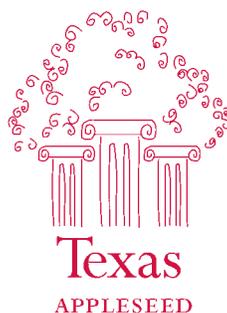


# A Toolkit for Cities

Increasing Access to Fair, Low-Cost Loans





# A Toolkit for Cities

Increasing Access to  
Fair, Low-Cost Loans

August 2016\*

## Texas Appleseed Report Team

### **Ann Baddour**

*Director of Fair Financial Services Project*

### **Brett Merfish**

*Staff Attorney*

### **Mary Schmid Mergler**

*Director of Criminal Justice Project*

### **Kelli Johnson**

*Communications Director*

### **Jamie Sauer**

*Development Associate*

### **Deborah Fowler**

*Executive Director*

## Texas Appleseed Mission

Texas Appleseed promotes social and economic justice for all Texans by leveraging the skills and resources of volunteer lawyers and other professionals to identify practical solutions to difficult, systemic problems.

## About Us

Texas Appleseed is a public interest justice center. Our nonprofit works to change unjust laws and policies that prevent Texans from realizing their full potential.

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Texas Appleseed  
1609 Shoal Creek Blvd  
Suite 201  
Austin, TX 78701  
512-473-2800

[www.texasappleseed.org](http://www.texasappleseed.org)  
Twitter: [@TexasAppleseed](https://twitter.com/TexasAppleseed)  
Facebook: [Facebook.com/TexasAppleseed](https://www.facebook.com/TexasAppleseed)

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## Advisory Committee

Texas Appleseed would like to thank the members of our Advisory Committee for providing crucial information and guidance that informed this toolkit. The recommendations in this toolkit are Texas Appleseed's and do not necessarily reflect the opinions of advisory committee members.

### **Jerry Allen**

*Former Councilmember, City of Dallas*

### **Larry Garcia**

*Board Member*

NALCAB

### **Matt Hull**

*Executive Director*

Texas Association of Community  
Development Corporations

### **Debbie Taylor**

*Director of U.S. Markets*

Citi Community Development

### **James Thurston**

*Chief Executive Officer*

United Way of Central Texas

### **Paul Turney**

*Executive Vice President*

Brazos Valley Affordable Housing Corporation

### **Woody Widrow**

*Executive Director*

RAISE Texas

### **Tom Wilkinson**

*Executive Director*

Brazos Valley Council of Governments



# A Toolkit for Cities

Increasing Access to Fair, Low-Cost Loans

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## Executive Summary

**Cities Lead the Way:** Payday and auto title lending is a \$5.8 billion industry in Texas, with over 70% of the volume due to refinances or rollovers and high fee charges. Except in cities where city councils passed ordinances, payments in the two weeks often required for payday loans and four weeks for auto title loans do nothing to reduce the original debt. Texas borrowers typically pay \$1,200 or more over five months on what is supposed to be a short-term \$500 payday loan.

While a heavily lobbied state legislature has shied away from reform, cities across Texas—35 and

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A 2015 study from the Texas League of Women Voters found that payday and auto title businesses caused an...

estimated loss of  
**\$351 million**  
in economic value

and a loss of  
**7,375 jobs**  
in 2014.

[1] League of Women Voters of Texas Education Fund, Payday & Auto Title Loans in Texas: A Study by League of Women Voters of Texas Education Fund, 4 (Aug. 2015).

counting—have stepped up. These cities have witnessed the drain on the local economy as well as the increased demand for social services and need for local charities to help families get out of payday and auto title loan debt. In 2015, auto title lenders repossessed 717 cars per week. One study found that payday and auto title lending in Texas led to an estimated net loss of \$351 million in economic value and a loss of 7,375 jobs.<sup>1</sup>

**Cities are at the forefront of efforts to combat the harmful economic impact of high-cost payday and auto title loans on low- and moderate-income families.**

In 2008, some Texas cities began using municipal land use ordinances to limit the concentration of payday and auto title loan storefronts within their city limits. Three years later, Dallas became the first Texas city to adopt an ordinance aimed at preventing payday and auto title borrowers from becoming ensnared in a protracted cycle of debt. A total of 35 cities (with more on the horizon) have now adopted this “unified ordinance,” available to cities through the Texas Municipal League (TML) and endorsed by a broad coalition of cities, nonprofits, and civic and religious organizations.

While it is outside a city’s regulatory authority to address the exorbitant fees charged for payday and auto title loans—which, coupled with the interest, can exceed 500% APR (Annual Percentage Rate)—the city standards benefit borrowers by limiting the number of installments or rollovers, requiring payments to reduce the loan principal, and limiting loan amounts based on borrower income.

**The vision of our cities is making a difference.** Today, more than a third of all Texans—*over 9 million people*—live in a city that offers these basic consumer protections. And help is available for other cities willing to join them, with model ordinance language and other resources easily accessible online.<sup>2</sup>

**What comes next?** What do the next steps look like for cities after adopting what is now known as the unified payday/auto title loan ordinance? How can other Texas communities build on this momentum of local success to hold the line against predatory lenders?

While city ordinances are an impactful first step, cities can do more. The high visibility of the more than 2,500 payday and auto title storefronts operating across Texas is a barometer of the economic pressures facing low- and moderate-income families and the need for more easily accessible and affordable small-dollar loan products. Where such options do exist, they are often dwarfed by the sheer number of payday and auto title loan businesses who use mass advertising near major traffic arteries and in poorer neighborhoods.

Despite the economic recovery since the Great Recession, half of Texas families continue to live under perpetual financial strain.<sup>3</sup> The ongoing financial strain too often drives families to resort to

these high-cost loan products to bridge gaps in income to cover basic living expenses.<sup>4</sup> The good news is that cities can make a difference for their citizens and local economies by enacting policies that constrain abuses surrounding high-cost payday and auto title loans (like the unified ordinance) and encourage productive market options, such as low-cost loan products and local initiatives to promote financial well-being across neighborhoods in our cities.

As housing, utility and basic living costs continue to rise, cities are tasked with finding creative ways to meet affordability, economic development, and quality of life challenges impacting low- and moderate-income families. Communities are best able to address these challenges when cities—and in some cases, county governments or other local bodies—remove barriers to financial well-being and encourage fair loan products.

**Implementing the five strategies outlined in this guide creates not only a win-win for lenders and borrowers; it holds the promise of bolstering local economies and making Texas cities more affordable and inclusive.**

## Overview of Local Opportunities

### 1 Local Opportunity: Offer affordable employer-based loans to employees.



#### Benefits to Cities:

- Helps attract and retain employees at little to no cost to the employer—for city employers, it also ensures more lower-income workers can afford to live within the city limits.
- Reduces presenteeism (in this case, employees addressing or preoccupied with personal financial problems while at work) and time spent by employees away from work making payments to storefront lenders.
- Decreases the number of paycheck advances to employees.
- Cuts down on the number of employment verification calls from payday and auto title lenders.

#### How it Works:

- Reduces default risk by structuring repayment through optional automatic payroll deduction.
- Gives employees new credit building and financial education opportunities in-house or in partnership with local nonprofits with expertise in these areas.
- Uses available funds as needed for loan capital and loan loss reserves.
- Cities or city-encouraged private employers can leverage their employee base to establish an affordable lending program.

#### Examples at Work:

- **Programs Leveraging Nonprofit Partnerships:** Community Loan Center of Texas Small Dollar Loan Program, Virginia Credit Union's Virginia State Employee Loan Program, Filene Research Institute's Employer-Sponsored Small Dollar Loans
- **For-Profit Led Programs:** Kashable, TrueConnect Employees Investment Solutions

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**Local Opportunity: Provide funding and/or support for other low-cost lending programs.**



**Benefits to Cities:**

- Creates stronger local economy by creating alternatives to predatory lending.
- Reduces use of payday and auto title loans.
- Provides a financial pathway forward for struggling families to build savings and improve credit scores.

**How it Works:**

- Cities invest directly, where possible, in financial institutions to generate loan capital or loss reserves to encourage local innovation for affordable loans.

- As a supplement or alternative to direct investment, cities can convene local financial institutions and stakeholders (such as nonprofits) to find innovative market solutions to the problem of high-cost lending. Leveraging other funding, such as support from the federal CDFI fund to catalyze local solutions, is one example of this.
- Cities can explore creating bank or credit union development districts (authorized by Texas statute in the 84th Legislative Session) to bring these more affordable financial services to underserved parts of the community where payday and auto title lenders are too often the first resort.

**Examples at Work:**

- **Direct Investment or Operational Support:** Better Choice Program, Society of St. Vincent de Paul Predatory Loan Conversion Program, GECU Fast Cash Loan program, West End Neighborhood House Loans Plus Program

**3 Local Opportunity: Partner with a local Council of Government (COG) to promote affordable lending.**



**Benefits to Cities:**

- Expands the potential benefits of fair, lower cost lending to a larger geographic area to benefit more people and create a healthier economy.

**How it Works:**

- COGs’ regional perspective and flexibility make them an attractive partner to catalyze and oversee alternative loan programs.

- COGs cannot levy taxes but can implement programs to combat unemployment and increase per capita income—goals which affordable lending programs and financial education help address.
- Cities can tap into a COG’s capacity to encourage alternative loan programs and help catalyze local innovation through assistance in obtaining low-cost lending capital or supporting loan loss reserves.

**Examples at Work:**

- **Offering small-dollar loans:** Brazos Valley CLC—a collaboration of Brazos Valley Affordable Housing Corporation, Brazos Valley Community Development Corporation, and the Brazos Valley COG<sup>8</sup>

**4 Local Opportunity: Amend city-authorized fine and fee policies that drive people to high-cost loans.**



**Benefit to Cities:**

- Provides indigent and low-income residents with affordable fine and fee schedules and options to boost repayment without inadvertently driving people to high-cost payday and auto title loans.

**How it Works:**

- Implement or evaluate existing public utility bill assistance programs to ensure reasonable terms that support bill payment without leading to additional consumer debt and high-cost loans.
- City councils can review municipal court payment plan terms for fines and fees in traffic and non-traffic misdemeanors and ordinance violations and encourage the courts to use terms for low-income city residents that account for their ability to repay within realistic time periods.<sup>5</sup>

- Encourage municipal judges to use discretion to waive or reduce fines and fees for indigent and low-income individuals and discourage the view of the municipal court as a revenue generator for the city.
- Review community service options to pay off municipal court fines to ensure that availability and scheduling times fit with work schedules and accessibility to low-cost transportation.
- Heavily publicize and market utility bill and court fine repayment options to counteract citizens defaulting to easily obtainable payday and auto title loans to cover debts.

**Examples at Work:**

- **Municipal utility bill assistance programs:** Houston’s LIFT-UP Pilot Program, Austin’s Deferred Payment Agreements with reasonable terms, Austin’s Community Benefit Charge Funding for its Community Assistance Program
- **Municipal fee and fine policies:** Cities should review their fee and fine payment policies with an eye to debt pressures and unintended impacts of fostering dependence on predatory lending products.

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## Local Opportunity: Better connect borrowers to community asset building and financial empowerment services.



### Benefit to Cities:

- Improves overall economic health and quality of life for city residents through programs with documented success.
- Provides help to residents in such areas as debt reduction, increased savings, student loan repayments, improved credit scores, resolution of federal tax issues, avoided evictions and foreclosure, and improved participation in job training programs.
- Reduces the demand for social services and allows cities to target social service support to those with the greatest needs.

### How it Works:

- Take advantage of all internal and external media channels at the city's disposal to remind citizens of community asset building and financial empowerment service opportunities.
- Partner with local employers, nonprofits, COGs, and others to ensure people are connected with available services and programs.

### Examples at Work:

- **Community Asset Building and Financial Empowerment Programs:** San Antonio Financial Empowerment Centers, efforts by the Mayor of Dallas and Mountain View College to improve family financial well-being in Dallas, Houston-area efforts including United Way THRIVE and Bank On Houston

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## ENDNOTES

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- 1 League of Women Voters of Texas Education Fund, *Payday & Auto Title Loans in Texas: A Study by League of Women Voters of Texas Education Fund*, 4 (Aug. 2015).
- 2 Texas Municipal League website, *Payday Lending Clearinghouse* (includes a copy of the model unified ordinance).
- 3 CFED, *Assets & Opportunity Scorecard: State of Texas Profile* (Jan. 2016); see also Kristen Capps, *Half of all American Families are Staring at Financial Catastrophe*, CityLab (May 29, 2015).
- 4 *Id.* “The share of households seeking non-bank credit with incomes about \$30,000 increased from 42 to 48 percent between 2011 and 2013.”
- 5 Even if those terms are ultimately up to the court, the council can use their influence and position to urge the municipal courts to address fee payment schedules.



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*When local public servants lock arms and stand united then they become a force like no other.*

**Jerry Allen**

Former Dallas City Council Member and local champion of the first Texas payday and auto title reform ordinance

## Introduction: Cities Lead the Way

Cities and local social service organizations were the first to recognize the economic drain caused by payday and auto title loan businesses. In the absence of state action, cities acted first to address the problem by passing zoning and reform ordinances. Cities took the lead to ensure borrowers were not trapped in high-cost loans for months and months on end. Helping prevent borrowers from getting caught in the cycle of debt has been an impactful first step. Cities now have the opportunity to provide borrowers with better credit options.

## The Problem: Payday and Auto Title Lending Hurts Texas Communities

In the aftermath of the Great Recession, many families across the country continue to struggle to make ends meet. A 2015 Federal Reserve report on economic well-being found that about one-third of respondents, or 76 million adults, reported they are either “finding it difficult to get by” (9 percent) or are “just getting by” (22 percent) financially.<sup>1</sup> About 46% of respondents indicated that a hypothetical emergency expense of \$400 would be challenging to handle and that “they either could not pay the expense or would borrow or sell something to do so.”<sup>2</sup> In fact, according to a national study, about 55% of American households have less than one month of their income in liquid savings.<sup>3</sup> And not surprisingly, low-income families are particularly vulnerable, given that on average they only have nine days of liquid savings.<sup>4</sup>

Poor credit is often coupled with this lack of financial reserves—around 60% of Texas consumers have subprime credit scores.<sup>5</sup> This picture means that when an unexpected expense comes up, it leaves cash-strapped households feeling stranded.

