

Testimony Submitted by the Independent Bankers Association of Texas
To The Committee on Ways and Means In Support of H.R. 2789 and H.R. 3287
May 12, 2016

The Independent Bankers Association of Texas (IBAT) appreciates the opportunity to express our strong support for two bills being considered that will provide community banks an opportunity to remain independent, serve their customers and foster economic development. Over 2000 community banks have organized as Subchapter S entities, which has provided a number of benefits to both these banks and the customers they serve. With those benefits come some disadvantages as well, especially in the area of capital formation. As you are aware, bank capital provides the “skin in the game” that allows banks to acquire funding through deposits and other means, and deploy those resources in the form of loans to their local communities. Community banks make a disproportionately high level of small business and agriculture loans vis-à-vis their larger competitors. According to an FDIC study, community banks in 2011 held 14 percent of banking industry assets, but 46 percent of the industry’s small loans to farms and businesses. As small businesses are the source of a majority of new jobs in this country, initiatives to ensure the ongoing viability of community banks should be encouraged as a matter of public policy.

The two bills we strongly support are sponsored by Congressman Kenny Marchant –

The Capital Access for Small Business Banks Act (H.R. 2789) Banks have been able to organize as Subchapter S entities since the late 1990’s. They, like other Sub S businesses, are limited to no more than 100 shareholders. The banking business is unique in many ways, and the level of regulatory oversight and demands for additional capital are significantly higher in this industry. New capital requirements under the Basel III provisions have left a number of banks with the choice of limiting growth (and new lending) or raising additional capital. In most cases, a community bank will look to existing shareholders when additional capital is needed. With such a small base of investors, this can prove problematic for a Subchapter S bank.

H.R. 2789 would allow a depository institution organized under Subchapter S of the Internal Revenue Code to have up to 500 shareholders, which would not only provide additional sources of capital, but would also allow for more community banks to seek this structure without shrinking their existing shareholder base. Further, the bill allows these institutions to issue preferred stock, which provides additional options for safety and soundness as well as the “raw materials” to fund future growth and investment in their local communities.

The Community Bank Flexibility Act (H.R. 3287) The ability to avoid the double taxation trap with pass through tax treatment is especially critical for community banks. This bill would allow a bank to organize as a limited liability company, or LLC, without the ownership restrictions inherent in a Sub S structure. Additionally, H.R. 3287 provides for a 5 year transition period whereby a bank converting to an LLC would not trigger current income taxes at either the shareholder or corporate level.

We believe that both of these bills will assist in stemming the continued consolidation of the community banking industry. They will also allow community banks the flexibility and ability to attract and retain additional capital to fund growth and investment in small businesses, thus creating jobs, economic activity and additional tax revenues.

IBAT very much appreciates Congressman Marchant for his foresight and leadership in the introduction of these bills, and for his recognition of the importance of community banking in the overall economic health and vitality of this country and its citizens from both a micro and macro perspective.