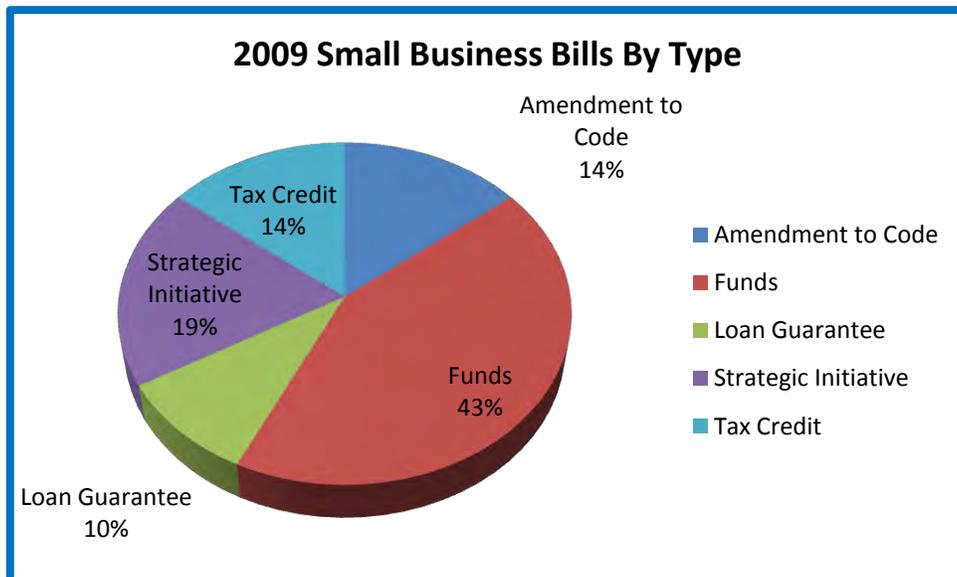
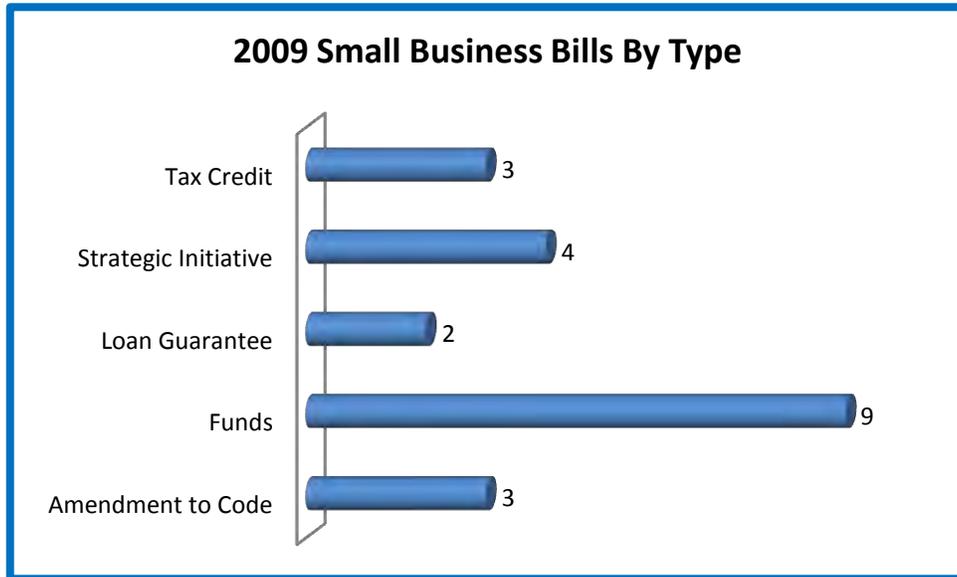
The map below shows the states that introduced small business legislation in color: states in blue introduced one bill, states in red introduced two, states in yellow introduced three or more bills.

- One Bill: Connecticut, Florida, Hawaii, Missouri, West Virginia
- Two Bills: California, Indiana, Nebraska, Texas, Washington
- Three or More Bills: New York

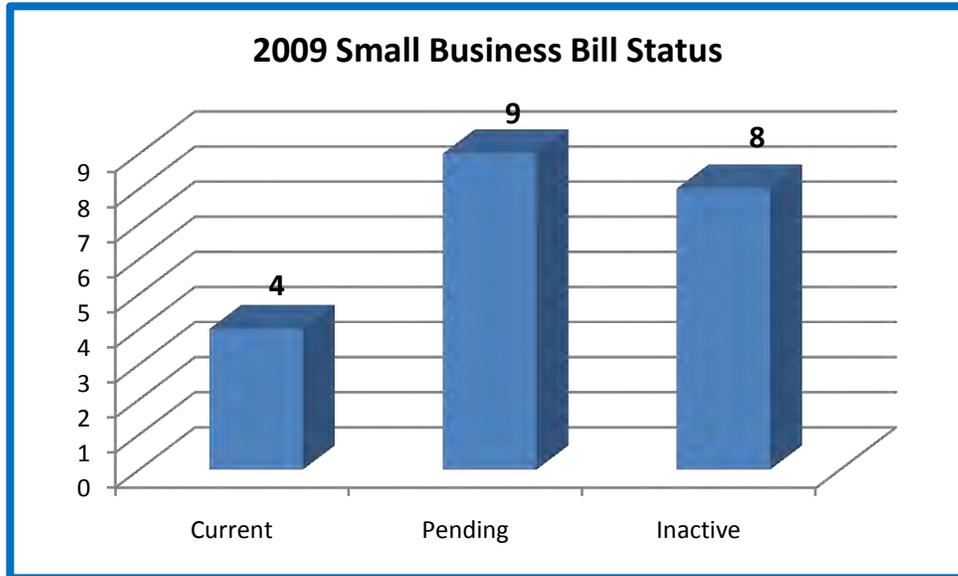


As shown in the bar and pie charts below, nearly half of the small business legislation tracked in this guide sought to provide support to small businesses through direct grant and loan programs. In spite of struggling with their own budget pressures, seven states introduced bills that would create funds to support small business development, though only one bill passed its legislature during the session: California A.B. 1009. There were three tax credit bills introduced to support small businesses: New York A.B. 3068, Texas H.B. 2459, and West Virginia H.B. 2084. The smallest businesses also received support in the 2009 legislative session, as nine of the 21 small

business bills (43 percent) were specifically targeted at microenterprise support and development.



Four of the small business bills introduced this session passed their legislatures: California A.B. 1009, Indiana H.B. 1697, Nebraska L.B. 531, and Washington S.B. 5723. There are nine bills still pending in their legislatures, five in New York, and one bill each in California, Hawaii, Nebraska, and Washington. The remaining eight small business bills did not pass this session.



Current Legislation

California: Direct Loan Program, A.B. 1009

Focus: Small Business

Type: Fund

Under current law, the California Small Business Financial Development Corporation Law is authorized to create Small Business Financial Development Corporations (FDCs) to grant loans or loan guarantees for the purpose of stimulating small business development. This bill would require the secretary to develop and implement, until January 1, 2015, a Direct Loan Program to provide loans to small businesses meeting certain requirements. The bill would require the maximum loan limit to be \$500,000 and would require all loans to have a guarantee from a federal agency or department. The bill would establish the Direct Loan Account in the California Small Business Expansion Fund and would continuously appropriate all moneys in that account for purposes of implementing and administering the program.

This bill also expands the Small Business Loan Guarantee Program (SBLGP), administered by the Business, Transportation and Housing Agency (BT&H), to include authority for offering direct loans. The SBDGLP enables a small business to obtain a term loan or line of credit when it cannot otherwise qualify for a loan on its own. All loans must have a federally-backed guarantee, be provided to credit worthy small businesses, and the program must be independently audited. The guarantee program provides guarantees covering up to 90 percent of the loan, but not exceeding \$500,000. Eligible applicants must meet the definition of a small business (100 or fewer employees) with the specific market rate loan terms and interest rates being negotiated between the borrower and the lender.

This bill was substantially amended in the Senate Appropriations Committee, removing all of the provisions creating the Direct Loan Program. Although the amended version of A.B.1009 passed, the small business portion of the bill was removed during the Senate markup process.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1001-1050/ab_1009_bill_20090506_amended_asm_v98.html

Indiana: A Bill for an Act to Amend the Indiana Code Concerning Economic Development, S.B. 1697

Focus: Small Business

Type: Strategic Initiative

Senate Bill 1697 requires the Indiana Economic Development Corporation (IEDC) to maintain a Small Business Division to carry out the IEDC's duties concerning the development of small businesses, including assisting small businesses in obtaining state and federal tax incentives. The bill also requires the IEDC to maintain a statewide network of public, private, and educational resources to inform small businesses of the state and federal programs under which they may obtain financial assistance.

The bill creates the Office of Small Business Advancement to encourage the organization and development of new business enterprises, including technologically oriented enterprises. The

Office is to approve and administer loans from the Microenterprise Partnership Program fund to conduct activities for nontraditional entrepreneurs. The Office is also to establish and administer the Small and Minority Business Financial Assistance Program. The legislation passed and was signed into law as Public Law 56 in mid-May.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1697>

Nebraska: Nebraska Advantage Microenterprise Tax Credit Act, L.B. 531

Focus: Small Business

Subfocus: Microenterprise

Type: Amendment to Code

Legislative Bill 531 amends the Nebraska Advantage Microenterprise Tax Credit Act to increase the allowable net worth threshold for a farm or livestock operation to be considered a microbusiness. Under the current statute, a person actively engaged in the operation of the microbusiness must not have a net worth in excess of \$200,000, with the fair market value of a spouse or dependent's holdings counted against the \$200,000 limit. Legislative Bill 531 increases the allowable net worth for consideration as microbusiness to \$500,000 and leaves the remaining restrictions in place. The bill was signed into law on May 26, 2009.

http://nebraskalegislature.gov/bills/view_bill.php?DocumentID=6920

Washington: An Act Relating To Providing Support for Small Business Assistance, S.B. 5723

Focus: Small Business

Type: Strategic Initiative

This legislation establishes the Washington State University Small Business Development Center to provide management and technical assistance including training, counseling, and research services to small businesses throughout the state. The center will work with the Washington Economic Development Commission, the Department Of Community, Trade, and Economic Development, the Workforce Training and Education Coordinating Board, the Employment Security Department, the Higher Education Coordinating Board, and the State Board For Community and Technical Colleges to integrate small business development centers with other state economic development and workforce development programs, facilitate the development of inter-institutional entrepreneurial education, training, and assistance programs, and coordinate services to avoid duplication.

The small business development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's requirements and purposes. The center may use funds from the business assistance account to support satellite offices, increase the assistance (including the number of small business plan workshops and business counselors) available to small and start-up businesses, and develop new assistance programs. The bill was signed into law by the Governor on May 14, 2009 and became effective July 29, 2009.

<http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Senate%20Bills/5723.pdf>

Pending Legislation

California: An Act to Amend the Business and Professions Code and the Unemployment Insurance Code, Relating To Microenterprises, A.B. 165

Focus: Microenterprise

Type: Amendment to Code

Assembly Bill 165 revises the definition of microenterprise to mean a sole proprietorship, partnership, or corporation has five or fewer employees, including the owner and lacks sufficient access to conventional loans, equity, or other banking services. This bill would additionally require the California Workforce Investment Board to assist the Governor by developing specified guidelines for certain high-wage industry sectors and making recommendations on how to target resources to specified high-wage industry sectors, and by recommending policy and providing technical assistance on entrepreneurial training opportunities that could be made available through local workforce investment board programs.

The bill would also require the board, by January 1, 2011, to develop and distribute guidelines, or provide other assistance to, local workforce investment boards to help them implement entrepreneurial and self-employment training programs. The bill is pending in the Appropriations Committee.

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_165&sess=CUR&house=B&author=carter

Hawaii: Making an Appropriation for Small Business Development, H.B. 1618

Focus: Small Business

Type: Strategic Initiative

The purpose of this Act is to appropriate an additional \$699,000 to the Hawaii Small Business Development Center Network for fiscal year 2009-2010 to further its mission of providing assistance to small businesses through management-force training. The funding, designated to create sustainable economic development through consulting and training services, will be allocated as follows:

- \$111,000 to fund a sustainable energy initiative among small businesses to create a statewide initiative to assist small businesses in managing spiraling energy costs;
- \$111,000 to fund a statewide international trade initiative among small businesses;
- \$300,000 to fund a statewide high technology initiative among small businesses in order to focus an increasingly substantial segment of the Hawaii small business development center network's resources on high technology and fast growth businesses;
- \$108,000 to fund additional capacity at the Honolulu Small Business Development Center; and
- \$69,000 to fund costs associated with sustaining the organization.

The legislation is still pending, as it was carried over to the 2010 session.

http://www.capitol.hawaii.gov/session2009/lists/measure_indiv.aspx?billtype=HB&billnumber=1618

Nebraska: Microenterprise Development Act, L.B. 657**Focus: Small Business****Subfocus: Microenterprise****Type: Fund**

Legislative Bill 657 authorizes the Department of Economic Development to select a single private, nonprofit organization to provide grant funding to community-based microenterprise development organizations to encourage the development and growth of microenterprises throughout Nebraska and facilitate the development of a permanent, statewide infrastructure of microlending support organizations to serve Nebraska's microenterprise and self-employment sectors.