Enter payday and auto title loan businesses, which thrive when families find themselves in desperate need of fast cash and thrive even more when families struggle to pay back their high-interest loans. In 2015, the latest current data available, the average APR for a single payment payday loan was 463%, 567% for installment payday loans, 216% for single payment auto title loans, and 314% for installment

auto title loans.<sup>6</sup> Lenders pocket high fees with every payment or refinance of a loan, and refinances make up 59% of all single payment payday loans statewide.<sup>7</sup>

**Payday and auto title loan businesses even acknowledge that as the economy suffers, they benefit because families' financial desperation increases.**<sup>8</sup> These businesses target economically vulnerable communities,<sup>9</sup> concentrating in low-income, predominantly minority neighborhoods, where more families face financial hardship.<sup>10</sup>

### Quick Facts about Payday and Auto Title Loans

- These loans drained over \$5.9 billion in fees from Texas families between 2012-2015.<sup>11</sup>
- Advertised as short-term loan products, two-week payday and auto title loans keep borrowers indebted for an average of five months.<sup>12</sup>
- In Texas in 2015, refinances made up 59% of single payment loan transactions.<sup>13</sup>
- 37,296 Texas families lost a car to an auto title business in 2015; 717 vehicles per week were repossessed due to auto title loans.<sup>14</sup>
- One study found credit card users were 92% more likely to miss credit card payments once they took out a payday loan.<sup>15</sup>
- 32% of Texas nonprofit clients requesting charitable financial assistance are in trouble with a payday or auto title loan.<sup>16</sup>

### To make matters worse, the negative impact of these loan businesses extends beyond borrowers.

A recent report issued by the League of Women Voters of Texas Education Fund found that payday and auto title lending in Texas led to an estimated net loss of \$351 million in economic value and a loss of 7,375 jobs.<sup>17</sup> In 2015, Texas borrowers paid \$1.63 billion in fees for just \$1.69 billion in small-dollar loans—fees in addition to the 10% annual interest charge and any late charges.<sup>18</sup> According to one study, U.S. households lost an additional \$169 million due to an increase in Chapter 13 bankruptcies linked to payday lending usage.<sup>19</sup>

Families often pay astronomical fees for payday products without making headway in reducing the loan principal, forcing them to rely on social and charitable services. **A 2012 survey found that around one-third of Texas clients seeking charitable assistance were in trouble with a payday or auto title loan.**<sup>20</sup> In addition, the United Way of Greater Houston reported their average THRIVE<sup>21</sup> client received a \$1,600 tax refund and spent \$1,300 on high-cost financial services, largely on fees for payday and auto title loans.<sup>22</sup>

*I realized that the politicians at the State level had no intentions to make any meaningful change. Once we passed the ordinance in Dallas, I started to see other cities get involved.*

#### **Jerry Allen**

Former Dallas City Council Member and local champion of the first Texas payday and auto title reform ordinance

## A Solution: City Action

Recognizing the problem of high-cost payday and auto title lending, cities have sprung into action, passing ordinances to limit the negative effects of the loans. There are now 35 cities across Texas with ordinances.<sup>23</sup> These ordinances have put the unscrupulous practices of predatory lenders in the spotlight and implemented limitations to address product features that trap borrowers in a cycle of debt. Specifically, the ordinances require each payment repay at least 25% of the loan principal (not just used to pay fees and interest), limit the size of loans based on borrower income,<sup>24</sup> limit the number of installments as well as refinances,<sup>25</sup> and require lenders to register with the city.

These ordinances are no small feat and have changed the market for the better. However, there are other ways to counteract the payday industry's effects and growth. **Cities are well positioned not just to limit harmful practices, but also to create and bolster alternatives to high-cost, predatory loans.** Cities have the ability to support local economic development efforts and initiatives to promote financial security—and it is important they do so. Struggling to get by should not be the new normal for middle class families.

### ✓ Tips! Resources to Learn About Local Asset Building and Financial Well-Being

- Federal Reserve Bank of Philadelphia mapping tool: This tool allows users to create maps with past and current economic and demographic conditions.  
<https://www.philadelphiafed.org/community-development/map-your-community/>
- Asset & Opportunity Network Local Asset Building Data: This website provides local-level household financial security data; it also includes estimates of household wealth and financial access for cities and counties across the country.  
<http://localdata.assetsandopportunity.org/map>
- The National Equity Atlas: The Equity Atlas has data and mapping tools related to demographic change, racial inclusion, and the economic benefits of equity. It also includes historical data for several economic indicators as well as demographic projections through 2040.  
<http://nationalequityatlas.org/indicators>

**This toolkit outlines strategies and resources cities can use to limit the economic drain from predatory lending.** The following sections highlight how cities can offer alternative loan products to their employees, support alternative programs with greater geographical reach through Councils of Governments (COGs), evaluate municipal policy on fees and fines that may drive people to predatory lenders, and improve systems to connect people to community asset building and financial empowerment resources.

Before delving into the various actions cities can take, it is important to note the baseline criteria for what constitutes an acceptable, non-predatory loan. To ensure successful, non-predatory loan programs, programs should have affordable payments; interest rates below the 36% APR standard; loan terms sufficient for affordable, timely repayment; and policies that ensure borrowers maintain control over their paycheck if the program uses automatic payroll deduction.<sup>26</sup>

### Tips

The first report in this series, *Reshaping the Future of Small-Dollar Lending in Texas: Affordable Alternatives to High-Cost Payday and Auto Title Loans* (hereinafter “Reshaping the Future”), provides many examples of affordable small-dollar loan products, including initiatives of local banks and credit unions to address the market need.

**This toolkit updates and expands on *Reshaping the Future*, offering additional strategies for cities and other local governments to build on and encourage market-based efforts.**



### Take Note Guidelines for Affordable Small-Dollar Loans<sup>27</sup>

#### Loan Size and Borrower’s Ability to Repay

- Borrowers must be able to afford to repay the loan!
- Ensure adequate underwriting, including limitations in loan size that align with borrower income and expenditures.

#### Loan Term<sup>28</sup>

- Two-week or one-month loan terms often lead borrowers to take out new loans or rollover loans because they cannot afford repayment.
- 90 days or more (one month for every \$100 borrowed is a helpful general standard) is recommended, but lenders should not draw out loan terms just to get more interest payments.

#### Payment Cap<sup>29</sup>

- Each payment should be a reasonable amount of pretax income.

#### Annual Percentage Rate (APR)<sup>30</sup>

- Interest rate should be below 36% APR including any fees or charges.<sup>31,32</sup>

#### Other Features

- Disclosure of loan terms, total loan cost and effective APR
- Savings and/or financial education built into loan process

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## ENDNOTES

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- 1 Board of Governors of the Federal Reserve System, [Report on Economic Well-being of U.S. Households in 2015](#), 7 (May 2016).
- 2 *Id.* at 22.
- 3 Pew Charitable Trusts, [The Precarious State of Family Balance Sheets](#), 1 (Jan. 2015).
- 4 *Id.* at 11.
- 5 CFED, [Assets & Opportunity Scorecard: State of Texas Profile](#) (Jan. 2016).
- 6 Texas Applesseed Analysis of OCCC 2015 Annual and Quarterly Credit Access Business Data (2016).
- 7 *Id.*
- 8 Payday and Auto Title Blog, [What's ALICE Got to Do with Payday Loan Customer Demographics?](#) (Jan. 2011).
- 9 Alice Gallmeyer & Wade T. Roberts, [Payday Lenders and Economically Distressed Communities: A Spatial Analysis of Financial Predation](#), *The Social Science Journal* 521, 553-554 (2009).
- 10 Center for American Progress, [Who Borrows From Payday Lenders? An Analysis of Newly Available Data](#) (2009) at 7 (citing Apgar Jr. and Herbert, *Subprime Lending and Alternative Financial Service Providers: A Literature Review and Empirical Analysis*, U.S. Department of Housing and Urban Development (2006) at xii.); Texas Applesseed, [Reshaping the Future of Small-Dollar Lending in Texas: Alternatives to High-Cost Payday and Auto Title Loans](#) (2011) at 16 [hereinafter *Reshaping the Future*]. Houston has 115,000 families with incomes between \$20,000 and \$35,000 per year.
- 11 Texas Applesseed analysis of data reported to the state regulator, the Office of the Consumer Credit Commissioner, (2012-2015).
- 12 Pew Charitable Trusts, [Payday Lending in America: Who Borrows, Where They Borrow, and Why](#), 7 (2012).
- 13 Texas Fair Lending Alliance, [State Data 2014](#) (2015). By their very design, payday and auto title loans keep people in debt. If a payday loan is not paid off at the end of its term, it is rolled over into a new loan that is originated for the outstanding debt and assessed new origination and compounding finance charges.
- 14 *Id.*
- 15 Agarwal, S., Skiba, P. M., & Tobacman, J., [Payday loans and credit cards: New liquidity and credit scoring puzzles?](#), NBER Working Paper (2009).
- 16 Texas Catholic Conference Survey (2012).
- 17 League of Women Voters of Texas Education Fund, [Payday & Auto Title Loans in Texas: A Study by League of Women Voters of Texas Education Fund](#), 4 (Aug. 2015).
- 18 Texas Office of the Consumer Credit Commissioner, [Credit Access Business Annual Data Report](#) (2015).
- 19 Insight Center, [The Net Economic Impact of Payday Lending in the U.S.](#) (March 2013).
- 20 Texas Catholic Conference Survey (2012).
- 21 United Way THRIVE, a collaborative launched and led by United Way of Greater Houston, provides families with the comprehensive resources, wraparound support, and services to reach lasting financial independence.
- 22 Working Partner and CLCG Enterprise, [THRIVE: Three Year Evaluation Report](#) (August 2011).
- 23 For a list of the cities that have passed the ordinance as well as a link to language in the unified ordinance, see the Texas Municipal League's [Payday Lending Clearinghouse](#) webpage.
- 24 The amount of a payday loan may not exceed 20 percent of the consumer's gross monthly income. The amount of an auto title loan may not exceed the lesser of three percent of the consumer's gross annual income or 70 percent of the retail value of the motor vehicle.
- 25 Refinances are not allowed for installment loans.
- 26 For a more in depth discussion on all of these parameters, see [Reshaping the Future](#) at 25-29.
- 27 *Id.*; see also FDIC Quarterly, [A Template for Success: The FDIC's Small-Dollar Loan Pilot Program](#), Vol. 4, No. 2 (2010) (hereinafter "FDIC Quarterly"); FDIC Affordable Small-Dollar Loan Products: [Final Guidelines](#), FIL-50-2007 (June 19, 2007) (hereinafter "FDIC Guidelines"); Consumer Financial Protection Bureau, [Factsheet: The CFPB Considers Proposal to End Payday Debt Traps](#), (March 26, 2015) (hereinafter "CFPB Factsheet"); Pew Charitable Trusts, [Trial, Error, and Success in Colorado's Payday Lending Reforms](#), (Dec. 17, 2014); and Pew Charitable Trusts, [Payday Lending in America: Policy Solutions](#), 46 (hereinafter "Pew Study").
- 28 Generally, a viable alternative to a payday loan will have at least a 90-day term, and ideally the borrower should get at least one month per \$100 for larger loans.
- 29 There are varying opinions on the affordability overall of a 5% payment standard; but in combination with other positive practices, such as limiting the size of the loan based on borrower income, having a reasonable repayment term, and an APR below the 36% APR standard, it can help ensure loans are affordable. The Pew Charitable Trust has endorsed and the CFPB has considered endorsing a maximum monthly payment of no more than 5% of the borrower's gross monthly income. See CFPB Factsheet, Pew Study at 46.
- 30 Because Texas law limits interest rates, but allows separate fees and charges that together result in a significantly higher true APR, the listed APR must incorporate the loan's interest rate as well as any fees and charges.
- 31 There is some consensus from policymakers including the FDIC, the Department of Defense, the CFPB, the Pew Charitable Trust, and the National Consumer Law Center (NCLC) supporting a 36% APR cap for small-dollar consumer loan products. See FDIC Quarterly; see also FDIC Guidelines; CFPB Factsheet; Pew Study at 46; Financial Institution Letter, [FIL-37-2015](#) (Sept. 8, 2015) (Department of Defense amended the Military Lending Act's regulations to apply the 36% APR cap to a wider range of credit products in 2015).
- 32 See Carolyn Carter, Lauren K. Saunders, Margot Saunders, and Andrew Pizor, [Installment Loans: Will States Protect Borrowers from A New Wave of Predatory Lending?](#) vii (July 2015).



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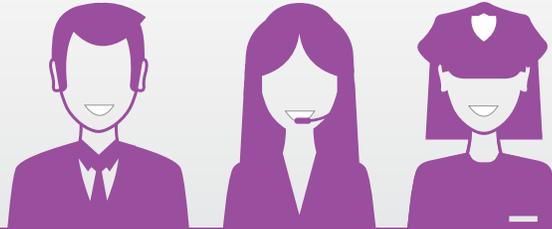
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CITY HALL

Any City, Texas



LOCAL OPPORTUNITY

# Support, Use or Start an Employer-Based Affordable Loan Program

Cities can partner with small-dollar loan programs to offer low-cost loans as a benefit to employees as well as to encourage similar partnerships in the private sector. Employer-based affordable loan programs—partnerships between employers and lenders to offer fair and affordable small-dollar loans directly to employees—are among the most accessible tools for cities to improve the local small-dollar lending market. These programs benefit borrowers by providing access to lower cost small loans and benefit employers—including public and private sector employers—by reducing employee financial stress and improving workplace efficiency. Successful partnerships between affordable loan programs and city and state governments exist in Texas as well as other states.

The **advantages** of an employer-based partnership include the ability to:

- address predatory lending while simultaneously offering a new employee benefit;
- reduce the risk of default by ensuring borrowers have steady income streams and by structuring loan repayment through optional automatic payroll deduction;
- provide new credit building and financial education opportunities to employees; and
- leverage a public employer's sizeable employee base to establish a lending program that smaller employers can later join.

It is important that loans offered to employees adhere to the standards for fair loans and include additional protections to ensure that employees are always in control of their paychecks. Cities must consider these legal and market standards as well as how they interact with one another, from the true APR to the length of loan repayment to the borrower's ability to repay the loan. Because of the reputational risk to employers as well as access to automatic payroll deduction, loans must meet various criteria to ensure timely repayment without predatory rates or structures. Of paramount importance is that APR does not exceed 36%, a nationally accepted standard.<sup>1</sup> The loan programs offered through employers profiled in this section have rates lower than 36% APR.

### Legal Standards for Employer-Based Programs

An employer-based loan program is allowed under state and federal law, but to ensure its loans are fair and affordable, it must also meet a heightened standard of consumer protection. Federal law allows employers to honor employees' voluntary assignments of their wages<sup>2</sup> provided that the employer pays the sum "for the benefit of the employee to a creditor, donee, or other third party."<sup>3,4</sup> Following from this, voluntary assignments are prohibited when either the employer or any person acting in the employer's interest will derive any profit or otherwise benefit from the transaction.<sup>5</sup> Some limitations do exist regarding the size of voluntary wage assignments to ensure that employees' wages do not dip too low. The loan principal may be deducted from the employees' wages, even where the deduction cuts into minimum wage or overtime pay due under

the Fair Labor Standards Act (FLSA). However, deductions for administrative or bookkeeping expenses are illegal to the extent that they cut into minimum wage or overtime pay.<sup>6</sup>



### Take Note

Under Texas law, wages cannot be used as security for a loan. In the employer-based models profiled here, employees are not required to sign up for automatic payroll deductions.

Currently, some loan programs in Texas include payroll deduction as a payment option. The Texas Labor Code contains a provision prohibiting employer payroll deductions except in certain circumstances—it allows deductions with the employee's written permission.<sup>7</sup> The Texas Finance Code prohibits a lender from using or taking an assignment of wages as security for a loan.<sup>8</sup> Under the employer-based loan models described in this section, the voluntary deduction of wages is not used as security for the loan. Borrowers can choose whether to pay the loan through automatic payroll deductions or alternate means. Further, an employee who has opted into automatic payroll deductions can discontinue these automatic deductions and use other means to pay off the loan.

## STRATEGY OUTLINE

### Programs Leveraging Nonprofit Partnerships

- Community Loan Center of Texas Small Dollar Loan Program
- Virginia Credit Union – Virginia State Employee Loan Program (VSELP)
- Fort Worth City Credit Union SMARTChoice
- Filene Research Institute – Employer Sponsored Small Dollar Loans

### For-Profit Led Loan Programs

- Kashable
- TrueConnect Employee Loan Solutions

### Programs Leveraging Nonprofit Partnerships

Community development financial institutions (CDFIs),<sup>9</sup> credit unions, and nonprofit organizations have emerged as key innovators in the employer-based small-dollar lending space. Credit unions have a unique connection to the workplace through their membership groups as well as a mission-based goal of reaching underserved communities. The dual bottom line of profitability/sustainability and community benefit drives these programs and has spurred substantial innovation over the past five years. The following section summarizes examples of successful employer-based nonprofit partnerships for cities and other local government entities to consider when offering loan programs to their employees or encouraging employers in their areas to offer such programs.

#### NONPROFIT DRIVEN PROGRAM 1

#### Community Loan Center (CLC) Small Dollar Loan Program<sup>10</sup>

*It all began with United Way convening people to talk about what strips wealth away from our communities. We couldn't just say 'don't use payday lending' to people who were desperate for cash. The conversation changed when we started focusing on how to help people get the cash they needed without payday lending.*

#### Wendy Hanson

Vice President for Community Impact at United Way of Southern Cameron County

The Rio Grande Valley Multibank (RGV Multibank),<sup>11</sup> a Community Development Financial Institution (CDFI) dedicated to providing financial products and development services to the Rio Grande Valley, particularly in the areas of affordable housing and consumer lending, piloted the Community Loan Center (CLC) Small Dollar Loan Program in October 2011 in Brownsville, Texas.<sup>12</sup> Since then, the CLC

Small Dollar Loan Program has originated over 10,200 loans and advanced over \$8 million to borrowers in Texas, saving those borrowers over \$6 million when compared with borrowing the same amount through payday loans. The average loan loss rate for the CLC loans is less than 4%. The table below outlines the main features of CLC small-dollar loan products.

### Main Features of CLC Loans

**Loan Size:** \$400 to \$1,000

**Loan Term:** 12 months

**Interest Rate and Fees:** 18% interest plus \$20 administrative fee. Equivalent to 21.83% APR for a \$1,000 loan.

**Loan Requirements-A borrower must:**

- be at least 18 years old;
- be employed by a participating employer for at least three months;
- have a checking account;
- have a driver's license or passport number;
- have a Social Security number; and
- have a minimum monthly income of \$900.

*The loan principal cannot exceed 50% of the borrower's gross monthly income.*

**Loan Limits:** A borrower may have only one loan at a time. The loan may be renewed after at least half of the original loan amount has been repaid.

**Financial Counseling:** Financial counseling and other financial education opportunities are offered to borrowers, but are not required.

Additional features include a web-based platform that allows employees to apply for loans and access their accounts online. Loan proceeds are wired directly into an employee's bank account within 48 hours of the loan's approval, and loan payments correspond to the employee's pay cycle, with automatic payroll deductions from each paycheck. The CLC is working to start reporting loan repayments to credit bureaus to help improve borrower credit scores and enable families to build towards future financial goals, such as home ownership, and access a broader array of low-cost credit options.<sup>13</sup> No credit report or collateral are required to get a loan, and there are no prepayment penalties.

To streamline the lending process, CLC of the Rio Grande Valley developed a proprietary, web-based lending platform to manage the lending process. Under the program, employers do not have to invest any funds to participate in the CLC loan program; rather, employers simply must validate employment for employees applying for loans and schedule automatic payroll deductions from employees' paychecks if employees select that repayment option.

Employers have been willing to participate after learning about how the program works and the program's benefits. These benefits include reducing the number of employment verification calls from payday and auto title lenders, reducing the amount of time employees spend away from the office making payments to storefront lenders, reducing employee turnover by building loyalty, reducing "presenteeism" (in this case, employees addressing or preoccupied with personal financial problems while at work), and reducing the number of paycheck advances to employees.<sup>14</sup>

As of March 2016, 99 employers were participating in the CLC Small Dollar Loan Program in the Rio Grande Valley including Cameron County, the

Cameron County Housing Authority, and many city governments—Brownsville, Harlingen, La Feria, Los Fresnos, Lyford, McAllen, Mercedes, Port Isabel, Raymondville, Rio Hondo, and Santa Rosa.<sup>15</sup>

### ✓ **Tips! Starting a Small-Dollar Employer-Based Loan Program**

- If there is no CLC serving your community, work with Texas Community Capital to recruit a local lender to offer the program. Current local CLCs include community development corporations and other nonprofits. A bank could also play the role of the local CLC.
- Previous lending experience is helpful for any new local CLC.
- Build support for the loan program among city leaders and human resources departments.
- Employers with low turnover make the strongest CLC partners.
- Engage local foundations, financial institutions, and other investors to assist the CLC in raising lending capital.

#### *Expanding the CLC Small Dollar Loan Program*

The CLC Small Dollar Loan Program's success proved **“an employer-based consumer loan can be a successful program and self-supporting social enterprise for nonprofits.”**<sup>16</sup> In order to build on its success, the RGV Multibank contracted with nonprofit Texas Community Capital (TCC) to serve as the statewide network administrator of the CLC Small Dollar Loan Program. TCC has played a critical role in expanding the program to many other communities in Texas as well as other states.<sup>17</sup> As network administrator for the CLC Small Dollar Loan Program, TCC recruits organizations to become

CLC local lenders,<sup>18</sup> offers technical assistance to new CLCs, and provides marketing support to effectively reach both employers and employees.<sup>19</sup>

The CLC model is a turnkey solution for local communities energized to offer affordable alternatives to high-cost payday and auto title loans. Each local lender “receives access to the proprietary online software, use of trademarks, a logo, marketing materials, loan processing and loan servicing, technical assistance, and training.”<sup>20</sup> A proprietary web-based portal enables borrowers to apply for loans online and access their accounts online; it also enables employers to verify employment online and readily start and stop payroll deduction for participating employees.

*The proprietary system is “the heart of the CLC Small Dollar Loan Program.”*

**Howard Porter**  
TCC Program Manager

Loan losses are low in the CLC Small Dollar Program, in part because most participants repay loans through automatic payroll deduction. The proprietary software reduces the chance of a late payment.

In Texas, each CLC franchisee must obtain a state consumer lending license,<sup>21</sup> capitalize its loan fund, and recruit local employers to participate in the CLC Small Dollar Loan Program. The RGV Multibank acts as the owner/franchisor of the CLC Small Dollar Loan Program and handles the loan processing and servicing. TCC, in turn, is the sub-franchisor, while each CLC local lender is a franchisee. The franchise fee is \$10,000 for four years or \$2,500 annually.<sup>22</sup> To date, loan capital has come from a variety of sources, including local United Ways, the local

lenders themselves, grants from banks, foundations and the CDFI Fund, bank investments (often for Community Reinvestment Act (CRA) credit), mission-related investments from foundations, and individuals. The amount of loan capital needed varies depending on the number of participating employers and employees.

### CLC Local Lenders in Texas

- CLC of Austin, operated by the Business and Community Lenders (BCL) of Texas
- CLC of the Brazos Valley, operated by Brazos Valley Community Development Corporation
- CLC of Dallas, operated by BCL of Texas
- CLC of Greater Houston, operated by Neighborhood Recovery Community Development Corporation
- CLC of Greater Laredo, operated by Azteca Economic Development & Preservation Corporation
- CLC of Rio Grande Valley, operated by RGV Multibank
- CLC of Texas, operated by Texas Community Capital
- CLC of the Heart of Texas, operated by Heart of Texas Goodwill Industries

Each local lender earns the interest from repayment of CLC loans and receives a portion of the \$20 administrative fee for each loan. The local lenders pay a small fee for loan processing and servicing, but keep the rest of the money generated through loans they make. **The CLC is a volume-based business model, and with sufficient volume, the program is structured to be profitable.**

Each local lender manages its own lending risk and determines the loan loss reserves needed. Each location has a different base of employers and a slightly different lending experience. Overall, the loan loss rate is 3.71%, well below the industry standard. One administrator of the program credits the online platform as a key to its success because it “requires less overhead and reaches an economy of scale to make more loans and with a low default rate.”<sup>23</sup>

### Snapshot of the CLC Small Dollar Loan Program as of March 1, 2016

- 99 employers actively participating
- 38,827 participating employees
- 10,276 loans to date
- Approximately \$8,646,494 loaned
- Borrowers saved over \$6 million compared to what they would have paid payday lenders
- 3.71% average loan loss rate

*Has the community loan center made a difference in Dallas? Just ask the 1,700 plus customers that have saved over \$1 million in payday loan fees over the past year.*

**Jerry Allen**

Former Dallas City Council Member

**Based on the program performance to date, the CLC Small Dollar Loan Program works well and is an effective tool for cities seeking to offer low-cost, small-dollar loan products**

**to their employees.** Indeed, as indicated earlier, multiple public employers have already signed up for the program as well as some private employers. In addition to offering this program to city employees, city leadership can encourage more private employers to participate in the program.

## NONPROFIT DRIVEN PROGRAM 2

### Virginia Credit Union – Virginia State Employee Loan Program (VSELP)

The Virginia State Employee Loan Program (VSELP) stems from a partnership between the Virginia Credit Union and a nonprofit entity that the Commonwealth of Virginia Campaign (CVC) formed in 2006. Initially, the partnership set up a fund with donated money from state employees to help fellow employees facing immediate financial crises (e.g., due to the death or serious illness of a loved one or storm damage).<sup>24</sup> After it became clear that some state employees needed financial assistance even in non-emergency situations, the state partnered with the Virginia Credit Union in 2009 to expand the program and help employees fill financial gaps with affordable short-term loans.<sup>25</sup>

VSELP funding comes directly from the Virginia Credit Union. CVC donations are not loaned to state employees obtaining VSELP loans, and no state funds are loaned to those employees.<sup>26</sup>

The Virginia Credit Union requires a financial education course or quiz to obtain the loan.

**The credit union’s CEO is passionate about requiring meaningful financial education to borrowers, with the goal of helping borrowers get out of the debt cycle for good.**<sup>27</sup>

### To be eligible for VSELP loans, an applicant must:

- Be an active, full-time state employee, with a state-issued ID number;
- Have been employed with the state for at least 12 months;
- Be paid semi-monthly or monthly;
- Agree to direct deposit for loan payments once the loan is approved, and the payroll direct deposit must be confirmed by the applicant’s payroll officer;
- Be a member in good standing with the Virginia Credit Union; and
- Complete a financial education course and quiz.

VSELP enables employees to borrow \$100 to \$500 in \$100 increments without a credit check, but the Virginia Credit Union reports the loan and payment history to credit reporting agencies.<sup>28</sup> VSELP loans have an APR of 24.99%, with interest on the declining loan basis calculated daily, no loan fees, and are paid back over six months through paycheck deductions.<sup>29</sup> The loans are limited to two per year and one at a time.<sup>30</sup> An employee may have another Virginia Credit Union loan outstanding when applying to the VSELP as long as it is not delinquent.<sup>31</sup> The Virginia Credit Union offers additional financial education to help employees with future financial decisions.<sup>32</sup>

Loans may be repaid early without any prepayment penalty.<sup>33</sup> If an employee with a VSELP loan ceases state employment for any reason while the loan is outstanding, the total balance of the loan is immediately due and is subtracted from the employee’s next paycheck.<sup>34</sup> Below is a calculation of the potential loan and payment amounts:

VSELP Loan Amount	Monthly Payment	Semi-Monthly Payment
\$100	\$20	\$10
\$200	\$38	\$19
\$300	\$56	\$28
\$400	\$74	\$37
\$500	\$92	\$46 <sup>35</sup>

VSELP has undergone two significant changes since its inception. First, whereas the state initially carried the entire burden of loan defaults, the Virginia Credit Union now shoulders the risk of loan defaults. The state does not contribute any funds to the emergency fund or the loan program fund, which now operate under a 501(c)3. Second, the Virginia Credit Union recently streamlined payment processes by switching to an Automated Clearing House (ACH) Account.<sup>36</sup> This change reduced the manual labor required by credit union personnel, which should lead to savings for the credit union over time.

### NONPROFIT DRIVEN PROGRAM 3

#### Fort Worth City Credit Union SMARTChoice Loans

*[S]omething so small can have a big impact on the borrowers. If we had enough lenders that would offer this alternative, it would be a lot easier to run the payday lenders out of Texas.*

**David Clay**  
Vice President of Lending, FWCCU<sup>37</sup>

The Fort Worth City Credit Union offers a payday loan alternative called SMARTChoice to its members.<sup>38</sup> Many members of the credit union are low- to moderate-income workers. David Clay, the Vice President of Lending, notes that SMARTChoice

helps those workers who “live paycheck to paycheck...get through the end of the month.”<sup>39</sup>

The loans range from \$300 to \$750 with 18% interest and have repayment terms of up to 90 days. Applicants must pay a \$20 non-refundable application fee, regardless of approval. In addition, SMARTChoice loans must be paid in full for 15 calendar days prior to new loan funds being disbursed. The payment schedule for the loans is consistent with borrowers’ payroll schedules.

#### Fort Worth City Credit Union SMARTChoice

To be eligible, borrowers must:

- Be 18 years of age or older
- Be a credit union member in good standing (no charge-offs)
- Have an active checking account for 90 days with direct deposit
- Provide proof of employment for the past 6 months
- Provide proof of income of at least \$1,000/month

SMARTChoice includes a mandatory 10% savings provision with each loan. Borrowers receive 90% of the loan upfront, but must place the remaining 10% in a savings account and cannot access it until the loan is paid in full. Like many credit unions, FWCCU also provides financial educational services to help their clients avoid a cycle of debt commonly experienced with payday and auto title loans.

**The program has been popular and profitable.** David Clay stresses that FWCCU did not create the

product to be profitable.<sup>40</sup> Rather, the goal was to offer members an alternative to payday loans. There are additional incentives for borrowers to make their payments and ensure the payments are on time. Should a member cause a loss to the credit union, that person is prohibited from continuing as a member of FWCCU. In addition, if a member is late on payments, it could disqualify the member from receiving future loans from FWCCU. Since the program's inception, the FWCCU has loaned over \$3.5 million.

#### NONPROFIT DRIVEN PROGRAM 4

##### **Filene Research Institute – Employer Sponsored Small Dollar Loans (ESSDL)<sup>41</sup>**

Filene Research Institute (Filene), a research center focused on consumer finance and credit unions, analyzed employer-sponsored small-dollar loans as part of an “Accessible Financial Services Incubator” through which multiple credit unions “pilot[ed] products with their members that benefit low- and moderate-income U.S. financial consumers in areas like non-prime auto loans, small-dollar loans, employer-based loans, debt reduction, and converting borrowers to savers.”<sup>42</sup> Filene’s goal was “to test the demand, profitability, scalability, and consumer impact of each of these innovations, with the end goal of large-scale implementation and commercialization of at least one product at a large mainstream financial institution.”<sup>43</sup>

*[W]e knew from experience that two-week loans are not helpful. It just kicks the can down the road. Extending the loan term allows the employees to repay the loans in a way that does not steal from tomorrow to pay for yesterday or today, as the case may be.*

##### **Cynthia Campbell**

Filene’s Director of Impact and Labs<sup>44</sup>

In response to local employers seeing high turnover, increased absenteeism, and reduced productivity of employees experiencing financial hardships in part due to payday loans, the North Country Federal Credit Union (FCU) and Working Bridges of United Way of Chittenden County Vermont developed an Income Advance Program.<sup>45</sup> In part due to the success of that program, Filene conducted a pilot, naming it the Employer Sponsored Small Dollar Loans (ESSDL) Program. Twelve credit unions and one community bank agreed to participate for an 18-month period and undergo testing during a 14-month reporting period.<sup>46, 47</sup>

The credit unions participating in the Filene study ranged from \$4.3 million to \$441.5 million in assets, with membership between 2,000 and 31,000. All of the participating financial institutions based their programs on the North Country program, but each one used its own program name, loan amounts, loan terms, interest rates, employer fees, and underwriting guidelines.



#### **Snapshot of Filene Pilot Results**

- 1,042 loans closed with about \$1.2 million loaned.
- Average loan per borrower: \$1,173 (98% of loans under \$2,000).
- Average loan period: 15 months (84% less than 24 months).
- Average interest rate: 16.7%.
- Employees saved approximately \$42,000 in their shared savings accounts.
- Borrowers added an average of \$152 to savings accounts.