The department may receive funds from local governments or the federal government, private foundations, or other sources. The private, nonprofit organization must ensure that a recipient of a grant from the program provides matching funds of at least 25 percent of the grant funds, and at least 50 percent of the grant funds disbursed to the private, nonprofit organization is disbursed as microloans of no more than \$35,000. The bill placed in the General File when the session ended in March, where it will remain pending re-introduction in the 2010 session.

http://nebraskalegislature.gov/bills/view_bill.php?DocumentID=6920

New York: Microenterprise Development Program, A.B. 1639**Focus: Small Business****Subfocus: Microenterprise****Type: Fund**

Assembly Bill 1639 establishes a microenterprise technical assistance and capacity building grant program. The program is to receive an annual appropriation from the legislature of at least \$1 million to provide assistance in the form of grants to microenterprise development organizations. A microenterprise development organization is defined as a nonprofit entity or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations that provide services to low-income microenterprises.

The entity must use grants made under this program to provide training and technical assistance to low-income entrepreneurs operating microenterprises, with no less than 50 percent of the funds made available are used to benefit persons with incomes of 150 percent of the federal poverty line income or less. The microenterprise development organization must provide at least one dollar in matching funds for every dollar of state financial assistance. Fees, grants, and gifts from public or private sources may be used to comply with the matching funds requirement. A.B. 1639 appropriated an initial sum of \$1.5 million to the Department of Economic Development to establish the program. The bill remains in the Assembly Economic Development Committee, where it will be reintroduced in the 2010 session.

<http://assembly.state.ny.us/leg/?bn=A01639&sh=t>

New York: Business Outreach Center Network Assistance Program, A.B. 1980**Focus: Small Business**

Type: Fund

This legislation creates the Business Outreach Center (BOC) Network Assistance Program within the Department Of Economic Development to foster the statewide expansion of local and centralized networking services provided to small businesses by a nonprofit corporation and its local affiliates in New York City.

The department shall provide funding within available appropriations, to address the community need for the BOC network and establish criteria for selection and designation of such business outreach centers, which may include but is not limited to:

- serving communities that are geographically and/or socially isolated from the mainstream economy;
- creating a coordinated network of client information systems, regional linkages, and operational guidelines;
- implementing a model that maximizes the efficient use of scarce existing economic development resources, addresses the recognized need for pre-loan and post loan technical assistance for growing small business; and
- facilitating access to the complex infrastructure of economic development programs and small business services by connecting small business to needed information and capital technical assistance.

The bill is pending in the Assembly Committee on Economic Development.

<http://assembly.state.ny.us/leg/?bn=A01980>

New York: New York Microenterprise Investor Tax Credit, A.B. 3068

Focus: Small Business

Subfocus: Microenterprise

Type: Tax Credit

Assembly Bill 3068 seeks to encourage investment in microenterprises by creating a tax credit for capital investment in microenterprises. The bill provides taxpayers a credit of 25 percent for qualified investments in at-risk microenterprises with five or fewer employees. The credit is applied over a three year period, with 15 percent of the credit being applied in the first year of investment and a five percent credit applied in the second and third years. The total amount of credits allowable to a taxpayer for all years is \$150,000. The bill remains in the Assembly Ways and Means, where it will be reintroduced in the 2010 session.

<http://assembly.state.ny.us/leg/?bn=3068>

New York: Entrepreneurship Assistance Centers, A.B. 4459

Focus: Small Business

Type: Strategic Initiative

Assembly Bill 4459 would establish and support entrepreneurship assistance centers at career education agencies and nonprofit corporations local development corporations, chambers of commerce, community-based business outreach centers and other community-based organizations. These centers will train minority group members, women, individuals with a

disability, and dislocated workers in the principles and practice of entrepreneurship in order to prepare these groups to pursue self-employment opportunities and to pursue a minority business enterprise or a women-owned business enterprise. The criteria for grant selection and designation of the entrepreneurship assistance centers include:

- the level of support for the center from local post-secondary education institutions, businesses, and government;
- the level of financial assistance provided at the local and federal level to support the operations of the center;
- the applicant's understanding of program goals and objectives articulated by the department;
- the plans of the center to supplement state and local funding through fees for services which may be based on a sliding scale based on ability to pay;
- the need for and anticipated impact of the center on the community in which it will function;
- the quality of the proposed work plan and staff of the center; and
- the extent of economic distress in the area to be served.

Grants may not exceed \$75,000 and must be disbursed for payment of the cost of services and expenses of the program director, the instructors of the participating career education agency or nonprofit corporation, faculty and support personnel. A.B. 4459 passed the Assembly on March 9, 2009, and was delivered to the Senate, where it is still pending.

<http://assembly.state.ny.us/leg/?bn=A04459>

New York: An Act to Amend the Executive Law, In Relation To Establishing the Office for Small Business, A.B. 6557

Focus: Small Business

Type: Strategic Initiative

The bill creates a state bonding guarantee assistance program to enable small businesses, and minority-owned and women-owned business enterprises, certified as a minority-owned or women-owned business enterprise to meet payment and/or performance bonding requirements by providing these small businesses with the additional financial backing needed to induce a surety company to issue a bond form construction projects.

Assembly Bill 6557 creates an Office for Small Business to promote a better small business climate in the State and represent the interests of small businesses in the state before federal, state and local administrative and regulatory agencies. This bill also creates the New York State Small Business Awards which are non-monetary awards given in recognition of unusual performance by persons, firms and organizations engaged in the operation of New York State small businesses or are engaged in activities to assist small businesses in the state. The bill is still pending in the Assembly Ways and Means Committee.

<http://assembly.state.ny.us/leg/?bn=A06557>

Washington: Small Business Loan Reserve Program, S.B. 6085

Focus: Small Business

Type: Fund

Senate Bill 6085 creates the Washington Small Business Loan Reserve Program to provide incentives to financial institutions and credit unions to make small business loans that would otherwise not be made to worthy small businesses. The criterion for eligible loans includes:

- the potential for benefiting low-income communities; the potential for benefiting individuals of low and moderate income; the potential for creating new employment opportunities, especially opportunities for stable high wage employment;
- the potential for retaining existing employment, especially stable high wage employment;
- the potential for local economic diversification;
- the impact on the stabilization, modernization, and long-term growth potential of mature industries; and
- The size and types of businesses which shall be eligible to receive loans.

This bill also establishes the Small Business Loan Reserve Fund to operate the Small Business Loan Reserve Program. Under the bill, lenders negotiate a premium charge which the lender and the borrower contribute to the loan reserve fund which is limited to seven percent. The state makes a matching payment to the loan reserve fund. Funds in the small business loan reserve fund can be invested in certificates of deposit with lender participants at rates in proportion to each lender's participation in the small business loan reserve program. The bill is still pending in the Senate, and will be reintroduced when the 2010 session begins.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=6085&year=2009>

Inactive Legislation

Connecticut: An Act Concerning the Use of State Guarantees To Encourage Lending To Small and Medium-Sized Businesses, H.B. 6478

Focus: Small Business

Type: Loan Guarantee

The bill establishes the Public Offering Guaranty Fund, an account within the General Fund, which allows the state treasurer to guarantee the capital stock of certain Connecticut banks in return for an unspecified equity interest in the stock. It authorizes the state to issue up to \$100 million in general obligation bonds, the sale proceeds of which must go into the fund, and allows holders of guaranteed capital stock of an insolvent bank to make claims against the fund.

Connecticut banks wishing to apply for the guaranty must obtain a certificate of fiscal soundness from the banking commissioner. The bill requires the Department of Banking to adopt regulations establishing criteria for determining fiscal soundness, and requires the issuance of a certificate, on a commissioner-prescribed form, if they meet it. Banks that have obtained the certificate can apply to the treasurer for the guarantee. The bill requires the treasurer to adopt regulations on the guarantee, including the criteria for issuing it. The total amount of guarantees the treasurer can issue is limited to the lesser of the amount in the fund or \$100 million.

The bill allows the State Bond Commission to authorize the issuance of bonds for the fund. The proceeds of the sale of those bonds, up to \$100 million must go into the fund. Any bank receiving a state guarantee must agree to pay two percent of the face value of the guarantee into the fund annually. The payments must be made for ten years, or until the bank has paid 20 percent of the face value of the guaranty received. The fund must reimburse holders of a guaranteed public offering from a Connecticut bank that has become insolvent, up to the amount they paid for the guaranteed public offering. If claims exceed the amount in the fund, claimants must be reimbursed proportionally, based upon each investor's total loss. The bill died in the Committee on Finance, Revenue and Bonding when the session ended in March.

<http://www.cga.ct.gov/2009/FC/2009HB-06478-R000225-FC.htm>

Florida: Florida Microenterprise Development Act, H.B. 1149/S.B. 2678

Focus: Small Business

Subfocus: Microenterprise

Type: Fund

House Bill 1149 creates the Microenterprise Development Program in the Office of Tourism, Trade, and Economic Development. The program is to provide grants to community development financial institutions for microenterprise loans and business skills development services for microentrepreneurs, to match federal funds for the development and support of investment areas or targeted populations. The Office will select one or more community development financial institutions to participate in the program. A community development financial institution seeking to participate must apply to the office in the format and according to the procedures prescribed by the office. The bill died in the Economic Development Policy Committee.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=41419&SessionId=61>

Indiana: Small Business Loan Program, H.B. 1636

Focus: Small Business

Type: Fund

This legislation establishes the Small Business Loan Fund, to be administered by the Indiana Finance Authority (IFA). It authorizes the IFA to transfer money in the fund to financial institutions for deposit at reduced interest rates and requires the financial institution to loan the money to approved small business development projects. The interest rate charged to the small business may not exceed the rate payable to the IFA plus three percent, and the maximum amount that may be deposited for a particular small business development project is \$1 million. The bill died in the Committee on Tax and Fiscal Policy.

<http://www.in.gov/legislative/bills/2009/HB/HB1636.2.html>

Missouri: Small Business Incubators Act, H.B. 135

Focus: Small Business

Type: Fund

This bill re-establishes the Small Business Incubators Act which consists of a loan, loan guarantee, and grant program for the establishment, operation, and administration of small business incubators. A local sponsor may submit an application to the Department of Economic Development to obtain a loan, loan guarantee, or grant. Loans awarded or guaranteed and grants awarded may be used only for the acquisition and leasing of land and existing buildings, the rehabilitation of buildings or other facilities, construction of new facilities, the purchase of equipment and furnishings which are necessary for the creation and operation of the incubator, and business development services including, but not limited to, business management advising and business education. Loans, loan guarantees, and grants may not exceed 50 percent of total eligible project costs.

House Bill 135 also creates the Missouri Small Business Incubators Fund is created, which will be capitalized from appropriations, gifts, and other contributions. At least 30 percent of the money in the fund must be reserved for a local sponsor to establish, operate, or administer a small business incubator program or to provide funding to an organization which operates a program in a rural community. Taxpayers who make a contribution to the fund or to an approved local sponsor will be entitled to a tax credit for 50 percent of the donation. The department must ensure that local sponsors receiving financial awards meet the conditions of the program and may convert loans to grants at their discretion. The bill died in the Committee on Job Creation and Economic Development.

<http://www.house.mo.gov/billtracking/bills091/biltxt/intro/HB0135I.htm>

New York: Microbusiness Outreach Centers, A.B. 3193**Focus: Small Business****Subfocus: Microenterprise****Type: Fund**

Assembly Bill 3193 establishes a Microbusiness Outreach Center Assistance Program within the Department of to provide direct technical and financial assistance to the Microbusiness Outreach Center Network,⁴⁷ a nonprofit corporation, for the following activities:

- assisting local sponsor organizations and/or new organizations to set up additional micro business outreach centers, in geographic areas of the state that are widely-separated from each other but are in need of, and would likely benefit from, the establishment of such center;
- providing aid for the operation and maintenance of the additional microbusiness outreach centers created as well as for the operation and maintenance of its presently existing affiliated micro business outreach centers; and
- expanding the center's coordination of networking and technical assistance activities among all micro business outreach centers.

The bill, which did not include an appropriation, died when it was vetoed by Governor Paterson. <http://assembly.state.ny.us/leg/?bn=A03193&sh=t>

Texas: An Act Relating to Tax Credits for Business Development in Low-Income Communities, H.B. 2459**Focus: Small Business****Type: Tax Credit**

House Bill 2459 amends the Texas Tax Code and the Insurance Code to add temporary provisions, set to expire on December 31, 2013, relating to franchise tax and insurance premium tax credits for business development in low-income communities. This bill essentially provides a state matching program for community development entities already approved by and receiving a tax credit through the federal New Markets Tax Credit Program for qualified equity investments in designated low income Texas communities. An entity is qualified for the tax credit if it purchases a qualified equity investment from a qualified community development entity and holds the qualified equity investment on a credit allowance date that occurs during the period on which the report is based.

The credit limits to \$40 million the maximum total amount of tax credits that an entity subject to either tax may claim in a state fiscal year, not including any carryforward amounts. The Comptroller of Public Accounts is to determine procedures for allocation of the credits under the temporary provisions of the two codes. The bill died when the legislative session ended.

⁴⁷ The legislation defines Microbusiness Outreach Center Network as a network of business outreach centers that provides services throughout a region and helps develop and assist individual microenterprise/small business development organizations in the delivery of customized business services to entrepreneurs, as well as capacity-building services to organizations establishing and operating community and microenterprise development programs.