Most of the loans in the pilot were for \$1,000 with a maximum of \$3,000. Most borrowers had poor (68%) or fair (29%) credit scores and most (87%) made less than \$50,000 annually.<sup>48</sup> Participating employees had to have a share account (a savings account) to participate and were encouraged to keep depositing money into that account after they paid off their loans.

**Borrowers gave positive feedback regarding the loans with almost all indicating the loans helped them weather short-term emergencies.<sup>49</sup>**

Eighty percent of borrowers agreed they no longer needed to use payday or auto title loans with 72% reporting the ESSDLs had improved their financial position.<sup>50</sup>



### Spotlight on Toledo, Ohio

*The community truly came together to build a program.*

**Cynthia Campbell**

Filene's Director of Impact and Labs

Filene's pilot was particularly effective in Toledo, Ohio, in part because of community partners' involvement. Participating credit unions worked with over 15 employers along with the United Way and a Local Initiative Service Corporation (LISC) that assisted with managing social services offered in conjunction with small-dollar loans. Financial Opportunity Centers (FOCs) were also placed all around Toledo to offer budgeting advice, credit advice, bankruptcy advice, and other financial counseling.

Eighty-seven percent of the participating credit unions indicated that ESSDLs were easy to implement, and 79% indicated that they would refer ESSDLs to other credit unions.<sup>51</sup> The ESSDL program is a promising model for city employers seeking to offer small-dollar loans to their employees and for cities simply seeking to encourage implementation of such loans in their communities.<sup>52</sup>

## For-Profit Loan Programs Offered to Employers and Payroll Firms

*Municipal governments have an opportunity to lead the pack in addressing this problem not only through legislation and regulation, but by providing an alternative for people to address their emergency needs.*

**Doug Farry**

Employee Loan Solutions

In the last few years, many for-profit companies have entered the marketplace by selling themselves as affordable and responsible alternatives to predatory lenders through loan products provided as employee benefits. However, the business models, products, and services offered by these entities vary widely and can shift rapidly. Cities can encourage positive market innovation with respect to these programs.

### ✓ **Tips! What to Look for in Evaluating Employer-Based Alternative Loan Products**

- Loan basics: APR, loan terms, and loan amount limits, to ensure fair and affordable payments and pricing;
- Type of financial education or coaching provided;
- Borrower control of their paychecks;
- Whether loans are based on the borrower's ability to pay; and
- The existence of safeguards.

#### FOR-PROFIT PROGRAM 1

##### Kashable<sup>53</sup>

Since the end of 2013, Kashable has partnered with employers to offer loans to eligible employees as an employer sponsored benefit. Kashable is licensed as an installment lender in Texas and in many other states. Kashable's employer clients vary in size and industry. The 40 employer clients with Texas employees include healthcare providers, restaurant chains, transportation companies, and IT consulting, technology and manufacturing firms.

A participating employer agrees to provide information on which employees are eligible to borrow on a monthly basis. Employees are eligible depending on how long they have been employed; Kashable also requires applicants to make over \$16,000 per year. For high turnover industries, employees must have been at the workplace for 12 months, and for low turnover industries, three months employment is typically

required. Eligible employees can login, register, and apply for a loan on Kashable's website. Most employees need five to ten minutes to submit a successful application and the loan funds within three days. Borrowers pay Kashable through automatic payroll deductions or payroll direct deposits.

On average, Kashable's loans range from \$1,000 to \$2,000; however, employees can borrow a minimum of \$250 and a maximum of \$20,000. The maximum loan size is based the borrower's pay, with payments limited to 5-10% of each pay period's net take home pay. Kashable only allows borrowers to have one loan at a time. The interest rate charged varies based on the borrower's credit score and employment data. In 2017, the average interest rate in Texas was 9% for borrowers with credit scores ranging from 700 to 850, 14% for borrowers with credit scores from 600-700, and 16% for borrowers with scores below 600. There is an additional administrative fee, not to exceed the lesser of 10% of the loan amount or \$100. Fees vary based on the size of the loan and borrower credit scores. For example, the fee for a \$1,500 loan to a borrower with a credit score below 600 is \$40.<sup>54</sup> Loans are repayable over 6 to 24 months. The average Kashable borrower has a credit score of 590 to 620; however, employees across the credit spectrum utilize the Kashable program.

Kashable credits its automated platform as a major contributor to the lower cost for their loans compared to other subprime consumer loans. Kashable measures success of the loan program through keeping low default rates and showing a positive impact on borrower credit scores. The default rate is less than 3%, and

## Products offered by Kashable

### Consumer Loans

- Borrower employed by participating employer for 3 to 12 months
- \$250-\$20,000, average \$1,888 in Texas
- 9%-18% interest depending on credit score, with fee not to exceed \$100. Fee varies based on loan size and credit score
- Majority of borrowers have a subprime credit score, but product designed for borrowers across income and credit spectrum
- Repaid over 6-24 months. Payments based on payroll cycle
- Online application takes 5 to 10 minutes and loans fund in three days
- Average less than 3% defaults

borrowers who successfully pay off loans and continue a successful repayment track record for subsequent loans see an increase in their credit scores. According to Jameson Fauver, Director of Business Development, “By operating through the employer, we have found a way to enhance underwriting and create transactional efficiencies that makes consumers less risky.”<sup>55</sup> Employees also have access to Kashable's financial wellness library which includes links to videos, articles, and online courses to help with budgeting, savings and what to do in various financial situations.

*“Most credit scores are low because people don't pay on time, not because they do not pay. With Kashable, they are virtually guaranteed to pay on time.”*

### Jameson Fauver

Kashable Director of Business Development



### Spotlight Partnership with Center for Healthcare Services in San Antonio<sup>56</sup>

Center for Healthcare Services became a participating employer with Kashable in 2016. To date, 976 employees have used Kashable, a 9% participation rate. The Average loan size is \$1,036.

Top reasons for using Kashable include:

1. Pay down other debt
2. Car purchase or repair
3. Education costs
4. Moving and relocation costs.

## FOR-PROFIT PROGRAM 2

### TrueConnect Employee Loan Solutions<sup>57,58</sup>

*Many local governments we work with see TrueConnect as a way to address urban blight by removing the brick and mortar payday lending business from their streets.*

**Doug Farry**  
Employee Loan Solutions

Based in San Diego, Employee Loan Solutions provides loan services via a product called TrueConnect. Through TrueConnect, employees of partner companies can access small-dollar loans underwritten by Minnesota-based Sunrise Banks.<sup>59</sup> Currently, over 8,000 employees have access to TrueConnect through employers in California, Virginia, Ohio, and Minnesota, and the company is exploring expanding to employers in Texas, Oklahoma, New Mexico, Arizona, Pennsylvania and Florida. Employee Loan Solutions does not charge employers for its services; all revenue comes from its loan products.

“There is often a misunderstanding that predatory lending is somehow limited to the unemployed, when in reality the target is actually employed people—people who have paydays,” noted Doug Farry of Employee Loan Solutions. “This is really a workplace issue. So when looking for solutions, it should be understood as a workplace problem, and seek to provide alternatives to employees.” Employee Loan Solutions currently focuses on employers with a minimum of 500 employees.

#### TrueConnect Loan

- Offered in fixed amounts ranging from \$1,000 to \$3,000
- 12-month payoff plan
- Repayment, including interest and fees, cannot exceed 8% of employee’s gross annual salary
- 24.99% APR for all loans
- No origination fees or pre-payment penalties

Eligible employees register online to apply for TrueConnect loans and are only shown loan options for which they qualify. The employee is not subject to a credit check for loan approval, but must have been employed with the subscribing company for at least six months prior to initiation of the loan process. The application process is entirely online and takes about three minutes. Loans are deposited directly into the employee’s bank account via ACH, usually within 24 hours, and are repaid through deductions from the employee’s paycheck.

The TrueConnect Program has operated for approximately two years following a successful pilot program with Sunrise Banks employees. Participation in the program has risen steadily over time. The company estimates that 15% to 20% of eligible employees use TrueConnect to take out a loan within a one-year period.

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Employers offering TrueConnect include municipal entities such as the City of Anaheim, California, the City of Cuyahoga Falls, Ohio, and the City of Culpepper, Virginia. The company requires an existing automated payroll structure and considers employers with an annual turnover rate of less than 15% as ideal for the TrueConnect Program. As the program evolves, Employee Loan Solutions hopes to broaden the TrueConnect Program to include smaller employers.

Sunrise Banks is certified by the U.S. Department of Treasury as a CDFI<sup>60</sup>—a designation only given to 90 banks nationwide—and can operate in all 50 states. Sunrise is also a certified B Corp, meaning the company meets standards of social and environmental performance, accountability, and transparency.

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 ENDNOTES
 

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- 1 There is broad consensus supporting a 36% APR cap for small-dollar consumer loan products. See FDIC Quarterly; see also FDIC Guidelines; CFPB Factsheet; Pew Study at 46; Financial Institution Letter, [FIL-37-2015](#) (Sept. 8, 2015) (Department of Defense amended the Military Lending Act's regulations to apply the 36% APR cap to a wider range of credit products in 2015).
- 2 Voluntary wage assignments are instances where employees voluntarily agree that their employers may turn over some specified amount of their earnings to a creditor or creditors.
- 3 The Department of Labor specifies that voluntary wage assignments are not garnishments and are therefore not subject to the limitations under the federal Consumer Credit Protection Act. U.S. DEPARTMENT OF LABOR, [Fact Sheet #30: The Federal Wage Garnishment Law, Consumer Credit Protection Act's Title 3 \(CCPA\)](#) ("Voluntary wage assignments includes 'situations in which employees voluntarily agree that their employers may turn over some specified amount of their earnings to a creditor or creditors.'")
- 4 Federal Wage Garnishment Law, Title III §303, 15 USC §1671. The federal Consumer Credit Protection Act limits the size of garnishments or court-ordered wage deductions based on an employee's disposable earnings. Such deductions may not exceed the lesser of 25% of the employee's disposable earnings (the amount paid to the employee after all legally required deductions are made) or the difference between disposable earnings and 30 times the minimum wage.
- 5 *Id.*
- 6 Field Operations Handbook, Wage and Hour Division, Section 30c10(b) (1988).
- 7 TEXAS LABOR CODE SECTION 61.018. [Deduction from Wages](#). An employer may not withhold or divert any part of an employee's wages unless the employer: (1) is ordered to do so by a court of competent jurisdiction; (2) is authorized to do so by state or federal law; or (3) has written authorization from the employee to deduct part of the wages for a lawful purpose.
- 8 TEXAS FINANCE CODE SECTION 342.503. [Security for Loan](#). (a) A lender may not take as security for a loan made under this chapter an assignment of wages.
- 9 CDFI Fund, [CDFI Infographic](#) (2016). CDFIs can be banks, credit unions, loan funds, microloan funds, or venture capital providers. CDFIs strive to foster economic opportunity and revitalize neighborhoods.
- 10 See also Texas Appleseed, [Reshaping the Future](#), at 49-52 (Jan. 2012) (containing information about the CLC program as of 2012).
- 11 The RGV Multibank is a CDFI, a for-profit entity made up of nine investor banks—J.P. Morgan Chase, Wells Fargo Bank, IBC Brownsville, Bank of America, BBVA Compass Bank, IBC McAllen, Frost Bank, Lone Star National Bank, and the National Community Impact Corporation, Washington, D.C. *Id.* at 49. The RGV Multibank and the CLC of the RGV are both administered by the Community Development Corporation of Brownsville.
- 12 The United Way of Cameron County also played an instrumental role in the creation of the CLC Small Dollar Loan Program. See Texas Appleseed, [Reshaping the Future](#).
- 13 See Community Loan Center, [Affordable Small Dollar Loans website](#).
- 14 See [CLC Affordable Small Dollar Loans Brochure](#) [hereinafter "CLC Brochure"].
- 15 See Rio Grande Valley Community Loan Center Website, [List of Participating Employers](#).
- 16 *Id.*
- 17 Under a recent grant from JP Morgan Chase, the CLC program will be offered in Indiana. Other states are also interested in offering the loan program.
- 18 Many Local Lenders are community development corporations and nonprofit entities, but nonprofit status is not a prerequisite to participation.
- 19 See [CLC Brochure](#).
- 20 *Id.*
- 21 Each location in Texas is licensed under Chapter 342 of the Texas Finance Code.
- 22 A grant from the Citi Innovation Fund covers the franchise fee for the first 10 local lenders to support expansion of the loan program.
- 23 Interview with Paul Turney, President of Brazos Valley Community Development Corporation and Executive Vice President of Brazos Valley Affordable Housing (Jan. 12, 2016).
- 24 Virginia State Employee Loan Program, [Frequently Asked Questions](#). State employees donated money to the Virginia State Employee Emergency Fund (a nonprofit entity) and grants were made from that Fund to assist state employees in need.
- 25 *Id.*; Interview with Lisa Weinstein, Assistant Vice President of Members Services, Operations, and Support, Virginia State Employee Credit Union (Oct. 21, 2015).
- 26 Virginia State Employee Loan Program, [Frequently Asked Questions](#).
- 27 Weinstein, *supra* note 25.
- 28 Virginia State Employee Loan Program, [Frequently Asked Questions](#).
- 29 *Id.*
- 30 *Id.*
- 31 *Id.*
- 32 Weinstein, *supra* note 25.
- 33 Virginia State Employee Loan Program, [Frequently Asked Questions](#). State employees donated money to the Virginia State Employee Emergency Fund (a nonprofit entity) and grants were made from that Fund to assist state employees in need.
- 34 *Id.*
- 35 *Id.*
- 36 Weinstein, *supra* note 25.
- 37 Interview with David Clay, Vice President of Lending, Fort Worth City Credit Union (Mar. 2, 2016).
- 38 Membership in the credit union is limited to employees (as well as relatives of current employees) of the City of Fort Worth, Medstar, museums within Fort Worth, and specific companies that contract with the City of Fort Worth to provide services on an ongoing basis.
- 39 Clay, *supra* note 37.
- 40 *Id.*

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 ENDNOTES
 

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- 41 In addition to the ESSDL incubator described in this section, Filene has investigated the “Borrow & Save” and the “Non-Prime Auto Lending” programs, which have both shown similar promise in helping individuals get out of or avoid the cycle of debt. The Borrow & Save program involves small-dollar loans (maxed at \$1,500) with an upfront savings requirement. In a pilot between April 2014 and August 2015, the Borrow & Save program yielded approximately 3,100 loans totaling \$2.9 million and \$900,000 in savings by borrowers. In a pilot during the same time period, the Non-Prime Auto Lending program yielded approximately \$102 million over 18 months in non-prime auto loans that have been performing just as well as those loans typically given to people with good credit scores. The non-prime auto loans were given to people with a credit score under 600, who typically get 20-30% interest rates at car lots. Filene Research Institute, [Filene Impact Incubator Website](#) (details the pilots in the Filene program.)
- 42 The project was made possible by a \$700,000, 30-month grant from the Ford Foundation. See [Filene Research Institute: Employer Sponsored Small Dollar Loans Webinar](#) (Feb. 2014); see also [Filene Impact Incubator Website](#)
- 43 Interview with Cynthia Campbell, Filene’s Former Director of Impact and Labs (Oct. 15, 2015).
- 44 *Id.*
- 45 See [Toolkit for Small Dollar Lending Success with Employers and Credit Unions: Employer Sponsored Small Dollar Loans](#) at 1 (Jan. 10, 2014).
- 46 The participating institutions in the pilot are as follows: [Commodore Perry FCU](#) in Oak Harbor, OH; [Cy-Fair FCU](#) in Houston, TX; [Express Credit Union](#) in Seattle, WA; [Georgia Heritage FCU](#) in Savannah, GA; [Holy Rosary Credit Union](#) in Kansas City, MO; [Mercy Health Partners FCU](#) in Toledo, OH; [Metrum Community Credit Union](#) in Centennial, CO; [North Country FCU](#) in Burlington, VT; [ProMedica FCU](#) in Toledo, OH; [Spring Bank](#) in Bronx, NY; [Sun Federal FCU](#) in Maumee, OH; [Toledo Metro FCU](#) in Toledo, OH; and [Toledo Urban FCU](#) in Toledo, OH.
- 47 The participating financial institutions and employers worked together to offer small-dollar loans on-site with each employer. HR departments verified that loan applicants were employed by and in good standing with participating employers and agreed to take loan payments directly from participating employees’ payroll before sending the payments to the credit unions.
- 48 See Filene Research Institute, *Accessible Financial Services Incubator* at 13, 26 (2016). For a chart with information on each of the pilot program’s specifics, see Supplemental Resources.
- 49 See Filene Research Institute, *Accessible Financial Services Incubator* at 27 (2016).
- 50 *Id.*
- 51 *Id.* at 29.
- 52 Supplemental Resources includes an article entitled *How Lucas County Started Employer Sponsored Small Dollar Loans in Less than a Year*, which provides additional details about the implementation of the Toledo program.
- 53 Interviews with Jameson Fauver, Kashable Director of Business Development (July-September 2017).
- 54 *Id.*
- 55 *Id.*
- 56 *Id.*
- 57 [TrueConnect website](#).
- 58 Phone interviews with TrueConnect CEO Michael Maron and Head of Sales Doug Farry (Feb. 20, 2016).
- 59 Some employers have an ongoing relationship with an area credit union and have requested loans be made through these lenders. Employee Loan Solutions is able to work with credit unions so they can participate through written agreements with Sunrise Bank.
- 60 Certified CDFIs must demonstrate a primary mission of community development, originate 60% of loans in low- and moderate-income communities, provide financial and educational services, and maintain accountability to its target market.



Texas cities can foster the development and success of low-cost lending programs by providing loan loss reserves through investments in financial institution offerings.<sup>1</sup> Having sufficient loan loss reserves is an important catalyst in establishing a robust loan program.

**If cities are unable or unwilling to invest funds, they can catalyze low-cost lending programs by encouraging and advancing partnerships between financial institutions and local stakeholders, like nonprofits.** For example, cities can convene stakeholders, promote innovative market solutions to the problem of high-cost lending, support grant applications to launch or expand loan programs, where helpful, and offer incentives to establish and expand affordable loan options. Cities could also implement banking and credit union development districts under Chapter 279 of the Texas Finance Code as discussed on the following page.

This section highlights proactive strategies for cities seeking to eliminate or curb predatory lending.

Currently, there are no known examples of cities directly investing funds in financial institutions to generate loan loss reserves for use in low-cost lending programs in Texas. However, some other state governments have provided funds to support fair loan programs and there are many examples of programs launched with funding from the federal Community Development Financial Institution (CDFI) Fund. **This section focuses on programs launched with some public direct investment.**

## STRATEGY OUTLINE

### Direct Investment in Loan Loss Reserves

- Better Choice Program

### Support Nonprofits, Contribute to Loan Loss Reserves, and/or Foster Partnerships Between Nonprofits and Financial Institutions

- Society of St. Vincent de Paul Predatory Loan Conversion Program (PLCP)
- GECU Fast Cash Loan program
- West End Neighborhood House (WENH) Loans Plus Program

#### INVESTMENT EXAMPLE 1

##### Better Choice Program<sup>5</sup>

The State of Pennsylvania launched the Better Choice program in 2006 to help borrowers break the cycle of debt caused by high-cost payday loans and to encourage them to save.<sup>6</sup> The program is a coordinated effort among the state's Treasury Department, the Pennsylvania Credit Union Association, and the Pennsylvania Department of Banking. The Pennsylvania State Treasurers' Department established a loan guarantee pool whereby \$20 million in state operating funds was deposited in a corporate federal credit union and received a market rate of return. The difference between that rate and the corporate credit union's earnings on the deposit was used to fund a loan loss reserve pool.<sup>7</sup> Participating credit unions could apply to the pool to offset up to 50% of their losses. Over 60 credit unions offer Better Choice products at over 170 locations. Semi-annual reporting is required of all participating credit unions.



#### Take Note New Policy Tool: Banking and Credit Union Development Districts

In 2015, the Texas Legislature established a banking and credit union development district program to encourage the establishment of branches of banks or credit unions in underserved areas.<sup>2</sup> Local governments, along with the organizers or incorporators of the proposed financial institution, can submit an application to the Finance or Credit Union Commission to designate a banking or credit union development district. Once established, local governments as well as the state can "seed" new bank and credit union branches in underserved areas with deposits of public funds.<sup>3</sup> These investments would help banks and credit unions achieve financial solvency from the beginning. There are additional benefits, such as the ability to pay below-market rates on a city's deposits.<sup>4</sup>

## Better Choice Loan Features

**Requirements:** Over 18 years of age and meet credit union membership requirements

**Fees:** \$20 application fee

**Loan Amount:** \$200 minimum and \$500 maximum

**Repayment Terms:** 90 days with flexible payment plans available for monthly, bi-weekly or weekly payments

**APR:** Approximately 18%

**Other Features:** Optional, free financial counseling and built-in savings benefit

The loans have a built-in savings benefit.<sup>8</sup> An amount equivalent to 10% of the loan is deposited into a savings account in the borrower's name upon the loan's approval. The deposit may not be withdrawn until the loan is paid off. Interest earned on the savings is also added to the account at payoff. Loan decisions are made without considering credit scores or past credit history. No rollovers or additional loans are allowed until the initial loan is paid in full.

Although the Better Choice Program is an example of a state establishing a loan guarantee pool, a city could establish a similar pool on a smaller scale. Chicago did just that by using an ordinance to set aside a defined, limited percentage of city funds to support small-dollar loan programs.<sup>9</sup> This program has not met its goal of generating new small-dollar loan programs, but other cities could improve the program with the buy-in of local financial institutions to help mitigate initial lending risk tied to the launch of a new loan program. **Nonetheless, the Chicago ordinance provides a useful roadmap for Texas cities to consider.**

Both the Better Choice Program and the Chicago ordinance envision a collaborative approach between government entities and financial institutions. If a direct partnership of that nature is unfeasible for some reason, Texas cities could simply encourage partnerships between financial institutions and local stakeholders, like nonprofits and foundations, to foster the development and use of low-cost lending programs. Examples of such partnerships are addressed in the following section.

**The following three profiled programs are examples of programs where a city could provide funding, its endorsement, or help raise loan capital. These programs include partnerships between a financial institution and a nonprofit as well as a loan program catalyzed through a grant from the CDFI Fund from the U.S. Department of Treasury.**

### INVESTMENT EXAMPLE 2

#### Society of St. Vincent de Paul Predatory Loan Conversion Program (PLCP)

##### *Origin of PLCP*

In early 2014, the Society of St. Vincent de Paul Diocesan Council of Austin (SVdP-Austin) launched a Predatory Loan Conversion Program (PLCP) to help clients get out from under crushing debts caused by payday and auto title loans (i.e., predatory loans).<sup>10</sup>

*Instead of the promise of easy short-term loans, ...financially vulnerable families get trapped in a continuous cycle of debt, fees and interest from which they cannot escape.*

**Bishop Joe Vásquez**  
Diocese of Austin<sup>11</sup>

With the Bishop's support, and because of his concern regarding the plight of borrowers in his community, SVdP volunteers (also known as Vincentians), and community stakeholders formed a 12-person steering committee that worked for six months to investigate all necessary components of an alternative small-dollar loan program, including identifying a participating financial institution, finding funding sources, and developing lending criteria, a logo, and forms.<sup>12</sup> The Vincentians partnered with Randolph Brooks Federal Credit Union (RBFCU) and found start-up funding through grants, partner charitable organizations (including many SVdP conferences), and individual gifts.<sup>13</sup> SVdP-Austin placed the funds into an RBFCU account to serve as loan loss reserves to cover defaults on PLCP loans. The Vincentians already knew people in need of small-dollar loans because of their ongoing, regular home visits with individuals who had called the statewide 2-1-1 number seeking some form of assistance (e.g., food, shelter, financial support).

#### *Details Regarding PLCP Loans*

If a borrower needs \$1,000 or less to convert a predatory loan, then a local conference may look at the borrower's finances and decide independently whether to sponsor a PLCP loan for that borrower. If a borrower needs an amount over \$1,000 and up to the maximum \$1,500, then the separate SVdP loan committee decides whether to proceed with a PLCP loan. The committee consists of three people: (1) a Vincentian who conducts home visits (which require background checks, training, and certification), (2) a credit-union employee, and (3) a member of the PLCP steering committee who also has experience assisting borrowers in converting predatory loans.<sup>14</sup>

Under the PLCP, a predatory loan is converted into a share-secured RBFCU loan<sup>15</sup> with an APR of 2.2%. SVdP guarantees the loans, with its

RBFCU account serving as collateral in case there is a default on the loan. The mechanics of the conversion process are outlined below:

- With the Vincentian's help, the borrower opens an account at RBFCU. The borrower incurs only a \$1.00 fee to open the account.
- The Vincentian board member co-signs a share-secured RBFCU loan with the borrower, under which RBFCU loans money to the borrower. In the case of a default, SVdP's account covers the defaulted loan amount.
- A Vincentian volunteer helps the borrower obtain the appropriate payment form (cash, money order, etc.) and amount, and accompanies the borrower to pay off the payday or auto title loan.
- The borrower then begins to pay off the RBFCU loan at a 2.25% APR on an affordable payment schedule.
- RBFCU uses the interest earned on the loan to pay off processing fees associated with the share-secured loan.

#### **Predatory Loan Conversion Program**

To be eligible, a borrower must:

- Receive some form of income on a monthly basis;
- Demonstrate an ability to repay a low-cost loan;
- Have a Social Security number;
- Agree to attend a 90-minute financial literacy class within a year of obtaining the PLCP loan; and
- Agree not to obtain another predatory loan in the future.

To encourage the borrower to pay off the PLCP loan and attend the financial literacy class, if the borrower fulfills both obligations, then the borrower will receive cash totaling 10% of the original loan amount at the end of the borrower's participation in the program. Thus far, SVdP-Austin has paid borrowers almost \$800 as a result of the 10% incentive.

**One of the goals of the PLCP is to have a manageable loan payoff period of six months to a year.** Every three months, if the borrower is on time with payments, RBFCU reports to credit agencies to let them know about the timely payments and thereby help to improve the borrower's credit score. **The ultimate goal is to enable the borrower to obtain a low-cost loan independently in the future.**

*Six months is the minimum time required to build good credit. We want to help people build good credit.*

**Stacy Ehrlich**  
Executive Director of the  
Diocesan Council of Austin<sup>16</sup>

A PLCP steering committee member described the lending arrangement with RBFCU as “the bones of the PLCP.”<sup>17</sup> The PLCP works because of the share-secured lending arrangement that qualifies individuals for loans they could not obtain on their own. SVdP can identify these individuals and has the loan capital to help them, while RBFCU has the structure to implement the PLCP with relative ease.

*When a person gets a new loan, I tell that person ‘this is a win-win—you are able to take this money and pay off the predatory loan, and when you pay off your loan to us, you are helping someone else a year from now to get out of the same situation.’*

**Matt Pogor**  
PLCP Steering Committee  
and Treasurer of the  
Diocesan Council of Austin

As loans are paid off, SVdP then loans those same dollars to another person and another person in perpetuity. This is a new approach for SVdP—the agency usually gives assistance in the form of gifts—and allows funds to be leveraged to benefit even more people.

Since August 2014, the PLCP has issued an average of two loans per month. As of early March 2016, the PLCP had made 51 loans. A PLCP representative estimates it will take approximately 10 years for the PLCP to run out of its initial funding.<sup>18</sup> Aside from modifications to intake forms to collect information needed to assess and monitor the program, no significant changes have been made to the PLCP since its inception.

Discussions are underway to start similar programs in Fort Worth, Dallas, and El Paso, and the Diocesan Council of Austin has shared its forms and experiences with these Diocesan Councils. There are no current plans to expand the PLCP beyond the SVdP network, but similar programs are being implemented by different entities, such as other churches and charitable organizations.

### INVESTMENT EXAMPLE 3

#### GECU Fast Cash Loan program<sup>19</sup>

GECU, a CDFI and community development credit union based in El Paso, Texas, started an alternative small-dollar loan program for low- to moderate-income community members after identifying the need for borrowers with no or low credit scores to access fair, affordable loans. GECU noticed some of its members relied on high interest loans from finance companies, payday lenders, and title loan companies—all of which were leaving them further in debt. After receiving a grant from the U.S. Department of Treasury CDFI Fund, GECU started its GECU Fast Cash loan program, offering loans from \$200 to \$1,000 with a six month payback term, no fee, and 27.9% APR.

*Our community has had a positive reception to the Fast Cash loan...GECU Fast Cash has been a success due to the important need to build and repair credit for our community members.*

**Art Perez, Sr.**  
VP-Chief Lending Officer, GECU

#### Qualifications for GECU Fast Cash Loan

GECU members must have:

- Been employed for at least six months;
- Two current paystubs;
- No federal liens; and
- Not defaulted on previous GECU loans.

Potential borrowers' credit scores are not used to obtain approval for the loan, but when the loan is paid on time, GECU reports their successful repayment to the credit bureaus. There are no collateral requirements to qualify for a loan. Borrowers have access to a variety of free financial education tools such as online videos on budgeting and getting out of debt, counseling on existing debt, and financial education workshops.

#### Snapshot of GECU Fast Cash Performance

(July 1, 2014 to March 1, 2016)

Number of Loans: **17,377**

\$ Funded: **\$10,794,138**

Average Loan: **\$621.17**

Average Term in Days: **85**

APR: **27.9%**

Percent Refinanced (1x): **19%**

Average Credit Score of Borrowers with Score: **571**

Percent without Score: **25.47%**

Source: Larry Garcia. "Small Loan Credit Union Lending in El Paso." RAISE Texas Summit (May 11, 2016)

From July 1, 2014 through March 1, 2016, GECU made 17,377 Fast Cash loans to its members totaling nearly \$11 million. The average loan amount was around \$621. The loan program saved borrowers between \$5 million and \$11 million compared to the cost of a similar payday loan.<sup>20</sup>

#### INVESTMENT EXAMPLE 4

### West End Neighborhood House (WENH) Loans Plus Program<sup>21</sup>

Loans Plus offers small-dollar loans as an alternative to predatory payday loans. Through the program, working individuals can receive a same-day cash loan of up to \$500 with an interest rate capped at 10%. The nonprofit West End Neighborhood House, Inc. (WENH) started the program in Wilmington, Delaware, and later expanded it statewide through partnerships with Catholic Charities and the YMCA, along with sponsorship by Barclays Bank, Federal Home Loan Bank of Pittsburgh, ING, TD Bank, United Way of Delaware, and M&T Bank.<sup>22</sup> In 2014, WENH made over 500 loans for a total of over \$200,000 with six locations<sup>23</sup> throughout Delaware.<sup>24</sup>

No rollovers are permitted, and borrowers qualify for a maximum of two loans per year. The maximum loan amount cannot exceed 30% of the borrower's net monthly income, and staff members walk applicants through an affordability budget worksheet to ensure ability to pay. Loans Plus loans are generally repaid in three monthly payments. WENH also provides financial education and credit building services by partnering with Stand By Me, a Delaware financial empowerment partnership.<sup>25</sup>

#### West End Neighborhood House Loans Plus Program

To be eligible for a loan, borrowers must have:

- A minimum of two most recent paystubs (or four if paid weekly);
- Valid ID issued by State of Delaware DMV only;
- Most recent checking account statement without overdraft charges, overdraft transfers or negative balances;
- Most recent utility bill with all pages and/or current lease; and
- A checkbook.