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB2459>

Texas: An Act Relating to Creating a Microloan Guarantee Program Using Funds Appropriated to the Texas Enterprise Fund, S.B. 1602

Focus: Small Business

Subfocus: Microenterprise

Type: Loan Guarantee

This legislation creates the Microloan Guarantee Program within the Texas Enterprise Fund to assist in the creation and expansion of businesses and jobs in this state by guaranteeing microloans to eligible businesses by financial institutions that participate in the program. The loans may only be used for economic development, infrastructure development, community development, job training programs, and business incentives. S.B. 1602 died in the Senate Economic Development Committee.

<http://www.legis.state.tx.us/tlodocs/81R/billtext/html/SB01602I.htm>

West Virginia: Small Business Development Incentive Program for Internal Growth Act, H.B. 2084

Focus: Small Business

Type: Tax Credit

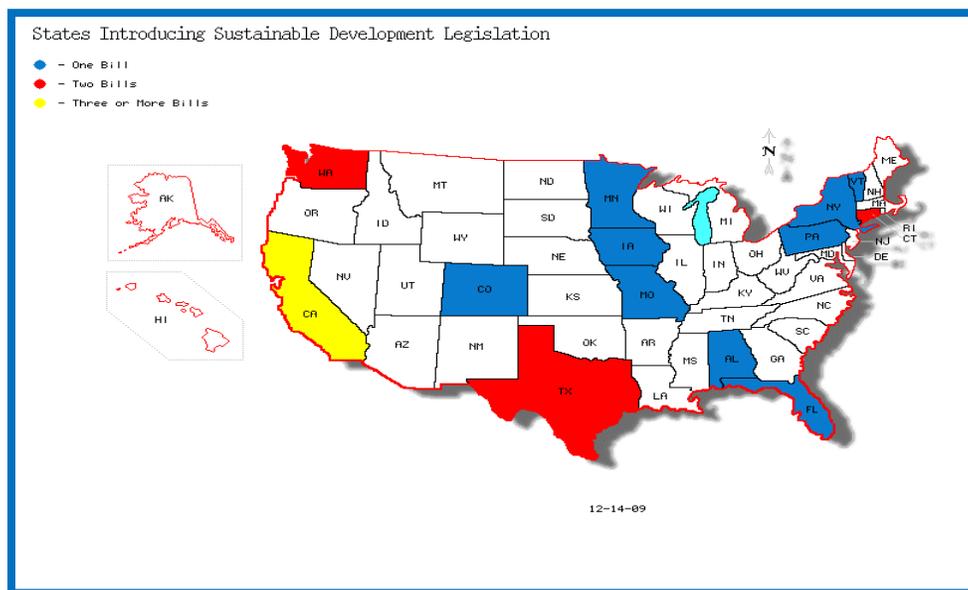
House Bill 2084 states that within three months from inception of initial operations of a qualified small business, the owner of the business may apply to the state tax department for qualification status to participate as a small business and receive the exemptions from business-related taxes as provided herein. Upon qualifying to participate in the small business development incentive program for internal growth act, a business is exempted from the payment of any business related tax with the exception of being required to pay appropriate calculated sums required to maintain workers' compensation and unemployment compensation coverage. The tax exemption for qualified businesses ends after five years of operation, or the employment of more than 50 employees, whichever occurs first. The bill died in the House Energy, Industry and Labor, Economic Development and Small Business Committee.

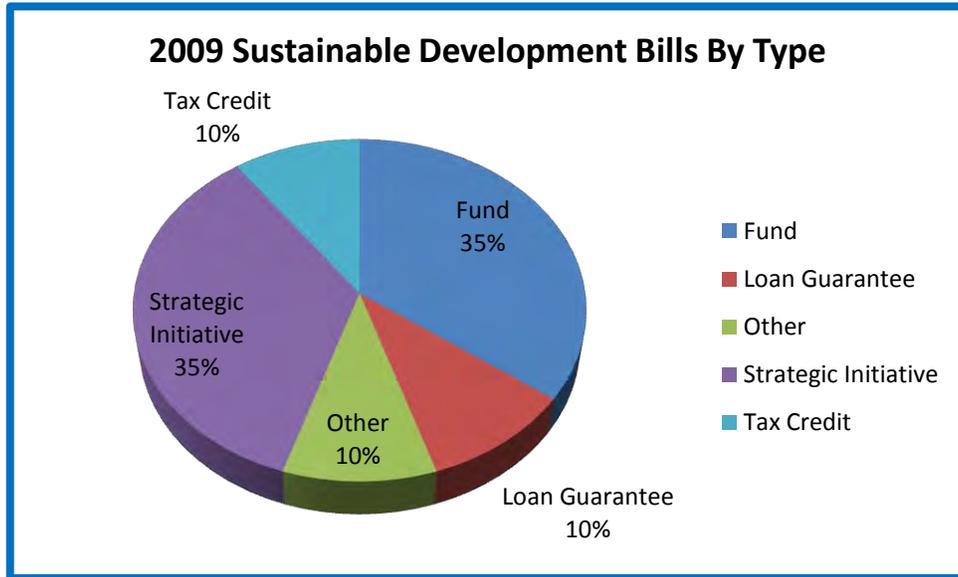
http://www.legis.state.wv.us/bill_status/bills_text.cfm?billdoc=hb2084%20intr.htm&yr=2009&sesstype=RS&i=2084

Sustainable Development

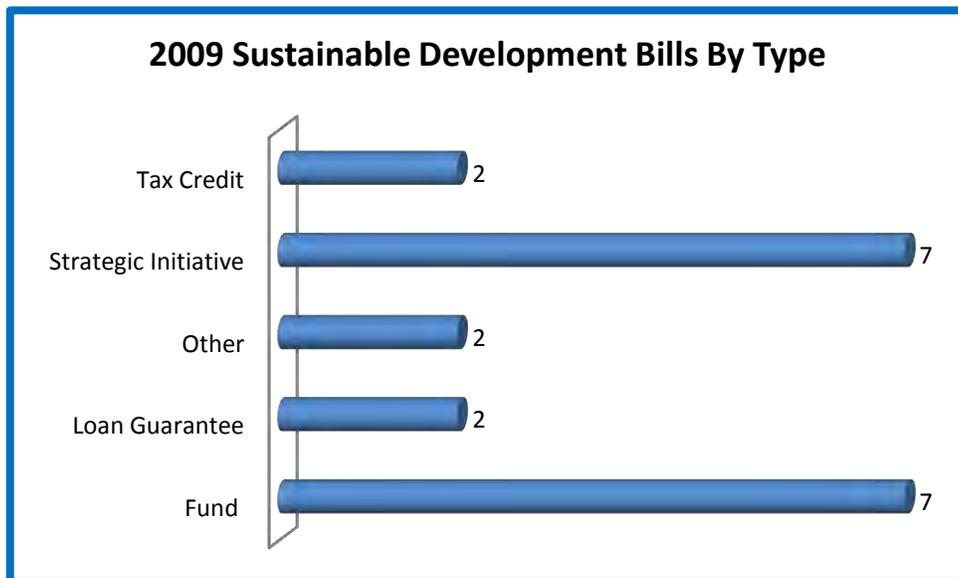
Sustainable development initiatives are bills that incorporate environmental stewardship into the bill provisions by encouraging green construction, brownfield development, transit-oriented development. There were 20 sustainable development bills tracked in 13 states during the 2009 legislative session. California introduced five bills, the most sustainable development legislation of any state this session. The map below show the state that introduced sustainable development legislation in color: states in blue introduced one bill, states in red introduced two, and states that introduced more than three bills are shown in yellow:

- One Bill: Alabama, Colorado, Florida, Iowa, Minnesota, Missouri, New York, Pennsylvania, Vermont
- Two Bills: Connecticut, Texas, Washington
- Three or More Bills: California

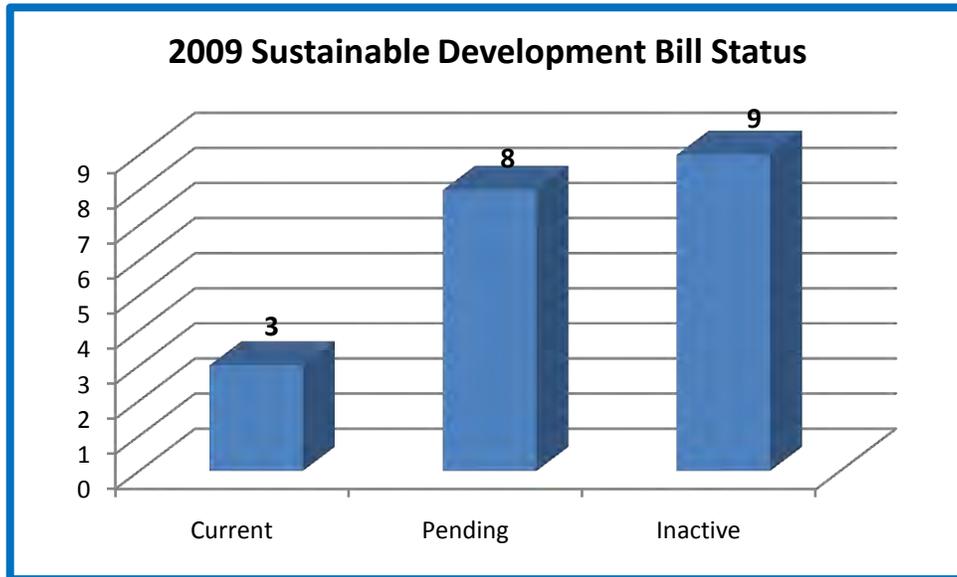




There were seven funds and seven strategic initiatives introduced during the 2009 session, comprising 70 percent of the sustainable development initiatives tracked for this guide. There were also two tax credits, two loan guarantees, and two bills characterized as other types.



Fifteen percent of the sustainable development bills introduced during the 2009 session and tracked for this guide passed this session: Florida House Bill 1235, Colorado Senate Bill 51, and Washington House Bill 2227. An additional eight bills, or 40 percent, are still pending in their legislatures, while nine sustainable development bills did not pass their legislatures this session.



Current Legislation

Colorado: Renewable Energy Financing Act of 2009, S.B. 51

Focus: Sustainable Development

Type: Other

Senate Bill 51 adds to the Colorado Clean Energy Finance Program Act to include credit unions among the lenders that may make loans under the program; and include renewable energy developers and installers of solar panels and other renewable energy generation equipment among the contractors that may be certified under the program.

Additionally, it clarifies that funding under the Colorado Clean Energy Development Authority Act is available for energy efficiency improvements to apartment buildings and increases the cap on the amount of loans guaranteed by the state treasurer by \$10 million, from a maximum of \$30 million to a maximum of \$40 million. The bill also requires landlords to allow energy audits of rental properties if so requested by a tenant, at the tenant's expense.

Finally, the bill creates the Renewable Energy Suppliers Act to authorize and encourage the installation of renewable energy generation equipment on property owned by others, in exchange for future purchases of energy under power purchase agreements, assignments of utility rebates under the existing renewable energy standard statute, or both, directs the Public Utilities Commission to require utilities to set aside a portion of their annual budget for rebates under the standard rebate offer program for low-income utility customers. The bill was signed into law April 22, 2009.

http://www.leg.state.co.us/CLICS/CLICS2009A/csl.nsf/fsbillcont3/571064D80C28D7C387257537001B9472?Open&file=051_enr.pdf

Florida: An Act Relating to the Lakewood Ranch Stewardship District, Manatee and Sarasota Counties, H.B. 1235

Focus: Sustainable Development

Type: Strategic Initiative

House Bill 1235 increases the size of the Lakewood Ranch Stewardship District by 200 acres. The district is an independent special district located in Sarasota and Manatee Counties that provides community development systems, facilities, services, projects, improvements, and infrastructure to the area. The bill also provides additional special powers to the district to pursue sustainable or green infrastructure improvements, facilities, and services including, but not limited to, recycling of natural resources, reduction of energy demands, development and generation of alternative or renewable energy sources and technologies, mitigation of urban heat islands, sequestration, capping or trading of carbon emissions or carbon emissions credits, LEED or Florida Green Building Coalition certification, and development of facilities and improvements for low-impact development and to enter into joint ventures, public-private partnerships, and other agreements and to grant such easements as may be necessary to accomplish the foregoing. The boundary change and additional powers have been approved by the Manatee and Sarasota County Commissions. The bill was signed into law by the Governor June 16, 2009.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=41533&SessionId=61>

Washington: Washington State Evergreen Jobs Initiative, H.B. 2227

Focus: Sustainable Development

Type: Strategic Initiative

House Bill 2227 created the Washington state Evergreen Jobs Initiative to:

- create 15,000 new green economy jobs by 2020;
- target 30 percent of these jobs to veterans, National Guard members, and low-income and disadvantaged populations;
- coordinate state agencies to secure and deploy federal funds in a focused, effective way;
- prepare the workforce to take full advantage of green economy job opportunities;
- attract private sector investment for job creation and expansion;
- make the state a net exporter of green industry products and services;
- empower green job recruitment and training by local workforce development councils (WDCs) and associate development organizations (ADOs);
- capitalize upon existing partnership agreements; and
- operate according to the 14 guiding principles in the Green Economy Strategic Framework.