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 ENDNOTES
 

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- 1 Loan loss reserves are reflected by banks as accounting entries to cover loan defaults and losses; they give analysts a sense of the stability of banks' lending bases.
- 2 Texas Legislature, [HB 1626](#) (2015); *see also* 7 Tex. Admin. Code Part 1 §§6.1-6.5 (rules promulgated by the Finance Commission implementing HB 1626) and 7 Tex. Admin. Code Part 1 §§91.2000-91.2006 (rules promulgated by the Credit Union Commission implementing HB 1626).
- 3 Anne Kim, *Ending "Banking Deserts" in Texas*, Republic 3.0 (June 2015).
- 4 *Id.*
- 5 [Pennsylvania Credit Union Association website](#).
- 6 FDIC Quarterly, *A Template for Success: The FDIC's Small-Dollar Loan Pilot Program*, at 35 (2010, Vol. 4, No. 2).
- 7 *Id.*
- 8 [Pennsylvania Credit Union Association website](#).
- 9 The Chicago ordinance is included in the Supplemental Resources.
- 10 Enedelia J. Obregón, *Program Helps Those Indebted to Payday Lenders*, Diocese of Austin (Feb. 10, 2014).
- 11 *Id.*
- 12 The steering committee consisted of members from five different conferences in the Diocesan Council of Austin.
- 13 [PLCP Fact Sheet](#). As of April 2014, the total amount raised was \$128,150, and additional grant funds were being sought.
- 14 Interview with Matt Pogor, Treasurer of the Diocesan Council of Austin and Member of PLCP Steering Committee (Oct. 10, 2015).
- 15 A share secured loan is one that is secured by funds deposited at the credit union.
- 16 Obregón, *supra* note 10.
- 17 Interview with Matt Pogor, Treasurer of the Diocesan Council of Austin and Member of PLCP Steering Committee (Oct. 10, 2015).
- 18 *Id.*
- 19 The information in this section was gathered through correspondence with Stephanie Quiroz, Community Relations Manager for GECU (May 2016).
- 20 Larry Garcia. "Small Loan Credit Union Lending in El Paso." RAISE Texas Summit (May 11, 2016)
- 21 [West End Neighborhood House website](#).
- 22 In 2011, M&T Bank purchased Wilmington Trust, which was an original program partner, and continues to administer the Loans Plus program.
- 23 This total includes Stand By Me sites. Press Release, [West End Unveils Statewide Low-Interest Loan Program](#) (Jul. 16, 2009).
- 24 Phone interview with Doreen Conte, WENH Supervisor of Housing and Financial Management (Oct. 20, 2015).
- 25 [Stand By Me website](#).

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A council of government (COG) is a regional planning commission consisting of member counties, municipalities, or other political subdivisions.<sup>1</sup> As a political subdivision of the state, COGs are authorized by statute to undertake a number of functions, but their primary purpose is regional planning, and they have some latitude in what they do, given the necessary support of their members. **With their regional perspective and flexibility, COGs can help foster alternative loan programs.**

### Structure, Funding, and Activities of COGs

Texas is divided into 24 state planning regions, and each region has a corresponding regional council.<sup>2</sup> All 254 counties and most cities are members of their local regional council.<sup>3</sup> Each member government appoints its COG voting representative, who is an elected public official from the governing body of the member government.<sup>4</sup> These voting representatives make up the General Assembly, which annually elects the Executive Board to serve as the policy-making body for all COG activities. COGs have extensive reporting requirements, independent audits by the state auditor's office, and boards of directors.<sup>5</sup>

COGs do not have the ability to levy taxes or issue bonds, which are the exclusive domain of cities and counties in Texas.<sup>6</sup> Instead, COGs draw on various funding sources, including member dues from the member cities and counties, but most of their funding comes from state and federal grants from the Texas Workforce Commission and the federal Economic Development

Administration.<sup>7</sup> Generally, counties, cities, municipalities, towns, villages, independent school districts, hospital districts, water and sewer districts, and other special-purpose districts in a common area may join a COG after passing a resolution and paying the membership dues. COGs may also engage in special projects on a fee-for-service basis.

**COGs have significant latitude in the programs they pursue, as long as they have the necessary financial means and approval from their member entities.** As a result, “no two COGs are alike” with significant variation in the activities they pursue as well as the structure of their boards.<sup>8</sup> For example, some COGs may only have county and city officials on their boards, while others include representatives from school boards and even special utility districts.<sup>9</sup>

Most COGs focus on planning for area development and implementing these plans, such as for essential transportation and affordable housing; they also provide emergency services and programs, services for aging residents, and solid waste programs.<sup>10</sup> In addition, COGs may develop strategies and implement programs to combat unemployment and increase the per capita income of the region’s workforce. **While there is latitude in what issues COGs can address, the support of the members is essential to and determinate of a COG’s activities.**

*What we do best is facilitation. If there is a topic that our board wants to address, we are good at finding a way to do that.*

**Shaun Davis**

Executive Director of the  
Southeast Regional  
Planning Commission

Members pay dues to the COG, but the majority of funding for COGs comes from state and federal grants that are restricted to particular activities. For example, federal funds administered by the Texas Workforce Commission must be used for employment and training programs; COGs could use these funds to provide administrative support to the region’s Workforce Development Board and/or staff Workforce Development Centers. COGs may also be required to match grant funds with monies from their membership dues. Absent a grant, COGs have no ability to create new funding, given that they cannot levy taxes or issue bonds.<sup>11</sup> The size of COGs and their budgets vary widely with the number of employees ranging from 20 to over 200.<sup>12</sup>

**COGs’ Role To Catalyze and Expand Affordable Small-Dollar Loan Programs**

COGs are uniquely positioned to catalyze and oversee alternative small dollar loan programs. With their geographical breadth and flexibility in the services they provide, they have the ability to create innovative programs aimed at benefiting significant numbers of people. To start a loan program, a COG would need to ensure the support of its members. With their geographical

reach, COGs can also communicate the harms of predatory loans to citizens and local officials across multiple jurisdictions.<sup>13</sup> Their activities could include financial education programs, outreach to regional stakeholders to start loan programs, or even helping with loan loss reserves or to raise capital.

#### EXAMPLE OF COG LEADERSHIP

##### **Brazos Valley COG, Brazos Valley Affordable Housing Corporation, Brazos Valley Community Development Corporation, and Brazos Valley CLC**

The Brazos Valley COG (BVCOG), Brazos Valley Affordable Housing Corporation (BVAHC), and the Brazos Valley Community Development Corporation (BVDCDC) work in concert to offer affordable small-dollar loans through the Community Loan Center of Brazos Valley (CLCBV) ranging from \$400 to \$1,000.<sup>14</sup> The CLCBV, a franchise of the Community Loan Center program profiled in Strategy 1 of this toolkit, offers one-year loans at 18% interest with a \$20 administrative fee.<sup>15</sup> Payments are due each pay period, and employees can pay via automatic payroll deduction.

*We provide a free benefit that employers can pass onto employees with fair loans and financial coaching...essentially giving employees a hand up and out of the cycle of debt.*

**Paul Turney**  
President of BVDCDC;  
Executive Vice President of BVAHC<sup>16</sup>

The BVDCDC (doing business as the Community Loan Center of the Brazos Valley) launched the Community Loan Center model in the BVCOG region with the BVCOG as its first participating employer, before expanding to other local

employers. The BVCOG has a history of acting entrepreneurially to address systemic problems. For example, the BVCOG created the BVAHC in 1992 to provide affordable housing opportunities in the region, and in 2000, with the support of the BVCOG, BVAHC worked with local regulated lending institutions to found the Brazos Valley CDC Inc. (BVDCDC) which is a certified CDFI.<sup>17</sup>

At the time BVDCDC was founded, the focus was to provide an affordable alternative to predatory subprime mortgage loans. Later, the BVDCDC and the BVAHC identified the problem of predatory small-dollar loans and, with the BVCOG's support, they jumped at the opportunity to offer affordable small-dollar loans through the Community Loan Center model.

Officially, CLCBV is not a program of the COG; it does not rely on any funding from the BVCOG.<sup>18</sup> The BVDCDC (d.b.a. CLCBV) has separate bylaws, separate organizational documents, and a separate board of directors.<sup>19,20</sup> Through a supportive services agreement, the BVCOG provides accounting, systems administration, human resources, reception, Internet, and phone services of which BVDCDC pays a prorated share.<sup>21</sup> However, nothing prohibits the BVCOG from investing directly in the CLCBV should it have appropriate grant or private funding available. The activities of CLCBV as well as BVAHC are not limited to the COG region; in fact, the CLCBV has already committed to serve two counties outside of the BVCOG region.

**Thus far, the Community Loan Center of the Brazos Valley has proven successful, in part because of the important lending infrastructure created through the vision of the Brazos Valley COG.**

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 ENDNOTES
 

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- 1 Tex. Loc. Gov't Code Ann. §§ 391.001, .002(2), .003(a), .005(c)(4).
- 2 Texas Association of Regional Councils website, [Map of Regions](#).
- 3 Interview with Ginny Lewis, Executive Director of the Texas Association of Regional Councils (Jan. 7, 2016).
- 4 Tex. Loc. Gov't Code Ann. §391.006
- 5 Tex. Loc. Gov't Code §§ 391.0095, 00951.
- 6 Interview with Ginny Lewis, Executive Director of the Texas Association of Regional Councils (Jan. 7, 2016).
- 7 *Id.* (noting that COGs set their member dues, but most funding comes from state and federal grants).
- 8 *Id.*
- 9 Interview with Shaun Davis, Executive Director of Southeast Regional Planning Commission (Jan. 13, 2016).
- 10 Interview with Ginny Lewis, Executive Director of the Texas Association of Regional Councils (Jan. 7, 2016).
- 11 Tex. Loc. Gov't Code §§ 391.005 (enumerating the powers granted to COGs).
- 12 Texas State Auditor's Office, A Summary of Financial and Performance Reports Submitted by Regional Planning Commissions (2015).
- 13 Interview with Paul Turney, President of Brazos Valley Community Development Corporation and Executive Vice President of Brazos Valley Affordable Housing (Jan. 12, 2016).
- 14 See p. 17 for a more detailed presentation of the Community Loan Center small dollar loan program.
- 15 Brazos Valley CDC and Brazos Valley Affordable Housing, [Frequently Asked Questions](#).
- 16 Turney, *supra* note 13.
- 17 Staff leased from the BVCOG to the BVAHC covers the BVDC's staffing needs for a nominal administrative and servicing fee.
- 18 BVAHC has served, on occasion, as a co-borrower with CLCBV, which helps the CLCBV raise the necessary capital for its loan fund and loan loss reserves.
- 19 Turney, *supra* note 13.
- 20 To help meet the community representation requirements of a CDFI, the BVDC's board has one member appointed by the BVCOG and two board members appointed by the BVAHC.
- 21 Turney, *supra* note 13. In addition, the BVCOG leases a staff member to the BVDC and BVAHC for which it is reimbursed.

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Any City, Texas  
MUNICIPAL  
COURT

LOCAL OPPORTUNITY

## Evaluate Municipal Fees, Fines Assessment, and Collection Policies that May Drive People to High-Cost Loans

Studies show that high-cost small-dollar credit is often used to pay recurring expenses, such as utility bills.<sup>1</sup> Municipal traffic fines and other fines, along with associated court costs and fees, also drive the need for such loans. Cities can structure their policies to prevent the economic drain caused by the need for quick access to funds. For example, by implementing utility bill assistance programs and fine payment plans or alternative sentencing plans, municipalities can help alleviate the need for any associated high-cost debt.

Cities can ensure that the standards for participation in economic assistance and affordable payment programs are achievable for low-income individuals and that city payment programs' terms encourage a high rate of successful program participation. In addition, because families may often be unaware of assistance programs, cities with alternative programs must continue to evaluate how to increase awareness of and enrollment in such programs.<sup>2</sup>

Cities should also review their fine and fee collections practices to determine whether they are inadvertently driving people to take out high-cost loans by sending them to payday lending storefronts to pay city-related fees and bills in cash.

The following section outlines various utility and fine payment programs implemented by Texas governmental entities and provides recommendations for developing similar programs as well as improving the effectiveness of existing programs.

## STRATEGY OUTLINE

### Municipal Utility Bill Assistance Programs

- LIFT-UP Pilot Program (Houston, Texas)
- Deferred Payment Agreements with Reasonable Terms (Austin, Texas)
- Community Benefit Charge Funding for the Customer Assistance Program (Austin, Texas)

### Municipal Fee and Fine Policies

- Municipal Fine Waivers, Payment Plans, Community Service Options

### Municipal Utility Bill Assistance Programs

Utility services providers have long offered payment plan options to help alleviate the burdens of high utility bills on low-income residents; these efforts alone can eliminate the need for a high-cost loan. More recent innovative efforts go further, both by providing direct financial relief to qualified customers who are struggling to afford basic necessities such as water and electricity and—perhaps more importantly—connecting those who are in need of payment plans or financial assistance to education and resources to help increase their financial stability.

This section highlights three recently adopted utility assistance programs currently in place in Houston and Austin. Other programs exist across Texas—implemented across the spectrum of utility providers, including smaller cities, counties, private utility companies, and cooperatives. These providers should ensure their programs are accessible, have flexible payment terms, and connect struggling customers to financial counseling, energy consumption counseling, and other resources to increase customers' likelihood of success in the program.



#### Take Note

#### **Paying City Fines and Bills at Payday Storefronts Leads to More Predatory Loans**

Municipalities using private collection agencies such as a Municipal Services Bureau (MSB) for traffic fine collections or utility bill collections may inadvertently drive people to take out high-cost loans. ***MSB's website directs people who want to pay cash in person to the storefront of ACE Cash Express, a prominent payday lender and MSB contractor.*** Not surprisingly, a national study found when municipalities “send their customers to pay bills in the storefronts of ultra-high-cost payday lenders, those customers—typically the most financially vulnerable—become targets for predatory loans.”<sup>3</sup>

## MUNICIPAL UTILITY BILL ASSISTANCE PROGRAM 1:

### LIFT-UP Pilot Program (Houston, Texas)

The National League of Cities (NLC) has developed a pilot program that seeks to help low-income families pay their utility bills and achieve financial stability: Local Interventions for Financial Empowerment through Utility Payments (LIFT-UP).<sup>4</sup>

Through LIFT-UP, NLC's Institute for Youth, Education and Families is testing this new model in which cities identify families who are in debt to city-owned utilities, offer them a restructured payment plan along with payment incentives, and help connect them to a variety of financial empowerment services. Cities participating in the pilot program include Houston, Texas; Louisville, Kentucky; Newark, New Jersey; St. Petersburg, Florida; and Savannah, Georgia. As noted in an explanation of the program:

The LIFT-UP program's driving idea is that a household's inability to pay their utility bills on time might be a sign of greater financial distress. By using the "red flag" of missed utility payments, NLC hopes to proactively reach out to struggling households and provide them with counseling and services to develop their financial capability.

As these departments identify past-due customers for the program, LIFT-UP is helping them establish a process to refer these customers to a range of financial empowerment services offered by the city and community partners. The services include financial counseling, favorable repayment options for past-due bills, and connections to mainstream banking or other safe financial products.<sup>5</sup>

Houston is still compiling results from its LIFT-UP pilot program, but anticipates incorporating much of what it learns from its analysis of the program into its utility collections practices. Houston

has historically worked with customers to allow payment plans for delinquent utility accounts, but was initially concerned about the potential extra burden on city staff to provide its customers financial counseling and connections to financial empowerment services.