The Governor vetoed the sections that provided the findings and intent of the Evergreen Jobs Act, directed creation of the Evergreen Jobs Leadership Team, defined a number of terms, required development of an Evergreen Jobs logo or sign, required Leadership Team actions related to education and training, and precluded certain agency actions. The rest of the bill was signed into law May 18, 2009 and became effective July 26, 2009.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=2227&year=2009>

Pending Legislation

California: An Act to Amend the Unemployment Insurance Code, Relating to Workforce Development. A.B. 3

Focus: Sustainable Development

Type: Strategic Initiative

This bill requires the establishment of the Renewable Workforce Readiness Initiative by January 1, 2011, to ensure green collar career placement and advancement opportunities within California's renewable energy generation, manufacturing, construction, installation, maintenance, and operation sectors.

The bill specifies that any strategies developed by the Initiative must address how to effectively provide outreach, assessment, and placement to prospective worker populations, including those that have historically faced barriers to employment, including, but not limited to, all of the following populations: low-income and disadvantaged populations, at-risk youth, formerly incarcerated nonviolent offenders, displaced and incumbent workers in transition, and veterans of past or present military service.

This bill requires the California Workforce Investment Board (CWIB) to provide guidance to Local Workforce Investment Boards (LWIBs) on how to establish comprehensive green collar job assessment, training, and placement programs that reflect the local and regional economies. This bill requires the CWIB to assist the LWIBs in analyzing labor market data, in order to assess local or regional industry cluster workforce development needs. This bill imposes new duties on LWIBs to revise memberships and plan requirements, thereby creating a state mandated local program. The CWIB will be required to implement the provisions of this bill using funds made available to the CWIB from federal stimulus funding appropriated to the state, to the extent that those funds are available for that purpose. The Initiative must address how LWIBs can effectively collaborate and shall include the participation of all the following entities:

- nonprofit organizations;
- local governments;
- state-approved apprenticeship programs;
- community colleges;
- postsecondary educational institutions;
- local workforce training partnerships and collaborative; and
- regional occupational programs.

The bill passed the passed the Assembly and Senate, and is currently awaiting Governor Schwarzenegger's signature.⁴⁸

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ab_3_bill_20090904_amended_sen_v94.html

⁴⁸ The bill was pending as of September 30, 2009. The bill was vetoed by Governor Schwarzenegger in October, and is now inactive.

California: Community Equity Investment Act of 2009, S.B. 194

Focus: Sustainable Development

Type: Strategic Initiative

Senate Bill 194 would enact the Community Equity Investment Act of 2009, which provides specified incentives to local governments to encourage planning decisions that account for disadvantaged unincorporated communities and would require the Strategic Growth Council, when awarding funds for urban greening projects and planning grants and incentives, to give priority to applicants that incorporate certain activities when planning for development. These objectives include:

- identification, description, and mapping of each disadvantaged unincorporated community defined as a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median income;
- quantification and analysis of six specified conditions regarding deficient services, facilities, and housing conditions;
- a statement of quantified goals, policies, and objectives for mitigating or eliminating those deficiencies, including an analysis of the feasibility of annexation and expanding services and infrastructure for specified unincorporated communities; and
- a program of actions to achieve these goals, including the activities, timelines, and identification of available resources.

Senate Bill 194 would also require a city or county that is eligible for CDBG entitlement funds to spend the funds within each existing supervisorial or city council district based on the percentage of low- and moderate-income persons in each district. The bill also requires at least 75 percent of all funds to provide a benefit to targeted income groups. This legislation is pending in the Senate Appropriations Committee.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0151-0200/sb_194_cfa_20090528_154850_sen_comm.html

California: Regional Transportation Plans: Sustainable Communities Strategy, S.B. 560

Focus: Sustainable Development

Type: Strategic Initiative

Under current California law, transportation planning and programming activities by the metropolitan planning organization are required to be consistent with the sustainable communities strategy, and the affected metropolitan planning organizations are to prepare an alternative planning strategy showing how the emissions targets may be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies.

Existing law also requires the metropolitan planning organization or a county transportation agency to consider financial incentives for cities and counties that have resource lands or farmlands that can be used for transportation investments for the preservation of the city street or county road system, and farm to market and interconnectivity transportation needs. This bill

would add provision of access for renewable energy projects to the transportation investments that should be considered for purposes of providing financial incentives. The bill is pending in the Senate.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0151-0200/sb_194_cfa_20090528_154850_sen_comm.html

California: An Act Relating to Community Block Funds, and Making an Appropriation Therefore, A.B. 1410

Focus: Sustainable Development

Type: Loan Guarantee

This bill authorizes the state to spend federal stimulus funding provided by the federal Community Block Grant Fund Program to create credit enhancements or to provide loan guarantees or low-interest loans to offset the State Infrastructure Revolving Fund Program's transaction costs, or to supplement the program. The bill would make an appropriation by providing for an additional expenditure from a continuously appropriated account. The bill is pending in the Assembly Committee on Jobs, Economic Development and the Economy.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1401-1450/ab_1410_bill_20090227_introduced.html

Minnesota: An Act Relating to Economic Development, S.F. 2078

Focus: Sustainable Development

Type: Loan Guarantee

Senate File 2078 authorizes the Commissioner of Employment and Economic Development to administer a program to guarantee construction or permanent loans by a private lender for construction projects in the state that will commence on or after July 1, 2009. A project is eligible for a guarantee if it has a private loan commitment of \$1 million or more to pay for the costs of a related residential, commercial, industrial, or institutional construction project. A guarantee may not be made for more than 25 percent of the principal amount of the loan made by a private lender.

In issuing loan guarantees for projects, the Commissioner is to attempt to distribute the projects throughout the state and must require information from an applicant concerning:

- the number of jobs involved in a project and the wages expected to be paid for jobs related to the project and may consider the number of jobs created in relation to the amount of a loan guarantee;
- the ability of the borrower to repay the loan from cash flow of the project is the primary consideration in deciding whether to issue a loan guarantee;⁴⁹ and
- the lender must certify that the state guarantee is necessary for the construction project to proceed and that without the guarantee the loan as described in the application will not be made.

⁴⁹ A comprehensive source of standard financial ratios and financial statistics must be compared to companies in the same industry. Other criteria, including audited financial statements, management capability, collateral, and owner's equity contribution, are important considerations, consistent with normal bank underwriting standards.

A loan guarantee may not be made after December 31, 2012, and a guarantee may not exceed \$50 million on any one project. The bill is pending in the Senate.

<https://www.revisor.mn.gov/bin/bldbill.php?bill=S2078.4.html&session=ls86>

New York: Green Jobs/Green New York, A.B. 8901

Focus: Sustainable Development

Type: Fund

Assembly Bill 8901 establishes a Green Jobs/Green New York program administered by the New York State Energy Research and Development Authority (NYSERDA) with a goal of making one million homes, businesses, and nonprofit corporations in New York more energy efficient while creating thousands of new green jobs and training the workers to fill them.

The Green Jobs/Green New York Program must implement a demonstration program to provide funding for the performance of energy audits and energy-efficient retrofits for residential, small business, and nonprofit property owners in order to reduce dependence on fossil fuels, lower housing costs, support community development and create green jobs to sustain and enhance the economy.

The bill provides \$112 million of capital funding from the Regional Greenhouse Gas Initiative (RGGI), \$70 million of which will be for a Green Jobs-Green New York revolving loan fund designed to commit resources fully during this phase with no less than 50 percent of capital monies going to residential retrofits and provides \$2-4 million of RGGI funds to be used to establish green job training throughout the state to establish a green workforce for the 21st century and requires the Department of Labor to work with NYSERDA to development additional training resources. The bill is still pending.⁵⁰

<http://assembly.state.ny.us/leg/?bn=8901>

Pennsylvania: Live Near Your Work Program, H.B. 489

Focus: Sustainable Development

Type: Strategic Initiative

House Bill 489 authorizes Department of Community and Economic Development to establish, implement and administer the Live Near Your Work (LNYW) Program. The LNYW Program shall be a cooperative effort between the Commonwealth, local municipalities and employers to designate LNYW areas within local municipalities where LNYW projects may be located and where employer assistance may be given to eligible employees to purchase eligible residences within the LNYW project. The bill seeks to achieve the following objectives:

- stimulate homeownership in designated neighborhoods which qualify for participation in a Live Near Your Work project;
- promote public-private partnerships to strengthen, revitalize, and preserve communities;

⁵⁰ The bill was pending as of September 30, 2009. The bill was signed into law by Governor Paterson on October 10, 2009, and was effective immediately.

- support Commonwealth transportation policy by promoting shorter commuting times and use of mass transit;
- support employer compliance with the Clean Air Act Amendments of 1990; and
- promote the controlled, planned, ecologically sound and people friendly growth of Pennsylvania communities.

Participation is limited to employees with income of less than 150 percent of the statewide median income in the year of application. Each employer who establishes an approved LNYW area and makes a minimum of \$12,000 per taxable year of cash grants to eligible employees is eligible to receive a tax credit equal to 50 percent of the amount of money invested in the LNYW area and paid as cash grants. The bill is pending in the House Commerce Committee.

<http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2009&ind=0&body=H&type=B&BN=0489>

Washington: Residential Infrastructure Program, S.B. 5377

Focus: Sustainable Development

Type: Fund

This legislation creates the Residential Infrastructure Program to provide loans to eligible jurisdictions and grants to nonprofit organizations for public infrastructure that supports increased capacity for dense, affordable residential development in transit-proximate areas. Funds appropriated through the program must be used to pay for the cost of public infrastructure projects that support increased capacity for dense, affordable residential development in transit-proximate areas, including the planning, construction, repair, reconstruction, replacement, rehabilitation, or improvement of sidewalks, streets and roads, bridges, publicly owned utilities, drinking water systems, and storm and sanitary sewage systems.

The department of Community, Trade, and Economic Development, which is to administer the bill, may also provide loans to eligible jurisdictions or grants to nonprofit organizations for the acquisition of real property when the acquisition is directly related to the development of public infrastructure projects to support dense, affordable residential development in transit-proximate areas. A residential unit lost as a result of the infrastructure project must be replaced one-for-one with a unit at an equal or better affordability rate, and relocation assistance must be paid to any displaced households.

A nonprofit organization seeking funding from the residential infrastructure program must:

- demonstrate that the funding will support public infrastructure projects or the acquisition of property related to the development of infrastructure projects, related to a specific affordable residential development that has also received a commitment of funding from the Washington Housing Trust Fund;
- demonstrate that the area in which the infrastructure project will take place is within an urban growth area designated by a local jurisdiction and that with official plans from the jurisdiction that overall development within the project area will increase the supply of dense, affordable residential development and that the project area currently, or will

- within eight years of the grant award, meets the definition of transit-proximate and will achieve minimum transit-supportive density;
- demonstrate that the specific affordable housing development will, within eight years of the grant award, contribute to an increase in the supply of dense, affordable residential development; and
- comply with the state's requirements related to the provision of comparable replacement housing and relocation standards and requirements.

The department must determine each year the total amount of funding available in loans and grants and must establish the total amount of financial assistance to be appropriated to eligible jurisdiction and nonprofit organization applicants based on the total amount of money appropriated to the program, the quality of applications received, and the best available projections of total revenue likely to be available for the program for the subsequent three years. The total amount of financial assistance allocated must not exceed \$10 million per project for eligible jurisdictions and not exceed \$1 million per project for nonprofit organizations. Further, the bill dictates that loan interest rates must not exceed one-half of one percent a year.

The department shall establish policies, priorities, and procedures by which all or part of a loan may be forgiven if an eligible jurisdiction:

- creates a significantly greater number of affordable residential housing units within the project area than the number agreed to during loan contract negotiations;
- creates a significant number of residential units that are available and affordable to households of income levels significantly below the maximum income levels allowable under the program; or
- significantly exceeds program expectations in other ways to be identified by the department.

By August 31, 2010, and by August 31st of every year thereafter, the state treasurer is to transfer from the general fund into the residential infrastructure account the lesser of \$50 million or the excess real estate excise tax growth amount. The bill is pending in the House Ways and Means Committee.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=5377&year=2009>

Inactive Legislation

Alabama: Community-Based Environmental Cleanup, Health Testing and Remediation Trust Fund, H.B. 13

Focus: Sustainable Development

Type: Fund

This bill would create the Community-Based Environmental Cleanup, Health Testing and Remediation Trust Fund and a special loan program for remediation projects to provide resources for community-based environmental cleanup, health testing, and health remediation. Loans for the projects are to be financed from income earned by the trust fund, which will be capitalized by user fees and expansion of the Community Reinvestment Act.

Citizen groups may obtain loans in order to fund community-wide environmental cleanup, health testing, and health remediation activities. To receive a loan under this program, an applicant must submit a detailed proposal outlining how the funds will be used and how the cleanup, testing, or remediation will be achieved. Loans will be forgiven upon satisfactory completion of the proposed cleanup, testing, or remediation.

Finally, this bill establishes the following programs, centers, services, and assistance for communities located in environmental high impact areas:

- a program enabling communities to hire independent experts to conduct both on-site and off-site monitoring of local facilities to ensure that the facilities are complying with their permits, and state and federal laws;
- community environmental resource centers located within existing community service facilities and institutions, staffed by an environmental expert, that shall provide public awareness training, provide education to citizens about state and federal right-to-know provisions, and serve as a clearinghouse for environmental information; and
- a program which facilitates contact between citizens of an affected community and environmental groups, health experts, and legal advisors who are willing to volunteer their services to promote environmental justice.

The bill died when the legislative session ended.

<http://alisondb.legislature.state.al.us/acas/acasloginFire.asp?SESSION=1049>

California: An Act to Amend the Public Utilities Code, Relating To Energy, S.B. 7

Focus: Sustainable Development

Type: Tax Credits

In an effort to encourage consumers to install solar paneling, the state has introduced the net-metering program to work in tandem with the California Solar Initiative (CSI), a \$3.3 billion declining rebate program to offset the cost of installing solar panels on homes, businesses, and public buildings. The new program is to provide grants to a customer installing solar energy systems to make onsite solar energy cost effective for more utility customers.

This bill provides that net-metered customers that produce more electricity over the course of a year than they consume, and thus have excess bill credits, will be allowed to carry those credits forward and apply the credits toward any excess consumption they have in the next two years. This rewards customers that have excess production in one year due to temporary changes in behavior. The bill died when it was sent to the inactive file.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sb_7_bill_20090713_amended_asm_v95.html

Connecticut: An Act Concerning Brownfields Funding, S.B. 969

Focus: Sustainable Development

Type: Fund

Senate Bill 969 creates a separate, non-lapsing account to be known as the Land Protection, Affordable Housing and Historic Preservation Account. The funds in the account shall be distributed every three months as follows:

- twenty percent to the Connecticut Commission on Culture and Tourism,
 - \$200,000 to supplement the technical assistance and preservation activities of the Connecticut Trust for Historic Preservation, and
 - the remainder to supplement historic preservation activities;
- twenty percent to the Connecticut Housing Finance Authority to supplement new or existing affordable housing programs;
- twenty percent to the Department of Environmental Protection for municipal open space grants;
- twenty percent to the Department of Agriculture to use as follows:
 - \$500,000 for the agricultural viability grant program;
 - \$500,000 for the farm transition program;
 - \$100,000 to encourage the sale of Connecticut Grown food to schools, restaurants, retailers, and other institutions and businesses in the state;
 - \$75,000 for the Connecticut farm link program; and
 - the remainder for farmland preservation programs; and
- twenty percent to the department of economic and community development to use for brownfields development projects.

The bill died after receiving an unfavorable report from the Joint Committee on the Environment and narrowly failing to pass a vote.

<http://www.cga.ct.gov/2009/TOB/S/2009SB-00969-R00-SB.htm>

Connecticut: An Act Establishing a Department of Clean Energy, H.B. 6605

Focus: Sustainable Development

Type: Fund

House Bill 6605 authorizes \$2 billion in state bonding authority to be used by a new Department of Clean Energy, which would administer the Renewable Energy Investment Fund, to build a clean energy economy and infrastructure in Connecticut. The Commissioner of Clean Energy is to use the fund to achieve the following goals:

- ensuring that the living standards of state residents are not jeopardized by planning for future fossil fuel shortages and price increases;
- maximizing economic opportunities for state workers in emerging clean energy industries;
- reducing carbon emissions through greater reliance on clean renewable energy sources and energy conservation;
- creating and implementing a strategy to attain energy independence and maximizing employment opportunities by building a clean energy economy;
- identifying and designing training programs to provide needed skills to workers in green industries;
- purchasing and installing renewable energy systems at state and municipal properties, residential homes and businesses;
- promoting energy independence and distributed production;
- promoting farming in the state to ensure food security, safety and the efficient use of energy;
- attracting renewable energy manufacturing firms to the state; and
- consolidating, funding and improving energy conservation programs

The bill died in the Joint Committee on Energy and Technology.

<http://www.cga.ct.gov/2009/TOB/H/2009HB-06605-R00-HB.htm>

Iowa: An Act Creating a Disaster Assistance Loan and Credit Guarantee Program and Fund, H.F. 728

Focus: Disaster Recovery

Type: Fund

Under this bill, the Department of Economic Development is authorized to establish and administer a loan and credit guarantee program. The department, pursuant to agreements with financial institutions, is to provide loan and credit guarantees, or other forms of credit guarantees for qualified businesses and targeted industry businesses for eligible project costs. The department may invest up to ten percent of the assets of the loan and credit guarantee fund, or \$500,000, whichever is greater, to provide loan and credit guarantees or other forms of credit guarantees for eligible project costs to microenterprises located in a municipality with a population under 50,000 residents that is not contiguous to a municipality with a population of 50,000 residents or more.

A loan or credit guarantee provided under the program may stand alone or may be used in conjunction with or to enhance other loans or credit guarantees offered by private, state, or federal entities. The department may purchase insurance to cover defaulted loans meeting the requirements of the program. However, the department shall not in any manner directly or indirectly pledge the credit of the state.

Eligible project costs include expenditures for productive equipment and machinery, working capital for operations and export transactions, research and development, marketing, improvements that increase the energy efficiency or sustainability of a business, and such other

costs as the department may so designate. Eligible project costs include improvements and repairs to property, including real property of a qualified business. The bill died in the House Appropriations Committee.

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=true&ga=83&hbill=HF728>

Missouri: An Act to Add New Sections, Relating to the Environment, H.B. 978

Focus: Sustainable Development

Type: Other

This bill contains all of the provisions of Missouri's House Bill 1028, the Linked Deposit Account Program,⁵¹ and contains additional provisions. First, it includes an income tax credit for homes built under green build standards, which will be based on the percentage of the level of green build standards met as verified by a program-certified, third-party verifier. The credit is not refundable, but can be transferred or carried back or carried forward to any taxable year. The credit will be on a first-come, first-served basis and cannot exceed \$2 million per fiscal year.

In addition, the bill establishes the Missouri Alternative Energy Loan Authority to provide low-interest loans for a need-based program to public and private entities to finance various energy-saving projects and services. The bill contains an appropriation of \$14 million for the Fund. The bill also contains a provision requires public school district seeking state reimbursement for bond offering costs related to new construction or renovation to certify a cost analysis of building to certification issued by the United States Green Building Council under the Leadership in Energy and Environmental Design Green Building Rating System (LEED) or an equivalent certification. The bill also contains several other energy related provisions related to well water regulations, environmental audits, and a tax credit for volunteer firefighters. The bill died in the Senate Committee on Government Accountability and Oversight.

<http://house.mo.gov/content.aspx?info=/bills091/bilsum/perf/sHB978P.htm>

Texas: Center for Sustainable Business, H.B. 4345

Focus: Sustainable Development

Type: Strategic Initiative

House Bill 4345 authorizes the State Energy Conservation Office to establish and oversee the Texas Center for Sustainable Business to assist Texas businesses in reducing greenhouse gas emissions and transitioning successfully to a low-carbon economy. The Center is to develop a sustainable business action plan that will provide a balanced assessment of strategies for assisting businesses in reducing their greenhouse gas emissions. The Texas Center for Sustainable Business is also eligible to receive grants from the Texas Enterprise Fund. The grant funding can be used for the following eligible activities:

- identifying and prioritizing strategies for reducing emissions of greenhouse gases in this state that will result in net savings or in no additional financial cost to consumers or businesses of this state;

⁵¹ See Economic Development Section Page 203 for a full synopsis of Missouri House Bill 1028.

- identifying, assessing, and promoting commercialization of technology that will achieve the greatest greenhouse gas reductions at the lowest cost;
- identifying available grants for applied research to develop new technologies and other practical solutions to reduce greenhouse gas emissions; and
- assessing the costs and benefits of joining the Southwest Climate Change Initiative or another regional initiative.

The bill died in the Committee on Energy Resources.

<http://www.capitol.state.tx.us/tlodocs/81R/billtext/html/HB04345I.htm>

Texas: Texas Emerging Technology Fund, S.B. 542

Focus: Sustainable Energy

Type: Fund

Senate Bill 542 directs the Texas Emerging Technology Fund for the research and development of clean energy to prioritize investments in research, development, and commercialization of technologies, systems, products, and processes that will position Texas to be a world leader in the 21st century energy economy.

The bill requires the Governor, Lieutenant Governor, and Speaker of the House of Representatives to ensure that all the money distributed from the fund for the state fiscal biennium beginning September 1, 2009, and ending August 31, 2011, less any amounts awarded for biotechnology, medicine, and life sciences during the biennium ending August 31, 2009, and less any amounts necessary to administer the fund, will be used for the research and development of low carbon fuels, low carbon electric generation technologies including energy efficiency, renewable energy, and electricity storage, and carbon emissions mitigation strategies. The bill died in the Committee on Economic Development.

<http://www.capitol.state.tx.us/tlodocs/81R/billtext/html/SB00542I.htm>

Vermont: Green Growth Zones, H.B. 139

Focus: Sustainable Development

Type: Tax Credit

This bill proposes to allow municipalities to establish green growth zones, in which power will be generated by a renewable energy source and supplied to housing or commercial enterprises within the zone at discounted rates. Incentives include tax credits and expedited permitting. The entire zone shall be considered a tax increment financing district.

A financing district within a green growth zone shall provide revenues for improvements, including the construction of the public or common portions of electric generation or district heating facilities, which will stimulate development or redevelopment, provide for employment and housing opportunities, improve the tax base, and enhance the general economic vitality within the green growth zone. The bill died in the Committee on Natural Resources and Energy.

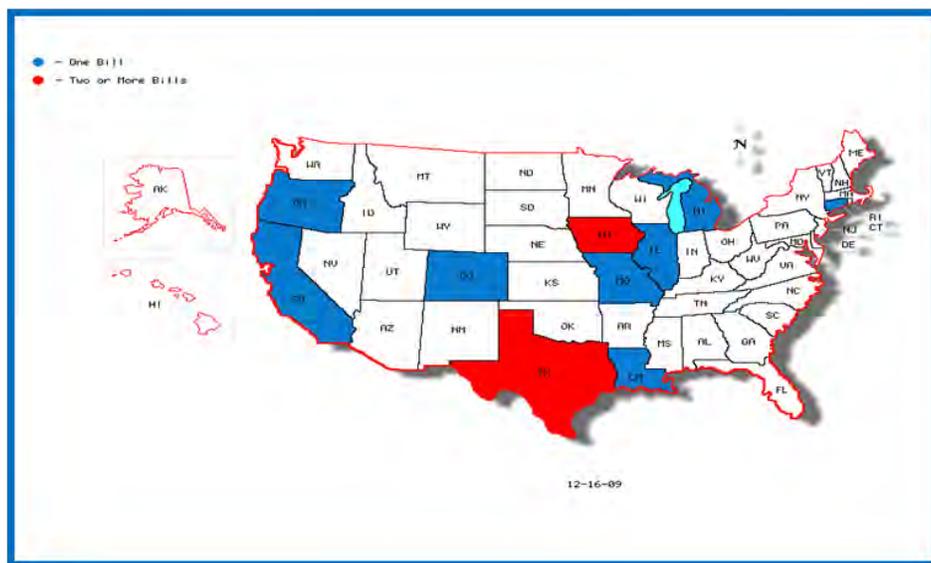
<http://www.leg.state.vt.us/docs/2010/bills/intro/H-139.pdf>

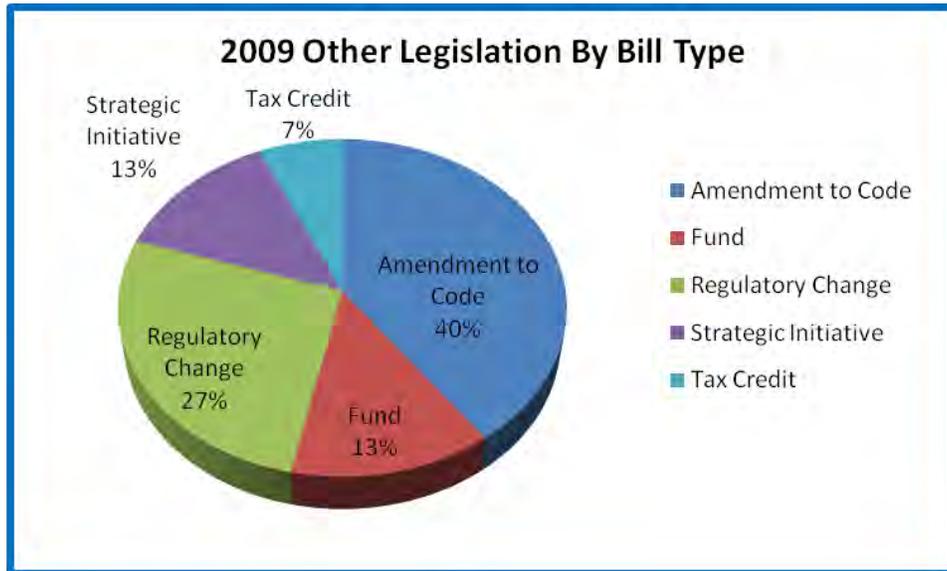
Other

Bills designated as other bill types were bills were relevant to the opportunity finance industry or innovative new projects that did not fit into the other categories as defined. During the 2009 session, there were 15 other bills tracked in ten states.