As part of the LIFT-UP program, six employees from the city's utility customer service department became trained financial coaches. These coaches assisted utility customers with delinquent accounts, setting up flexible payment plans to fit their budgets, and connecting them with a variety of local resources, including the United Way's Thrive Program<sup>6</sup> and the City's Bank On Houston Program.<sup>7</sup> According to the city's customer service section chief, an added bonus is that these employees have expressed increased job satisfaction in connection with their expanded roles as financial counselors.

## MUNICIPAL UTILITY BILL ASSISTANCE PROGRAM 2:

### Deferred Payment Agreements with Reasonable Terms (Austin, Texas)

In 2013, the City of Austin passed an ordinance mandating that its utility provider, Austin Energy, offer a low-cost payment plan to customers struggling to pay their utility bills. The ordinance was amended in 2015 to address concerns about rising consumer utility debts to the city. The resulting 2015 ordinance is designed to strike a balance between providing flexible payment plans and maintaining an acceptable level of consumer debt. The ordinance, along with corresponding council-approved Payment Arrangement Procedures, is included in the Supplemental Resources Guide accompanying this toolkit.<sup>8</sup> The ordinance provides for reasonable payment terms and allows flexibility in setting the terms. For

qualified participants, the payment amount may not exceed 5% of the U.S. Department of Health and Human Services monthly poverty guideline for a single-person household. Under the 2016 poverty guidelines, such a monthly payment could not exceed \$49.50 per month.<sup>9</sup>

Under the Payment Arrangement Procedures, the utility is required to assign a case manager to any customer who enters “Account Watch” status, and those case managers work to connect customers with resources to help address the underlying financial issues that the customer is facing.

#### **MUNICIPAL UTILITY BILL ASSISTANCE PROGRAM 3:**

##### **Community Benefit Charge Funding for the Customer Assistance Program (Austin, Texas)**

Separately, Austin’s Customer Assistance Program (CAP) provides direct financial assistance to eligible utility customers.<sup>10</sup> The CAP program can provide a significant discount—as much as \$60 per month—to a utility customer. It also has an education component tied to it. The program offers participants an opportunity to receive free home energy improvements upon completion of a four-hour education course that includes both financial and energy saving education.

*Whenever you can provide support to the most vulnerable members of our community in a way that enables them to maintain their households, that is, in and of itself, a benefit to the entire community.*

**Ronnie Mendoza**  
Customer Service Manager  
Austin Energy

The CAP program is funded through a Community Benefit Charge—which is a tariff passed by city ordinance.<sup>11</sup> As of 2015, the Community Benefit Charge provides \$11 million in annual funding for the CAP program. The program has grown significantly over the last several years and currently serves approximately 45,000 customers in the Austin area. Of these, 200 customers per year receive free home energy improvements. In addition to automatically enrolling qualified customers in the CAP program, the utility raises awareness about its various assistance programs through presentations at community outreach events, mailers, and through its website.



### Spotlight: Crisis Averted with the Help of Austin Energy

Austin Energy recently assisted an elderly veteran through its utility assistance programs. He was living in a hotel because he was unable to pay a large utility debt, and after a family tragedy, he became responsible for his 10 grandchildren. He was unable to secure stable housing for the family because of the utility debt. Under the City's Payment Arrangement Procedures, he was entitled to one final payment arrangement, but it required a 50% down payment that he could not afford. Austin Energy received a referral from one of its partner agencies, conducted a site visit to evaluate the situation, and began to work within its assistance programs and partner agencies to secure funds to pay down the utility debt and enable the family to make a payment arrangement, restart utility services, and move forward to obtain housing. They are now living in a stable home, and Austin Energy continues to work with them to ensure that utility services are not disconnected.

### Municipal Fine Waivers, Payment Plans, Community Service Options

Each municipality should carefully scrutinize its municipal court system to ensure that it is not driving low-income residents to use high-cost loans through its policies related to municipal fines for low-level violations, such as minor traffic violations. Municipal courts are required to offer alternatives to paying fines and fees that are appropriate to the individual's circumstances in traffic and non-traffic misdemeanor and ordinance

violation cases.<sup>12</sup> Municipalities must guarantee individuals who are unable to pay fines are not sentenced to jail time for their nonpayment—an unconstitutional practice that is not unusual in many Texas cities.<sup>13,14</sup> As the Department of Justice's report on the Ferguson Police Department emphasizes, courts and the enforcement of laws should not exist to raise revenue for the city.<sup>15</sup>

#### *Payment of Court Fines and Fees*

By law, municipal courts must allow any defendant who is unable to pay a fine to enter into a payment plan immediately.<sup>16</sup> City and county courts of a certain size<sup>17</sup> must also implement collection efforts and payment plans that comply with the Office of Court Administration's Collection Improvement Program (CIP), which is focused on increasing collection rates of court-ordered payments.<sup>18</sup> The CIP requires dedicated staff focused on collection activities to comply with certain requirements set by the program.<sup>19</sup>

**Many cities have payment plan deadlines or down payment requirements that can be very difficult for low-income families to meet.** For example, Dallas requires 30% of the fine be paid upfront with the remaining balance paid over 90 days. The City of Irving requires a minimum payment of \$100 per month. These requirements result in payment plans that are unaffordable to many people.

**Cities with these or similar aspects to their payment plans should reassess existing payment plan requirements to avoid driving people to take out high-cost loans in order to make the required payments.**<sup>20</sup> Payment plans are not the best option for all low-income defendants, and municipal courts should consider alternatives to assessing a fine or paying a fine in full. For

example, courts can avoid burdening defendants with debt from fines altogether by allowing community service in lieu of a fine.<sup>21</sup> When the court imposes community service, the number of hours that a defendant is required to work should be reasonable and an amount that a particular defendant is likely able to complete.<sup>22</sup> In addition, a court may waive all or part of a fine or costs imposed on a defendant if the court determines that (1) the defendant is indigent or a child and (2) community service would impose an undue hardship on the defendant.<sup>23</sup> Some defendants will have trouble completing community service given job schedules, childcare obligations, disabilities, or other conditions, and waivers or fine reductions should always be considered in such cases.<sup>24</sup>

Municipalities around the country have recently faced litigation due to problems with fine collection systems. Recent lawsuits have alleged that the systems fail to protect the constitutional rights of people who are too poor to pay their fines. Three separate federal lawsuits have been filed against Texas cities—Austin, Amarillo and El Paso—based on the cities’ municipal courts’ practices of illegally committing people to jail for unpaid fines.<sup>25</sup>

As the policy-making body for municipal courts, city councils can make a difference in how municipal courts approach ability-to-pay issues in the hearing process. City councils should avoid putting pressure on municipal courts to collect a certain amount of revenue for the city through fines and court costs. Councils should also avoid contracting with private collection agencies to collect court debt when those private collection agencies fail to offer low-income individuals reasonable alternatives to paying their court debt.

Municipal courts should improve fairness for low-income defendants and make it less likely that high fines and costs in traffic and non-traffic Class C misdemeanor cases drive individuals to high cost payday or auto title loans to pay fines. For example, municipal judges should inquire into each defendant’s ability to pay *before* imposing a fine, taking into consideration the defendant’s income, expenses, and number of dependents. Defendants who receive certain types of governmental assistance (e.g., Section 8 housing, Medicaid, TANF, SNAP, *etc.*) should be presumed unable to pay fines and court costs. For each defendant whom the judge determines unable to pay their fines and costs immediately, the judge should consider all possible alternatives—including reduced fines, waiver of fines, community service, and/or a payment plan—to develop an individualized sentence that the defendant will successfully be able to complete.

There are other ways municipal courts can reduce the negative impact of low-income individuals’ inability to pay costs and fees. When a defendant does not pay courts and fines, the court usually issues an arrest warrant, which only increases the costs for the city and the defendant. Municipal courts could limit issuing warrants to situations in which the judge is aware that a defendant’s failure to pay or comply with the court’s order is willful. In many cases, the court could issue a summons and set a new hearing when a defendant fails to comply and/or fails to appear in court, prior to issuing an arrest warrant. If judges do impose jail sentences, it should only be in cases where the judge has appointed counsel to represent the defendant and found that the defendant had the ability to pay the fines and failed to make a good faith effort to do so.<sup>26</sup>

**In short, municipal courts can hold citizens accountable for small legal infractions without establishing onerous penalties that could drive people to have to make a choice between high-cost loans and non-compliance with court orders.**

Further, when fees and penalties are assessed, judges can use discretion to structure affordable payments, and municipalities can ensure that payment plans are not made more onerous by upfront deposit requirements. Streamlining indigence assessments, ensuring affordable payment plans and adopting alternative means to address penalties can all prevent some need for high-cost short-term credit that too often leads to even further financial hardship.<sup>27</sup>

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 ENDNOTES
 

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- 1 See, e.g., Center for Financial Services Innovation, *A Complex Portrait: An Examination of Small-Dollar Credit Consumers* (Aug. 2012).
- 2 See Paul Kiel, *What Can Be Done Right Now to Fix the Legal System for Debt Collection*, ProPublica (Oct. 8, 2015) (explaining that utility companies often have programs to help lower-income customers, but yet “debtors often don’t know about [them]”).
- 3 National Consumer Law Center, *Utilities and Payday Lenders: Convenient Payments, Killer Loans* (June 2007).
- 4 National League of Cities Website, [Information on LIFT-UP model](#).
- 5 Center for Financial Services Innovation (CFSI), *Telling the FinCap Innovation Story: National League of Cities - Creating Engaging Partnerships* (Jul. 1, 2014).
- 6 United Way of Greater Houston website, [Thrive Program description](#).
- 7 [Bank On Houston website](#).
- 8 Austin City Ordinance, [2015 Deferred Payment Agreement Ordinance and Payment Arrangement Procedures](#), effective June 23, 2015.
- 9 U.S. Department of Health and Human Services, [Poverty Guidelines](#) (Jan. 25, 2016).
- 10 Need Help Paying Bills, [Information on Austin Energy Assistance Program](#).
- 11 See Appendix D for rates within the CAP program and Appendix E for more information on the account watch program under the ordinance.
- 12 See Tex. Crim. Proc. Code, Art. 45.046; see also Tex. Crim. Proc. Code, Art. 45.048.
- 13 See Tex. Crim. Proc. Code, Art. 45.048; see also BuzzFeed, *In Texas, It’s a Crime to Be Poor* (Oct. 7, 2015) (“People in Texas get thrown behind bars just because they can’t afford their traffic tickets. That’s a disaster for people who are already struggling. It’s also completely against the law.”)
- 14 Texas Applesseed wrote to the City of El Paso in connection to that city’s troubling record of jailing people who are too poor to pay fines and court costs for petty misdemeanors, stating, “Texas Code of Criminal Procedure explicitly requires a municipal judge to make a written determination that a person is not indigent, and has failed to make a good faith effort to pay fines, before jailing that person for failure to pay his or her fines. [Tex. Crim. Proc. Code Art. 45.046(a)].” October 23, 2015 letter from Texas Applesseed to the City of El Paso, attached as Appendix F.
- 15 United States Dept. of Justice Civil Rights Divisions Report, *Investigation of the Ferguson Police Department*, (Mar. 4, 2015) (concluding that the Ferguson municipal courts’ focus on income generation led to court practices that violate the Fourteenth Amendment’s due process and equal protection requirements: “The court’s practices also impose unnecessary harm, overwhelmingly on African-American individuals, and run counter to public safety.”)
- 16 See Tex. Crim. Proc. Code, Art. 45.041(b-2). One drawback to such payment plans is that the Texas Local Government Code currently requires that a municipality charge a “time payment fee” of \$25 when any such payment plan is offered. (Tex. Local Gov’t Code § 133.103) Cities should consider participating in an effort to repeal this onerous requirement. In a [2015 Office of Court Administration study](#) of existing court costs and fees, this fee was included in a list of fees that had “no stated or unclear statutory purpose.” The goal of the study was to determine whether various court costs and fees were necessary to accomplish their statutory purpose. Because the “time payment fee” statute had no clear purpose, the authors of the study were unable to make that determination, and recommended that the fee be reviewed.
- 17 See Tex. Crim. Proc. Code, Art. 103.0033. This provision governing the Collection Improvement Program only applies to counties with 50,000 or more people as well as municipalities with 100,000 or more people.
- 18 See Tex. Admin. Code, Chapter 175; see also [Texas Judicial Branch website](#).
- 19 See Tex. Admin. Code §175.3(c)(4)(C) (“Time Requirements”).
- 20 See, e.g., City of Austin Charter § 4 (“The city council shall have the power to remit fines, forfeitures and penalties for the violation of penal ordinances of the city, and to grant reprieves and pardons for all offenses arising under the penal ordinances of the city.”).
- 21 Tex. Crim. Proc. Code Art. 45.049. “COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS. (a) A justice or judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service. A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed. \*\*\*  
(e) A defendant is considered to have discharged not less than \$50 of fines or costs for each eight hours of community service performed under this article” (emphasis added).
- 22 Note that Tex. Crim. Proc. Art. 45.049 sets a minimum amount (\$50) that can be discharged for eight hours of community service. That amounts to a scant \$6.25/hour for the community work performed. A court should consider each defendant’s circumstances in arriving at a reasonable community service sentence that the defendant will likely be able to complete.
- 23 Tex. Crim. Proc. Code Art. 45.0491. “WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless of whether the court is a court of record, or a justice court may waive payment of a fine or costs imposed on a defendant who defaults in payment if the court determines that:
  - (1) the defendant is indigent or was, at the time the offense was committed, a child as defined by Article 45.058(h); and
  - (2) discharging the fine and costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant.”
- 24 *Id.*
- 25 These lawsuits could be indicative of future strategies to ensure fairness with respect to municipal fines and costs, revamping a municipal court fine system voluntarily could help municipalities avoid the high costs associated with defending litigation targeting unconstitutional municipal court fine assessment and collection practices. The Austin suit was dismissed on the grounds that the city could not be held liable for actions taken by municipal judges acting in their judicial capacities. The other suits are still pending as of the date of this report.
- 26 In addition, municipal courts must respect the constitutional right to counsel if jail is a potential consequence for nonpayment or noncompliance. See *Argersinger v. Hamlin*, 407 U.S. 25 (1972); see also *Alabama v. Shelton*, 535 U.S. 654 (2002).
- 27 For more detailed recommendations, see [Letter to El Paso City Council on Debtor’s Prison](#) (Oct. 23, 2015); also included in the Supplemental Resources. In addition, such policies would reduce municipal expenses associated with unnecessary incarceration as well as any litigation alleging constitutional violations associated with that incarceration

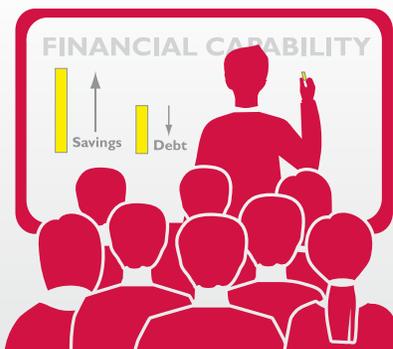
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LOCAL OPPORTUNITY

## Improve Systems to Connect People to Community Asset Building and Financial Empowerment Resources

*Families who do not use bank accounts and other safe, affordable financial services often live paycheck to paycheck—and precariously close to a serious financial crisis.*

**National League of Cities<sup>1</sup>**

Many cities have created programs to connect people to community asset building and financial empowerment resources. Although each program has its own unique successes and struggles, multiple programs across the country have shown progress in implementing “wrap-around” services and financial empowerment resources for their communities, leading to an improvement in financial health. Further, some alternative loans require the completion of financial education and empowerment courses for successful loan repayment.