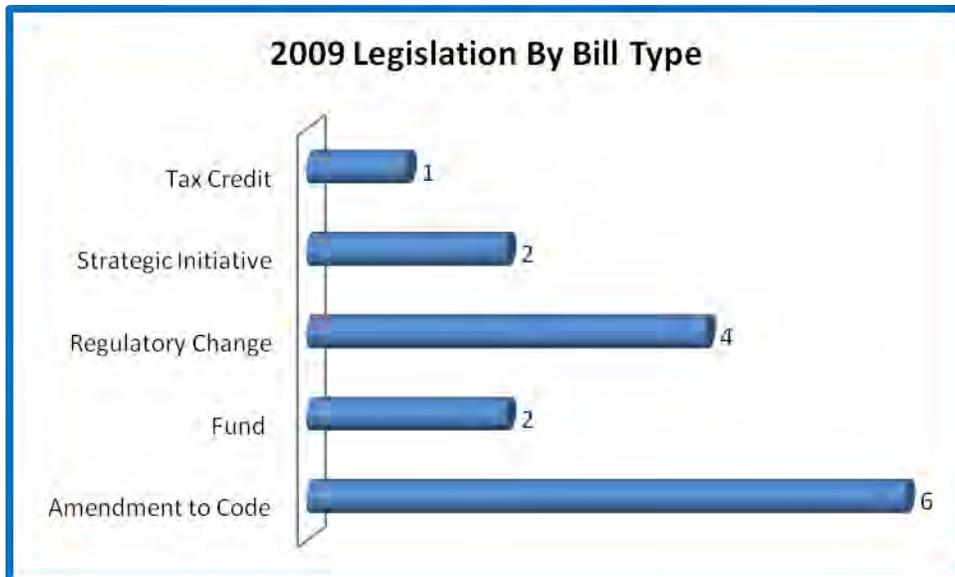
The map below show the state that introduced payday lending legislation in color: states in blue introduced one bill and states in red introduced two or more bills.

- One Bill: California, Colorado, Connecticut, Illinois, Louisiana, Michigan, Missouri, Oregon
- Two or More Bills: Iowa, Texas

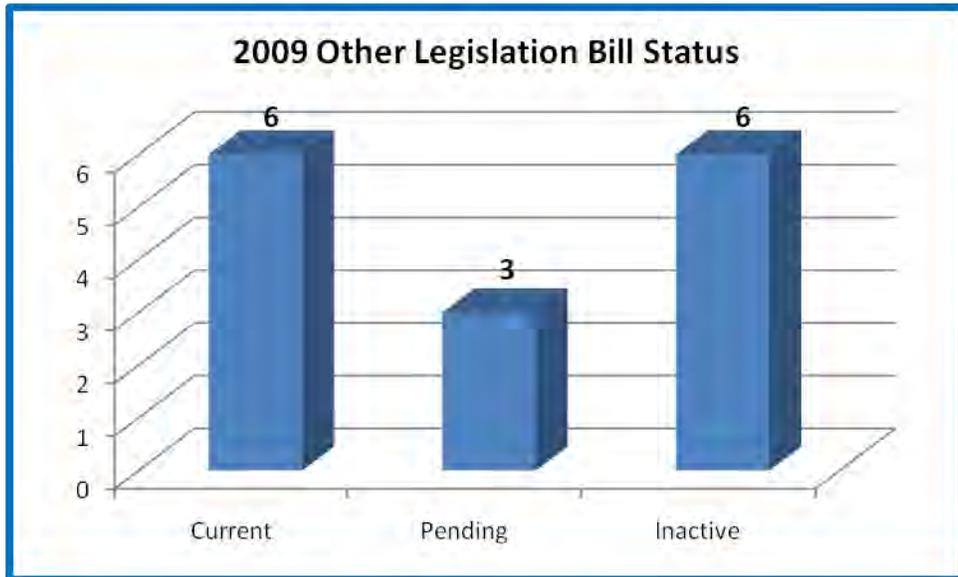




Of the 15 bills categorized as other, six bills, or 40 percent, were amendments to their state code. An additional 27 percent were regulatory changes, while there were two funds and two strategic initiatives. There was also one tax credit bill: Missouri House Bill 191.



Six of the other bill types passed their legislatures this session: two strategic initiatives, two amendments to code, one tax credit, and one regulatory change. Three bills are still pending: California A.B. 33, Illinois H.B. 3752, and Michigan S.B. 772. The remaining six bills did not pass this session.



Current Legislation

Colorado: An Act Concerning the Administration of the Exempt Status of Property for Property Tax Purposes, S.B. 42

Focus: Other

Type: Amendment to Code

Senate Bill 42 amends the property tax law by expanding the definition of property overseen by the property tax administrator that qualifies for a property tax exemption to include property owned by organizations created to take advantage of the federal New Markets Income Tax Credit or the Rehabilitation Tax Credit Program.⁵² The bill requires entities with an interest in real property that qualify for an exemption under the bill to make a payment in lieu of taxes to school districts in which the entity is located in an amount equal to the taxes that would have been owed to the district had the exemption not occurred. The bill was signed into law by Governor Ritter on April 22, 2009.

<http://www.leg.state.co.us/Clics/CLICS2009A/csl.nsf/BillFoldersSenate?openFrameset>

Connecticut: An Act Concerning Branching and Authority to Implement the National Defense Authorization Act, S.B. 617

Focus: Other

Type: Strategic Initiative

This bill allows the banking commissioner, between October 1, 2009 and September 30, 2011, to accept applications for expedited Connecticut banks. These are banks organized primarily for the purpose of assuming liabilities and purchasing assets from the Federal Deposit Insurance Corporation when it is acting as receiver or conservator of an insured depository institution. Additionally, the bill allows the banking commissioner to waive the filing of a Community Reinvestment Act (CRA) plan for banks that meet certain standards, and expedites the process for them to establish bank branches. The bill also allows Connecticut banks to open special need limited branches for high school students, under certain conditions.

http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=617&which_year=2009&SUBMIT1.x=0&SUBMIT1.y=0&SUBMIT1=Normal

Louisiana: Healthy Foods Retail Act, S.B. 299

Focus: Other

Type: Strategic Initiative

The Healthy Food Retail Financing Program proposed within this legislation is based upon the Pennsylvania Fresh Food Financing Initiative. Under House Bill 299, the Louisiana Department of Agriculture and Forestry, in cooperation with public and private sector partners, must establish a financing program that provides grants and loans to healthy food retailers that increase access to fresh fruits and vegetables and other affordable healthy food in underserved communities.

⁵² The Rehabilitation tax credit is a credit designed to promote revitalization in urban and rural communities by encouraging a tax credit for private investment in the rehabilitation of older buildings. The credit allows the owner of a certified historic structure to receive a federal income tax credit equal to 20 percent of the amount spent on qualified rehabilitation costs. There is also a 10 percent credit for older, non-historic buildings.

The department must contract with one or more qualified nonprofit organizations or CDFI to administer the program through a public-private partnership, to raise matching funds, market the program statewide, evaluate applicants, make award decisions, underwrite loans, and monitor compliance and impact. The program will provide funding on a competitive, one-time basis for eligible projects, such as:

- new construction of supermarkets and grocery stores;
- store renovations, expansion, and infrastructure upgrades that improve the availability and quality of fresh produce;
- farmers' markets and public markets, food cooperatives, mobile markets and delivery projects, and distribution projects that enable food retailers in underserved communities to regularly obtain fresh produce; and
- other projects that create or improve healthy food retail outlets that meet the intent of proposed law as determined by the department.

Funding can be used for site acquisition and preparation, construction costs, equipment and furnishings, workforce training, security, certain pre-development costs such as market studies and appraisals, and working capital for first-time inventory and start-up costs. The bill was signed into law July 1, 2009 and became effective August 15, 2009.

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=667987>

Missouri: An Act Relating to Job Development, H.B 191

Focus: Other/Job Creation

Type: Tax Credit

This bill makes numerous changes to certain tax credit provisions in the Missouri code. Currently, taxpayers who contribute to Missouri Development Finance Board funds receive an infrastructure development contribution tax credit equal to 50 percent of the contribution. The board cannot issue more than \$10 million in tax credits in any calendar year or five percent of the average growth in the general revenue receipts in the preceding three fiscal years, whichever is less, but the limitation may be exceeded if agreed to by the Commissioner of the Office of Administration and the directors of the departments of Economic Development and Revenue.

The bill specifies that the total annual amount of tax credits which the board may authorize or approve cannot exceed \$10 million, but this limitation can be exceeded if agreed upon by the Commissioner and the department directors in a signed notarized letter, in which case no more than \$25 million in tax credits can be authorized or approved in that year. This bill allows a taxpayer that makes a qualified equity investment a tax credit in an amount equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment. The Department of Economic Development shall limit the monetary amount of qualified equity investments permitted under this section to a level necessary to limit tax credit utilization at no more than \$27.5 million of tax credits in any fiscal year.

This bill also allows the Missouri Development Finance Board to issue Build America bonds and recovery zone bonds to pay for the cost of financing qualifying projects and authorizes any

development agency, board, commission, or body corporate and politic of the state that is authorized to issue tax-exempt municipal bonds to designate bonds as Build America bonds and recovery zone bonds.

House Bill 191 also limits the total amount of tax credits that may be authorized for low-income housing to taxpayers owning an interest in a qualified Missouri project to \$6 million each fiscal year for projects financed through tax-exempt bonds. The bill passed and was signed into law in June.

<http://www.house.mo.gov/content.aspx?info=/bills091/bills/hb191.htm>

Oregon: An Act Relating to Financial Regulation, H.B. 2199

Focus: Other/Financial Services

Type: Regulatory Change

House Bill 2199 changes several provisions in the Oregon code pertaining to financial regulation. It authorizes the Director of Department of Consumer and Business Services to set different examination fees for different financial institutions and to share information with the federal Financial Crimes Enforcement Network. It also broadens the authority of the Director to issue cease and desist order to include instances involving violations of federal regulations and repeals regulations governing savings associations. The bill was signed into law June 25, 2009.

<http://www.leg.state.or.us/09reg/measures/hb2100.dir/hb2199.a.html>

Tennessee: Taxes, Exemptions, and Credits, H.B. 643

Focus: Other

Type: Amendment to Code

Presently, Tennessee law provides an exemption from property taxes for property of Tennessee nonprofit corporations that is used for permanent housing of low income persons with disabilities, or low income elderly or handicapped persons if the property is financed by a grant under one of the following federal programs:

- Sections 811 or 211 of the National Affordable Housing Act;
- the McKinney-Vento Homeless Assistance Act or is financed by a loan made, insured, or guaranteed by a branch, department or agency of the United States government under:
 - Section 515(b) or Section 521 of the Housing Act of 1949;
 - Section 202 of the Housing Act of 1959;
 - Sections 221, 231 or 236 of the National Housing Act; or
 - Section 8 of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974.

Eligibility for the exemption under such programs continues so long as there is an unpaid balance on the loan, or in the case of a grant, so long as the project is restricted to use for elderly or handicapped persons or persons with disabilities as defined in the programs.

This bill specifies that property that is exempt from property taxes on the basis of having been financed by a loan pursuant to the aforementioned federal programs will continue to qualify for

the exemption, even where the loan is refinanced under a comparable federal program, provided that the property use is restricted to low-income housing of elderly or handicapped persons or persons with disabilities pursuant to the aforementioned programs.

A loan is considered to be guaranteed if the federal housing agency has consented to assignment of a housing assistance program contract as security for the loan. Under present law, there is also an exemption for those properties owned by nonprofit organizations and funded under the federal HOME Investment Partnerships Program, or the state-funded Housing Opportunities Using State Encouragement (HOUSE) Program. To qualify, the property must be used for permanent housing for low-income or very-low-income disabled or handicapped persons. This bill extends this provision to housing for low income or very low income elderly persons. The bill was signed into law by the Governor on April 30, 2009, and became effective immediately.

<http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0643>

Pending Legislation

California: An Act Relating to Financial Transactions, A.B. 33

Focus: Other

Type: Amendment to Code

The regulation and oversight of financial services in California are divided among three regulators, the Department of Financial Institutions, the Department of Real Estate, and the Department of Corporations. This bill would require the Secretary of Business, Transportation and Housing, in conjunction with the Commissioner of Financial Institutions, the Commissioner of Corporations, and the Real Estate Commissioner, to develop a plan to consolidate the operations and licensing frameworks of the three departments into a single department by January 1, 2015. The plan must be submitted to the Legislature by January 1, 2012. The bill passed the Assembly and is pending in the Senate.

http://www.legislature.ca.gov/cgi-bin/port-postquery?bill_number=ab_33&sess=CUR&house=B&author=nava

Illinois: An Act Concerning Financial Regulation, H.B. 3752

Focus: Other/Financial Services Reform

Type: Regulatory Change

This bill prohibits any bank that does business with the State from offering No Income No Asset Loans (NINA Loans) or No Income, No Job, and No Asset Loans (NINJA Loans). The bill is pending in the House Rules Committee.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=76&GA=96&DocTypeId=HB&DocNum=3752&GAID=10&LegID=46548&SpecSess=&Session=>

Michigan: An Act to Amend the Banking Code of 1999, S.B. 772

Focus: Other/Banking

Type: Amendment to Code

This bill prohibits banks from charging any fees based on account inactivity. The bill is pending in the Committee on Banking and Financial Institutions.

Inactive Legislation

Iowa: Public Improvement Quality Protection Act, H.F. 333

Focus: Other

Type: Regulatory Change

House File 333 requires payment of local prevailing wage rates to persons working on public improvements for public bodies. Public improvements are defined as:

- construction; alteration; reconstruction; repair; rehabilitation; refinishing; refurbishing; remodeling; renovation; maintenance; landscaping; improving; moving; wrecking; painting; decorating; custom fabrication, which includes fabrication of plumbing, heating, cooling, ventilation, architectural systems, structural systems, exhaust duct systems, or mechanical insulation; demolishing of, adding to, or subtracting from any building, structure, sewer, ditch, sewage disposal plant, waterworks, parking facility, excavation or other structure, project, development, or improvement, or any part thereof undertaken by a public body;
- the erection of scaffolding or other structures or works; the maintenance, repair, assembly, or disassembly of equipment; the testing of materials; the hauling of refuse incidental to the public improvement from the project site to an outside disposal location; the cleaning of grounds or structures; or the addition to or fabrication into any structure, project, development, or improvement of any material or article of merchandise undertaken by a public body;
- the preparation and removal of roadway construction zones, lane closures, flagging, or traffic diversions undertaken by a public body;
- the installation, repair, maintenance, or calibration of monitoring equipment for underground storage tanks undertaken by a public body; and
- the transportation of supplies, material, and equipment to or from the property or premises undertaken by a public body.

The bill died after failing to pass a vote in the House. There was also a motion introduced to reconsider the bill, however, that failed as well.

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=false&ga=83&hbill=HF333>

Iowa: Iowa Unmet Needs Disaster Grant Program, S.F.67

Focus: Other/Disaster Recovery

Type: Fund

Senate File 67 appropriates \$10 million from the Iowa Economic Emergency Fund for reimbursing expenses for unmet needs for persons located in an area which was declared a disaster area by the president of the United States due to a disaster occurring after May, 2008, and before August, 2008.

Determination of eligibility under the program and certification of unmet needs under the program must be made by area long-term disaster committees and the disaster recovery case

management program established by the Rebuild Iowa office. An eligible participant shall receive reimbursement for expenses upon presenting a receipt for an eligible unmet need or a voucher through a voucher system administered jointly by the Department of Human Services and the area long-term disaster committees. A grant recipient shall not receive more than \$2,500.

A grant recipient must have an income that is equal to or less than 300 percent of the federal poverty level based on the number of people in the household of the recipient. Unmet needs disaster grants must not supplant any other financial support, assistance, or grants provided by any other federal or state government, nonprofit agency, or faith-based agency.

Unmet need expenses eligible for reimbursement are limited to expenses associated with personal property, home repair, food assistance, mental health assistance, child care, and temporary housing. The bill also provides matching funds for an IDA state match fund for account holders affected by a natural disaster occurring in 2008 in a federally declared disaster area who have a household income that is equal to or less than 300 percent of the federal poverty level. The bill died in the House Appropriations Committee.

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=false&ga=83&hbill=SF67>

Iowa: An Act Relating to Minimum Ratings Required for Financial Institution Eligibility to Receive Deposits of State Public Funds, H.F. 539

Focus: Other/ Community Reinvestment

Type: Amendment to Code

This bill relates to eligibility requirements applicable to financial institutions in order to receive deposits of state public funds. Currently, a financial institution is eligible to receive funds once it is added to a list of financial institutions compiled by a committee consisting of the Superintendent of Banking, the Superintendent of Credit Unions, the Auditor of state or a designee, and the Treasurer of State.

The committee must require that a financial institution seeking to qualify for the list annually provide a written statement that the financial institution has complied with the requirements of the Code chapter and has a commitment to community reinvestment consistent with the safe and sound operation of a financial institution. This requirement is waived, however, if the financial institution has received a rating of satisfactory or higher pursuant to the federal Community Reinvestment Act and the rating is certified to the committee by the superintendent of banking. The bill deletes the provision permitting a financial institution that has not received a rating of satisfactory or higher to qualify for the list pursuant to the written statement of compliance and commitment. House Bill 539 died in the Committee on State Government.

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=false&ga=83&hbill=HF539>

Texas: An Act Relating to the Creation, Operation, and Funding of the Texas Youthbuild Program, H.B. 2492

Focus: Other/Workforce Development

Type: Strategic Initiative

House Bill 2492 establishes the Texas YouthBuild program to promote the economic self-sufficiency of disadvantaged or at-risk youth, non-violent juvenile offenders, and young veterans by providing those persons with opportunities to acquire job skills while performing community service activities. The program seeks to create opportunities for communities to restore abandoned properties and historic areas, enhance public places, and increase the availability of affordable, energy-efficient housing for individuals and families of low income, and create training and employment opportunities for eligible veterans.

The bill requires the Texas Workforce Commission to award grants to eligible organizations that demonstrate successful experience in providing integrated green job training and education and counseling and support services for high school dropouts or at-risk youth. Eligible organizations include:

- a private, nonprofit, tax-exempt organization;
- a public agency that operates a community-based youth employment training program; a community housing development organization certified by the state;
- a community educational facility;
- a corps-based community service organization including AmeriCorps, Southwest Conservation Corps, American Youthworks, and similar corps-based service organizations;
- an open-enrollment charter school approved by the Texas Education Agency that serves students 16 years of age or older; or
- a public school that serves students 16 years of age or older.

The bill died when the legislative session ended.

<http://www.capitol.state.tx.us/tlodocs/81R/billtext/html/HB02492H.htm>

Texas: Qualified Manufacturing Project Zones, H.B. 4525

Focus: Other/Workforce Development

Type: Amendment to Code

H.B. 4525 seeks to incentivize the manufacturing industry to create new positions and further train its workforce by offering qualified manufacturing projects a refund on half of the additional state sales tax revenue that a qualified manufacturing project brings to its region. Qualified manufacturing projects would be defined as proposed new or expanded facilities in which at least \$100 million is invested, and is forecasted to create at least 300 full-time jobs, and the construction of which begins after September 1, 2009.

Projects not related to renewable energy generation, advanced battery technology, or waste recycling would be required to invest at least \$200 million. The owner of a proposed facility would be required to be considering locating the facility outside the state, or be in competition

with similar projects in other states for federal funds or financial support that would benefit the project. Electrical generation facilities capturing and sequestering carbon dioxide would also qualify.

The state sales tax refund, which is capped at the lesser of \$50 million or five percent of the amount the qualified manufacturing project invests in the facility, will be invested in workforce development. The bill requires at least ten percent of the amount received as a refund fiscal year to be expended for job skills training programs that serve persons who are unemployed or whose incomes are at or below 200 percent of the federal poverty level. The bill passed the House but did not pass the Senate before the session ended.

<http://www.capitol.state.tx.us/tlodocs/81R/billtext/html/HB04525E.htm>

Texas: An Act Relating to the Exemption from Ad Valorem Taxation of Property, S.B. 2865

Focus: Other

Type: Amendment to Code

Senate Bill 2865 amends the Tax Code relating to the exemption from property taxation of property used by a charitable organization. The bill would add the provision of access to affordable financial products and services for low-income individuals and under-served communities by certain certified CDFIs that are exempt from federal income taxation to the list of charitable functions that would enable the charitable organization to qualify for the exemption. The bill died in the House Ways and Means Committee.

<http://www.capitol.state.tx.us/tlodocs/81R/billtext/html/HB02865I.htm>

Understanding the Legislative Process

In recent years, we have seen a dramatic shift in responsibility for domestic policy from the federal government to state governments. In order to complement the work at the federal level that Opportunity Finance Network provides for its Members, it is important to look at local politics and consider changes at the state and local levels.

Before starting any legislative effort, you must first become familiar with the organization and structure of your state government. While it may appear that there is no system at all, there is a standardized system of operation.

Although each state legislature is unique, they often have several things in common. Most state legislatures meet every year, although a few still meet every other year. With a couple of exceptions, most state legislatures are part time and the elected officials have other jobs in professions outside the state government. Although most are not full time, many state legislatures have study committees that hold hearings between sessions.

Information about your state legislature is available from a variety of sources. One invaluable source is the National Conference of State Legislatures: <http://www.ncsl.org>. Another place to turn for information is the Council of State Governments: <http://www.csg.org>. Additionally, the public information office of your state legislature can be a useful tool for tracking legislation. This office often has handbooks for new legislators or publishes booklets designed for the general public.

Government Branches

Just like the federal government, states are made up of three branches: Judiciary (courts), Executive (Governor), and Legislative. Of these, the legislative branch creates law. All state legislatures are bicameral (consist of two chambers) with the exception of Nebraska, which is unicameral (one-house chamber). The two chambers are the Senate and the House of Representatives (or Delegates or Assembly). Representation is typically apportioned based on population in both chambers. Almost all legislatures begin in January and end by May or June. Nine state legislatures meet year round,¹⁵ and the legislatures in California and Virginia adjourn in late summer.

Committees

Most legislative work is done through committees, which carry out the day-to-day operations of the legislature. Committees determine which bills move through the process and which “die” without any further action. Each chamber has its own committees and the number of committees varies from state to state. There are several common committees found in many legislatures,

such as a budget committee, which determines how much money the state can spend during the fiscal year, and an appropriations committee to decide how the available funding is allocated.

Committee chairpersons yield a tremendous amount of power since they determine when and if a bill is considered by the committee or if it is referred to another committee. If a bill has several components, it may have to go to more than one committee for consideration. For example, if a bill has a budget component, it will likely have to go to the state's fiscal committee, which considers and votes on legislation that has a financial implication for the state.

Leadership

Every legislative body has a hierarchy. In the Senate, the top position is either the president or the president pro tempore. In states where the Lieutenant Governor presides over the Senate, the majority of the Senate elects a president pro tempore, who normally is the true presiding officer. Other important positions in state legislatures include majority leader, majority floor leader, minority leader, and minority floor leader.

In the Assembly, the leader is usually the speaker of the house. The speaker is elected by a majority vote, so he or she is usually a member of the majority party. Other important positions include the speaker pro tempore, majority floor leader, minority leader, and minority floor leader. In addition to legislature leadership, other key players include committee staff, personal staff, and heads of state departments, including those preparing the state budget, monitoring state expenditures, and analyzing the fiscal impact of proposed legislation.

Finally, the Governor should never be overlooked in discussions about the legislative process. Because a particular piece of legislation typically must be signed into law by the Governor, he or she is vital to the legislative process. In most states, the Governor has the power to veto or kill a bill once it is passed by the legislature. Several Governors have line-item veto power that allows them to veto certain sections of legislation.

The Governor, usually with the advice and consent of the Senate, also appoints directors of departments, commissions, and boards. The Governor is also responsible for preparing the state's budget and submitting it to the legislature for approval.

Making the Case

In order to get a bill introduced, it is imperative to first identify a legislator who is willing to introduce the bill. It is generally more effective to introduce the bill for consideration in both the Assembly and Senate at the same time, thus requiring a sponsor (author) for each chamber.

The best potential sponsor is someone with knowledge of the issue, particularly if that sponsor is a member of the majority party, and a member of the committee that will consider the bill. It is also helpful to identify simultaneously co-sponsors from both parties, so the bill's sponsor will know that he or she has support even before the legislation is officially introduced.

Before asking an elected official to introduce your bill, it is important to garner a thorough understanding of the proposed legislation. Make sure to double check your data before presenting to the potential sponsor. Because of limited staffs, state legislators must often trust outside resources to provide them with all the information to make a decision. Do not abuse this opportunity by not presenting all the facts, including the pros and cons, flaws, and hurdles that the bill must overcome. This way the sponsor will not be subjected to any unwelcome surprises.

The most important thing of all is committing to supporting the bill through the entire process. It is usually a very long road to success, often taking years of hard work and dedication. It is much easier to "kill" a bill than it is to get it passed. Supporting legislation and the sponsor of the bill includes providing information about the bill, attending hearings, and securing co-sponsors for the legislation. Other activities include writing to legislators, testifying, and meeting with members of both chambers. This can mean the difference between success and failure.

Meeting with State Legislators & Staff

Meeting with legislators personally is the most effective way to communicate. Contact the legislator's office by phone, fax, or e-mail and ask for about 15 minutes of the legislator's time at his or her convenience. The two tips to a useful and productive meeting with an elected official sound deceptively simple, but can make all the difference between success and failure:

- 1. Ask the official to do something, and**
- 2. Give the official a reason to care about doing it.**

Preparing for the meeting

- Know what you want from the meeting, including specific action you want from the legislator.
- Find out what matters to the legislator and information about his or her background, such as what kinds of issues the legislator tackles or on which committees he or she serves.
- Prepare materials to bring to the meeting, including a one-page fact sheet outlining the issue, your position on it, and the action you want from the legislator. Bring information about your organization and borrower stories. Don't forget your business cards.

Writing a Letter

One of the easiest ways to communicate with legislators is to write a letter. As few as three letters on an issue can get a legislator's attention. The letters may not change his or her mind, but it's a sufficient number to have a staffer assigned to look into and follow the issue.

When writing a letter to an elected official, keep the following points in mind:

- Keep the letter short and to the point. One page is best.
- Be clear about what you want the legislator to do: support an appropriation, vote for or against a bill, etc. Include the bill numbers, if appropriate, and inform the legislator when the bill is scheduled for a committee hearing or vote, if known.
- Use one brief paragraph to talk about your organization, its mission, and the results produced in your community.
- Include an example or two of borrowers who have benefited from your organization's financing. If possible, choose stories that are relevant to the legislator.
- Close with an offer to be a resource for more information.