*From the city's perspective, we really believe in the power of one-on-one financial counseling; it increases residents' financial capability and when provided alongside social services, increases the success rate of those services.*

**Richard Keith**

Assistant Director

City of San Antonio Department of Human Services

The programs profiled below emphasize building financial capability. **Financial capability “is a term that encompasses having the knowledge, skills, and access to financial products to manage financial resources effectively.”**<sup>2</sup> Incorporating financial capability goals into family resource programs can help families succeed economically, building savings and diminishing the need for emergency small-dollar loans.<sup>3</sup>

## STRATEGY OUTLINE

### Profiled Community Asset Building and Financial Empowerment Programs

- San Antonio Financial Empowerment Centers
- Efforts by the City of Dallas and Dallas Nonprofits to Improve Family Financial Well-Being
- United Way THRIVE Financial Capability with Financial Products and Bank On Houston

#### PROFILED PROGRAM 1:

##### San Antonio Financial Empowerment Centers<sup>4</sup>

The San Antonio Financial Empowerment Centers, spearheaded by the City of San Antonio, United Way of San Antonio and Bexar County, and the Family Service Association, are a successful model for incorporating financial capability into family resource initiatives. The program was launched in 2013 through grant funding from Cities for Financial Empowerment (CFE).<sup>5</sup> Utilizing these funds, city leaders created two Financial Empowerment Centers (FECs)—one on San Antonio’s West side and another on the East side, offering *free* financial counseling services, regardless of income, in both English and Spanish.<sup>6,7</sup>

The city opened four additional FECs in 2015 as part of its “Learn at San Antonio Public Libraries (SAPL)” initiative.<sup>8</sup> These centers operate more generally as adult learning centers providing computer literacy, ESL, GED, and financial literacy classes based on the FEC model. The city operates and funds the centers.

The FECs receive their referrals from nonprofits in the area. The City of San Antonio helps with the overall reporting,<sup>9</sup> creating referrals, and providing technical assistance.<sup>10</sup> The majority of clients are referred after they seek utility assistance from a nonprofit, such as from the local Salvation Army or Goodwill.<sup>11</sup>

*It's hard to talk about [the] budget, when you're trying to keep the lights on.<sup>12</sup>*

**Staff, United Way of San Antonio and Bexar County**

In collaboration with clients, the FECs work toward four categories of outcomes set by the original funders: access to banking, improving credit scores, reducing debt, and increasing savings.<sup>13</sup>



**Spotlight on:  
Model for San Antonio's  
Program: NYC's Office of  
Financial Empowerment**

New York City pioneered the model San Antonio implemented to increase financial empowerment in its city.<sup>14</sup> The New York City Office of Financial Empowerment ("OFE") measures its success based on the same four outcomes as San Antonio's program. Its market and field research on the impact of financial empowerment offers important evidence-based guidance for local policy makers.<sup>15</sup> In particular, it has found that incorporating financial empowerment strategies into social service programs reaps promising results and "leverage[s] partner expertise, existing programs, and current funding streams."<sup>16</sup> In addition, research shows that improving overall financial stability boosts the effectiveness of the organizations' work.<sup>17</sup> From 2010 until 2013, the FECs served 25,000 clients, secured \$2.4 million in client savings, and reduced client debt by \$14.7 million.<sup>18</sup>

To accomplish these goals, the FECs provide their clients with one-on-one professional financial counseling. These counselors offer personalized guidance and help clients deal with a range of financial issues.<sup>19</sup> The clients can meet with their counselors as many times as they need for individual counseling.<sup>20</sup> The counselors at United Way typically have a social work background as well as a financial service background, and all must have at least a bachelor's degree.<sup>21</sup> Case management experience is also an important skill for financial counselors.<sup>22</sup>

The main issue the FECs deal with is that clients are simply not making enough money.<sup>23</sup> Generally, United Way will help the client look for a higher paying job, review a client's budget, and, if possible, help them qualify for any entitlements. The FECs attempt to track other tangible measures in addition to the four outcomes above. Additional measures of success include documentation of client efforts to improve financial stability and increased savings towards a down payment on a house.<sup>24</sup>

*In a progress report, you don't see the emotional side, you don't see what makes them tick.<sup>25</sup>*

**Staff, United Way of San Antonio and Bexar County**

A recent progress report of San Antonio's FECs is promising:



### Snapshot: San Antonio FEC 2015 Report Card<sup>26</sup>

#### Increased Financial Power

- \$3.5 million reduction in total debt
- \$270,000 increase in total saved
- 2,823 San Antonio residents served
- 6,036 total sessions with an average of 3 per client

#### Life Changes Achieved

- 442 developed payment plans with lenders
- 18 obtained student loan repayment plans
- 165 increased credit score by 35+ points
- 478 alerted credit bureaus to errors
- 6 resolved federal tax issues
- 20 avoided eviction/foreclosure
- 183 enrolled in job training
- 158 received transportation assistance

#### Future Budget

- 1,813 created realistic budgets
- 1,337 budgets including savings plan
- 2,273 reviewed credit report
- 254 reduced debt by at least 10%

The CFE grant expires at the end of 2016. In order to ensure that the program will continue, the City of San Antonio is leveraging other sources of funds. The San Antonio FECs currently utilize a variety of funding sources, including two federal grants, money from the City of San Antonio, private funds, and funding from the United Way. The federal grants

include Community Development Block Grant (CDBG) funds and Community Service Block Grant (CSBG) funds. San Antonio's FEC was based on a model from New York City, led by the Consumer Affairs' Office of Financial Empowerment, profiled earlier.<sup>27</sup> This initiative has been influential and demonstrates the evidence-based programs that can lead to community asset building in other cities.<sup>28</sup>

#### PROFILED PROGRAM 2

##### City of Dallas Efforts and Mountain View College Initiative

Dallas Mayor Mike Rawlings launched a city-wide anti-poverty initiative in 2014 focused on improving systems to connect people to community asset building and financial empowerment resources.<sup>29</sup> This initiative, led by Mayor Rawlings, called on Dallas to take action to ensure the success of Dallas in the future.<sup>30</sup> Mayor Rawlings created a taskforce on poverty to work towards a substantive short-term plan to fight poverty.<sup>31</sup> The taskforce made recommendations to the City Council including expanding efforts to help low-income workers file tax returns under the Earned Income tax credit program, raising the minimum wage for all city employees, and creating an Office of Financial Empowerment at the city to lead financial education and empowerment.<sup>32</sup>

In addition to the recommendations provided by the taskforce and efforts spurred by the Mayor's anti-poverty initiative, the United Way of Metropolitan Dallas supports various innovative efforts to offer financial coaching to families and individuals in the community. Their efforts include expanding free tax preparation, integrating financial coaching services at community colleges (WiNGS Family Financial Center profiled below), piloting child savings accounts, and providing financial empowerment training to front-line staff across the social service landscape.

### *Spotlight on Mountain View College Initiative*

The United Way of Metropolitan Dallas, in partnership with WiNGS and funding support from Citi, has successfully integrated financial coaching services at Mountain View College to help disadvantaged college students manage financial crisis, improve financial stability, and ultimately graduate from college. The WiNGS Family Financial Center provides financial education, financial coaching, benefit screening, and an innovative 8:1 matched savings opportunity that supports educational expenses.

All services are free and provided on-site at Mountain View College.<sup>33</sup> Students can receive assistance to manage student loans, create a budget, build or repair credit, save, and handle financial stresses.<sup>34</sup> These skills are integrated into services such as the Financial Empowerment Workshop series, where students are taught the basics of managing their finances as well as financial coaching.<sup>35</sup>

The WiNGS Family Financial Center is conveniently located in the Student Services Department adjacent to the Financial Aid Office, which ensures visibility and accessibility to students in need. Clients generally use at least four coaching sessions over the course of the year.<sup>36</sup> These sessions can include services such as benefits screening, financial education or coaching interactions. At the core, these services share the overall goal of improving the school's graduation rate.<sup>37</sup> Financial issues can significantly hinder graduation rates, something Mountain View College is very focused on improving.<sup>38</sup> The college views these classes as an investment, one that could change student outcomes and their approach to student services.<sup>39</sup>

In the past year, the Family Financial Center at Mountain View College has served nearly 1,300 individuals, and the results have been promising. About 85% of financial coaching clients increased savings, and 64% improved their credit scores by an average of 49 points over a six-month period. Preliminary research also shows that the program helps meet college retention goals: 81% of students served by the WiNGS Family Financial Center remained enrolled through both semesters compared to 65% of students who did not access services.

### **PROFILED PROGRAM 3:**

#### **United Way of Greater Houston THRIVE and Bank On Houston**

United Way of Greater Houston's THRIVE initiative is a collaboration launched and led by the United Way that "leverages more than 20 nonprofit partners and partnerships with employers, community colleges, financial institutions and city and state agencies to provide families with the best and most comprehensive resources, wraparound support, and the services they need to reach real and lasting financial independence."<sup>40</sup> United Way THRIVE helps many families work toward financial stability by helping them increase their income through job training and free income tax preparation, build savings through one-on-one financial coaching and matched savings accounts, and acquire assets, such as home ownership or starting a new business.

**In its seventh year of operations, United Way THRIVE has established a path of financial stability for over 6,400 families.** Through the variety of services offered, over 12,800 families have received financial coaching and education.<sup>41</sup> Families received over \$1 million in affordable

loans, and they saved over \$1.7 million in savings accounts. THRIVE has worked in unique ways with the city such as the Bank On Houston initiative currently housed in the Houston City Controller's office profiled below.

The Bank On “initiative involves partnerships among local government officials, financial institutions and community-based organizations to develop pathways for residents to access basic, low-cost financial services and financial education.”<sup>42</sup> United Way THRIVE began partnering with the Houston City Controller in 2012 and, since then, has funded a full-time staff person in the Controller's office to manage Bank On Houston.

The United Way has also assisted with developing a checking and saving accounts product matrix and building an accessible online tool to help connect consumers to the checking and savings products as a part of Bank On Houston.<sup>43</sup> The product matrix is a means to identify financial products that are consumer-friendly for low-income families (e.g., second chance checking, low-interest accounts, banks with convenient locations, banks with English as a Second Language services, etc.). The online tool has facilitated access to those products by enabling customers to go online, identify the accounts best-suited for them, and open accounts.<sup>44</sup>

*The development of the matrix rallied financial institutions around the conversation to identify products on the shelf to meet the needs in the community.*

**Rushka Tcholakova**  
United Way  
THRIVE Program Manager

In the last few years, United Way THRIVE and Bank On Houston have partnered with third-party agencies and other nonprofits to create customized financial workshops where individuals can meet with financial institutions and open accounts on-site. This type of access is the “secret sauce to moving people from being underbanked to banked and having accounts they can use,” said Tcholakova.

Lastly, Bank On Houston raises awareness about free tax preparation and connects people in need with these resources. Bank On Houston has publicized these resources by placing inserts in municipal utility bills distributed by the city.

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 ENDNOTES
 

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- 1 National League of Cities, *Bank On Cities: Connecting Residents to the Financial Mainstream* at 7 (2011).
- 2 U.S. Department of Health and Human Services, [Letter to “Colleagues”](#) from Mark H. Greenberg, Acting Assistant Secretary for Children and Families, (April 27, 2015).
- 3 *Id.*
- 4 Interview with Holly Frindell of Department of Human Services, Loi Taylor & Anna Weaver of United Way San Antonio (Jun. 8, 2015).
- 5 Mike Bloomberg, *Bloomberg Philanthropies Awards Financial Empowerment Center Grants* (Jan. 8, 2013).
- 6 San Antonio FEC Website, [About page](#).
- 7 In the beginning, the United Way of San Antonio led the East side location, and Family Service Association led the West side location. After 2015, Family Services Association now operates these first two FECs. As mentioned below, the United Way is still involved as a funder. Interview with Richard Keith, Assistant Director of City of San Antonio Human Services (Jan. 26, 2016)
- 8 Interview with Richard Keith, Assistant Director of City of San Antonio Human Services (Jan. 26, 2016).
- 9 Interview with Holly Frindell of Department of Human Services, Loi Taylor & Anna Weaver of United Way San Antonio (Jun. 8, 2015).
- 10 *Id.*
- 11 *Id.*
- 12 *Id.*
- 13 *Id.*
- 14 Some of New York City’s OFE projects are funded through the nonprofit 501(c)3 Mayor’s Fund to Advance New York City, which works to “facilitate[ ] high-impact public-private partnerships...[and] leverage individual, philanthropic, and corporate partnerships to support public programs advancing key Mayoral and agency priorities.” New York City Website, [Information on Mayor’s Fund to Advance New York City](#).
- 15 *Id.*
- 16 Office of Financial Empowerment, [Progress Report](#) at 11 (2010-2013).
- 17 *Id.* at 12.
- 18 *Id.* at 10.
- 19 San Antonio Financial Empowerment Center, [San Antonio FEC Website](#).
- 20 San Antonio FEC Website, [Frequently Asked Questions](#).
- 21 Interview with Holly Frindell of Department of Human Services, Loi Taylor & Anna Weaver of United Way San Antonio (Jun. 8, 2015).
- 22 *Id.*
- 23 *Id.*
- 24 *Id.*
- 25 *Id.*
- 26 San Antonio Financial Empowerment Center 2015 Report Card.
- 27 Interview with Holly Frindell of Department of Human Services, Loi Taylor & Anna Weaver of United Way San Antonio (Jun. 8, 2015).
- 28 National League of Cities, *Bank On Cities: Connecting Residents to the Financial Mainstream* 7 (2011).
- 29 Dallas Morning News Editorial, *Why is Dallas Failing Its Most Vulnerable Children* (Nov. 2, 2015). Mayor Mike Rawlings introduced the initiative in 2014 by creating a taskforce to work towards short-term goals in his anti-poverty plan. In 2015, Mayor Rawlings appointed a second taskforce in 2015 to dig deeper into the root causes of poverty in Dallas.
- 30 *Id.*
- 31 City Square, [Information on City of Dallas Poverty Taskforce](#).
- 32 *Id.*
- 33 Mountain View College, [WiNGS Family Financial Center website](#).
- 34 *Id.*
- 35 *Id.*
- 36 Based on interview on June 22, 2015 with Greg Mangum and Stephanie Mace of United Way of Greater Dallas (Jun. 22, 2015).
- 37 *Id.*
- 38 *Id.*
- 39 *Id.*
- 40 See United Way of Greater Houston website, [THRIVE Program](#).
- 41 The United Way THRIVE Directory of Financial Products, as of April 2015, is included in the Supplemental Resources. The products detailed include car loans, small-dollar loans (as alternatives to payday loans), credit builders, savings products, and free tax preparation.
- 42 National League of Cities, [Bank On Cities Campaign](#).
- 43 United Way funded the position on its own until June 2015, when the City of Houston began funding half of the position to make up for the loss of grant funds that United Way used to fund the position in the past. The City of Houston is passionate about not funding the Bank On program with taxpayer dollars and is thus researching creative ways to raise the funds needed to sustain the position without impacting taxpayers.
- 44 For more information about Bank On Houston, see the Supplemental Resources.

## Conclusion

Cities across Texas have made an important difference for families and local communities through ordinances that rein in payday and auto title lending. An essential next step in this important work is to leverage city capacity and resources to expand access to better loan products, reevaluate policies that inadvertently fuel demand for high-cost payday and auto title loans, and enhance financial empowerment resources.

### **City leaders are at the front lines of our communities, promoting local opportunity and prosperity.**

These five strategies offer a roadmap for city leaders to support the financial stability of local families and enhance local financial well-being.

- 1 Employer-based loan programs: Offer affordable loans to public employees via employer-based programs and cultivate similar programs for private employees in your community;**
- 2 Fund and offer operational support for other low-cost lending programs;**
- 3 Work with the local Council of Government (COG) to expand affordable lending;**
- 4 Ensure municipal fines and fee policies do not drive people to high-cost loans; and**
- 5 Support and better connect people to community asset building and financial empowerment services.**



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