Monitoring Legislation

After the legislation of interest has been introduced, it becomes important to monitor the bill as it travels through the legislature. In order to identify, assess, and influence legislation, it is important to develop an efficient monitoring process. Many state legislatures publish records of daily legislative activities including committee schedules and votes. You can usually request the records from the Secretary of State's office, the Secretary of the Senate, or the Chief Clerk of the Assembly or ask to be placed on their e-mail or mailing lists.

Additionally, every state now has a website with the ability to access vital information about the legislature including calendars, upcoming hearings, and contact information for your representative. Many sites are also equipped with a bill finder function that enables constituents and other interested parties to search for bills by keyword, session number, sponsor, or subject matter. However, some websites can be much easier to navigate than others, but in general, the websites are useful tools for unearthing pertinent information about the state legislature. There are also numerous subscription services available such as Westlaw and LexisNexis that provide searching and bill tracking functionality for all 50 states; however, these services are very expensive. Finally, local media can be a source of information because many publications post schedules and summaries of proposed legislation.

Committee Testimony

As the bill moves into committee, public hearings are often held to help the committee members hear more about the issue from interested parties. Committee hearings are excellent opportunities to provide legislators with information about issues that matter to you and your organization. It also helps you gain experience and credibility with important public officials. Most committees will set deadlines for acceptance of applications to testify, so as soon as possible, notify the committee of your desire to present testimony.

Here are some tips on testifying before a legislative committee:

- Find out the rules established by the committee. These include time allocations, filing your testimony in advance, and the number of copies of your testimony that should be provided.
- Study the legislation for which you'll be providing testimony (and amendments and commentary).
- Prepare your testimony well in advance of the hearing. Make sure you have consensus on your statements if you are representing other groups in addition to your organization.
- If possible, meet with members of the committee prior to the hearing to gain insight into the types of questions that will be asked and where committee members stand on the topic.
- Provide copies of your remarks to the local media.
- Make your testimony personal. Relate your own experiences with the issue being debated. Inform the committee of the effect that the proposed legislation has on your borrowers.
- File a written statement if you are not able to present your testimony in person.
- Do not be disappointed if only a few committee members are present. Staff and department officials are always present and will relay your comments.
- If you don't know the answer to a question, say so. Offer to research and write a detailed response. Many times, the member asking the question will already know the answer and an incorrect guess can be deadly to your testimony.
- Write a thank you letter to committee members for the opportunity to testify.

Position Papers & Fact Sheets

It is important to express why a particular issue should be important to the elected official, both in person and in writing. Preparing documents to leave behind is always a good idea because they can be used for future reference. Supporting documents provided to a lawmaker should be factual, brief, concise, and to the point. It is best to bring your organization brochure (make sure it includes your website address), a position paper, and fact sheet to leave behind at any meeting with legislators or their staff. Position papers and fact sheets should be one-page in length. A fact sheet should start with a sentence that states your position (support/oppose) and lists the bill number, if appropriate. The rest of the document should be bullets that list the most important

facts about the issue. Fact sheets provide the most important information and talking points about the topic.

Position papers should represent ONE issue only. If you have more than one issue, write a separate paper for each topic. Explain clearly what position you are taking on the issue. You should briefly explain both what you are for and what you are against. Be short but specific. A “call to action” is a good idea, tell people what you think they ought to do. A position paper should include the following:

- Issue: A brief statement that describes the topic.
- Position: A one-sentence statement that clearly summarizes your position (support/oppose) and lists the bill number, if appropriate.
- Background: Two to three paragraphs explaining the issue, where it stands, and why you have taken your position.
- Summary: One to two paragraphs summarizing key issues and the impact of the proposed legislation on your community.

Borrower Profiles

Borrower stories— anecdotes that highlight the end users of your financing and illustrate the impact of your work—are one of the most effective means of showing legislators the difference you make. An Opportunity Finance Network Member Profile is a great way to highlight your organization’s work.

Site visits

Nothing gives your elected officials a better picture of opportunity finance at work than seeing it firsthand. One way to show them that picture is to host a site visit to meet borrowers and tour the sites of your projects. A site visit can take several forms. It can be a short addition to a ribbon cutting, groundbreaking, annual meeting, or other planned event or a half-day tour developed specifically to host legislators. It can be a quick meeting with borrowers and policymakers, or a short briefing about your impact. Host the visit with a borrower who underscores the success of your organization who will attract the interest of your legislator.

You may want to invite press participation in your site visit, especially if you are hosting a legislator. At the very least, make sure you have assigned someone to take pictures for your website, newsletters, and annual report.

After the visit send a thank-you note. The thank you should express your appreciation for the legislator’s time, briefly reiterate any action you’d like the legislator to take and why, and offer your organization as a resource for opportunity finance. Think of the site visit as one step in a

long-term relationship. Add the staffers who attended to your mailing list, make sure they receive copies of any press coverage, and invite them to future events.

Coalition Building

Coalitions provide a structure for groups with similar goals to focus effectively collective resources. Coalitions are usually created for a specific purpose (i.e., passage of a particular bill) and for a defined period of time. This can prevent duplication of efforts and present a united front for the greatest impact. Coalitions are especially helpful for building volunteer support, gaining allies, and achieving goals that may not be possible otherwise.

Coalitions should encourage diverse membership including for-profit companies and industries that might be interested in the issue (home builders, small business associations, etc.) You should invite all potential supporters to be involved. If a coalition name is needed, it should be issue related, i.e., The Coalition for the Illinois CDFI Fund.

When forming a coalition, it is important to delegate duties: designate someone to be responsible for all communication, someone to facilitate consensus building, and someone to assume fiscal responsibilities (if any). The coalition should:

- Create a purpose statement and outline an action plan,
- Clarify the decision-making process,
- Specify achievable goals,
- Hold regular meetings,
- Define and assign tasks,
- Establish short-term goals to maintain enthusiasm for the project,
- Measure actual results against planned goals,
- Address concerns early, and
- Produce tangible products (fact sheets, position papers, etc.).

Coalitions can be powerful tools for promoting issues and coordinating efforts. The key to success is commitment by all involved.

Grassroots Network

One of the most effective ways to interact with your state legislature is by getting other individuals and groups involved through a grassroots network. The goal is to identify others who are interested in your issue and actively engage their participation.

Grassroots lobbying takes a lot of work and effort, but it is an extremely effective way to influence the legislative process. The goal is to identify persons who have a personal relationship with a state legislator or who is willing to establish a relationship to promote your issue. You may

be surprised to know that legislators welcome this opportunity to have a key contact as a resource to whom they can turn to for advice and counsel.

Developing a grassroots network takes a lot of coordination and you should assign someone to this task. The first step is to identify interested individuals and groups. A good starting point is Opportunity Finance Network's Membership locator (<http://www.opportunityfinance.net>) to identify other CDFIs in the state that will likely share your interests. Responsibilities for the network coordinator include:

- Identify key legislators,
- Contact potential participants and identify personal relationships,
- Recruit participants for all key legislators,
- Create a database of participants, including notes from meetings,
- Provide each participant with Opportunity Finance Network's advocacy guide¹⁶ as well as legislative contact information, and outline exactly what you need (please meet with Senator X and report back on the meeting),
- Stay in contact with participants. Provide them with progress updates, sample letters, and other important information that they can relay to the elected officials, and
- Coordinate all key activities and meetings.

Working with a Lobbyist

As opportunity finance specialists, your time is valuable and limited. Effective lobbying can be expensive and resource intensive. Legislative efforts take a great deal of time and it may be more cost effective in the long run to consider hiring a professional lobbyist. A lobbyist that is brilliant with homeland security may not be good at opportunity finance. Finding the right match is the key to success.

Working with Regulators

Legislators create laws and regulatory agencies interpret, implement, and enforce the laws. On the one hand, legislative gains can be reversed through adverse interpretations and rulings. On the other hand, these agencies can also be strong allies, especially guarding against adverse legislation.

In interpreting the law, regulators sometimes use inaccurate, problematic terminology, so it is important that you work closely with them. Also, where no law exists, many states give their regulatory agencies significant power and latitude in enforcement. There are two opportunities for influencing regulatory language: during the drafting of proposed language and when the proposal is submitted for public comment. Luckily, most regulators are committed to their work

and are receptive to the opinions of those who have expertise or are most affected by the regulations. Suggestions for working with regulators include:

- Keep coalitions together through the issuance of final regulations.
- Emphasize the public good, not just the good for your organization.
- Provide accurate, complete, and timely information.
- Providing draft language can expedite decisions since agencies are often short staffed.
- Ensure suggestions and requests are permissible within the agency's legal authority.
- Offer to continue to work with the agency as issues arise.

Checklist for Success

In General:

- What will be included in the bill and what will it accomplish?
- What is the political climate in your state as it applies to the possible success of the effort?
- Do you need funding for this project? If so, how much?
- What is the breakdown of expenses (at least a one-year budget)?

Coalition/Grassroots:

- Which groups (both for- and nonprofit) are likely allies to this effort?
- Which groups (both for- and nonprofit) will likely oppose this effort and why?
- Is a coalition needed? Which groups are likely to join?
- Who has key contacts with legislators?
- Is a professional lobbyist needed? Where will the funding come from to hire a lobbyist?

Legislative:

- What is the legislative process for your state?
- Who are the legislative leaders in your state (both Senate and Assembly)?
- What are the committees that this legislation will likely go through?
- Which legislators are on the committees of interest?
- Who is the committee chair(s)?
- Which legislators are likely to support this legislation?
- Which legislators are likely to oppose this legislation?

Administrative:

- Will the Governor likely be for or against this legislation?
- Does the Governor have line-item veto authority?
- Who are the key staffers in the Governor's office?
- Which state department(s) will this legislation affect? Who are the directors/key staffs?

Methodology

The research methodology for this resource guide differed slightly from last year. In the 2007 legislative guide, we tried to limit the study to initiatives that identified CDFIs in legislation or description. In 2008, the study was expanded to include bills that benefit opportunity finance, but were not limited to CDFIs. This year, we continued the trend of searching state Assembly databases as well as tracked legislation on LexisNexis to find relevant bills introduced during the 2009 session that featured the following terms:

- Affordable Housing
- Charter Schools
- Child Savings Account
- Community Development Bank
- Community Development Corporation
- Community Development Credit Union
- Community Development Financial Institution
- Community Development Loan Fund
- Community Development Venture Capital
- Community Reinvestment
- Cooperative Housing
- Disaster Recovery
- Individual Development Accounts
- Loan Guarantee
- Microenterprise
- Multifamily Housing
- New Markets Tax Credit
- Predatory Lending
- Rural Development
- Small Business Development
- Subprime Lending
- Sustainable Development

In addition, this year the guide was grouped accordant to subject matter areas or the bill focus, instead of bill type. Each focus area is featured in a stand-alone section with detailed analysis of the bill type and status of the legislation.

The analysis was also expanded to include cumulative trends, year-to-year trends, and regional trends. For the regional trends, the regions and divisions are as defined by the Census Bureau.

Midwest Region (12 states)

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin

Northeast Region (9 states)

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont

South Region (17 states)

Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, , Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia

West Region (13 states)

Mountain: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming

For legislation discovered through assembly searches, it was usually possible to identify the status of the bill. Where the bill had stalled beyond the current assembly, we contacted the state legislature to determine if the bill was dead or if it carried over into a new session.

There are a number of states that have legislative sessions lasting two years, which carry bills over into the second session, including Indiana and New Hampshire. Bills carried over are noted in the bill synopsis. For more than half of state legislatures,⁵³ 2009 is the first year in a two-year session, and bills that remained in committee at the adjournment of the session were considered pending.

In addition to Assembly searches, we followed up on legislation sent to the Opportunity Finance Network from Members or affiliates, as well as initiatives included in a prior Opportunity Finance Network report.

Many of the bills could fit into several categories, for example, funds could also qualify as strategies, general economic development focus and small business focus were often overlapping as well. In addition, the difference between certain bills focused on predatory lending and mortgage lending were difficult to distinguish. In this case, bills were considered to have a mortgage lending focus if they dictated the terms of mortgage loans, in particular loan terms, disclosure requirements for lenders, and documentation of borrower income. Bills primarily focused on curbing payday lending, and other predatory practices outside of the realm of home loans, were categorized as having a predatory lending focus. The bills are grouped according to the best judgment of Opportunity Finance Network.

Caveats

⁵³ These states are Alaska, California, Delaware, Georgia, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, North Carolina, North Dakota, Nebraska, New Hampshire, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Washington, and Wisconsin.

The data collection technique used for this study is by no means exhaustive, but more thorough than in previous years:

- There was a systematic search for legislation that contained the term “community development financial.”
- There was an additional search for initiatives that did not contain the term “community development financial,” but were CDFI relevant (see search terms above)
- We tried to exclude programs that sounded incidental or very small. The demarcation line of whether or not an initiative is relevant is subjective.
- Uniform resource locators (URLs) included with descriptions of legislation may not be valid beyond the current session of a state legislature
- Users can likely find bills online using the bill number cited here by searching the appropriate year’s database on a state legislature’s site.
- An important point to note is bills listed as passed may be enrolled, but are not necessarily active. The statuses of the bills are detailed in the bill synopsis and bills are active only where noted specifically.
- Amendments to the State Code, Regulatory Changes and Tax Credit legislation were assumed not to require any appropriations unless there was specific mention in the legislation.

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