Texas General Land Office

Community Development and Revitalization

“The GLO stands ready to help our state maximize the use of this disaster recovery funding to build back stronger and more resilient communities.”

~ Commissioner George P. Bush

AFFH 101

Agenda

- Purpose
- Applicability
- Requirements
- Texas Complaints
- Texas Impediments
- Recommendations
- Questions?

Presenter

Kris Richmond, ICF

Icons

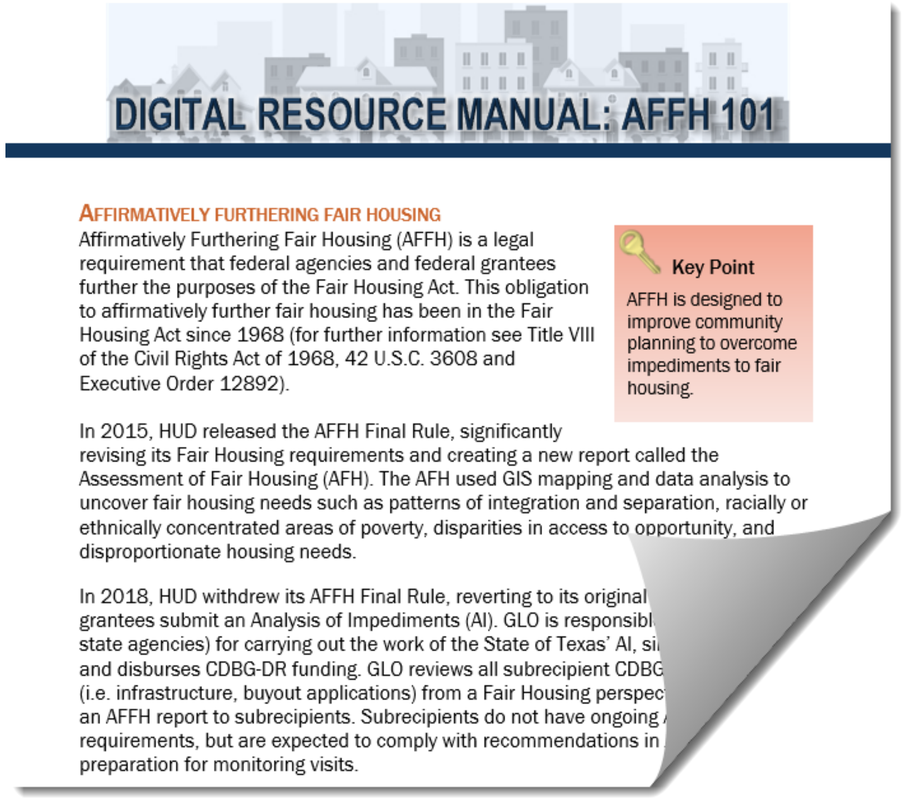
Future Training

Learning Objectives

After the training, AFFH 101 participants will be able to identify:

1. The distinction between fair housing and affirmatively furthering fair housing
2. Federal protected classes and their top fair housing complaints in Texas
3. Key impediments to fair housing choice
4. Recommendations to mitigate fair housing impediments in Texas

Key Resources



DIGITAL RESOURCE MANUAL: AFFH 101

AFFIRMATIVELY FURTHERING FAIR HOUSING

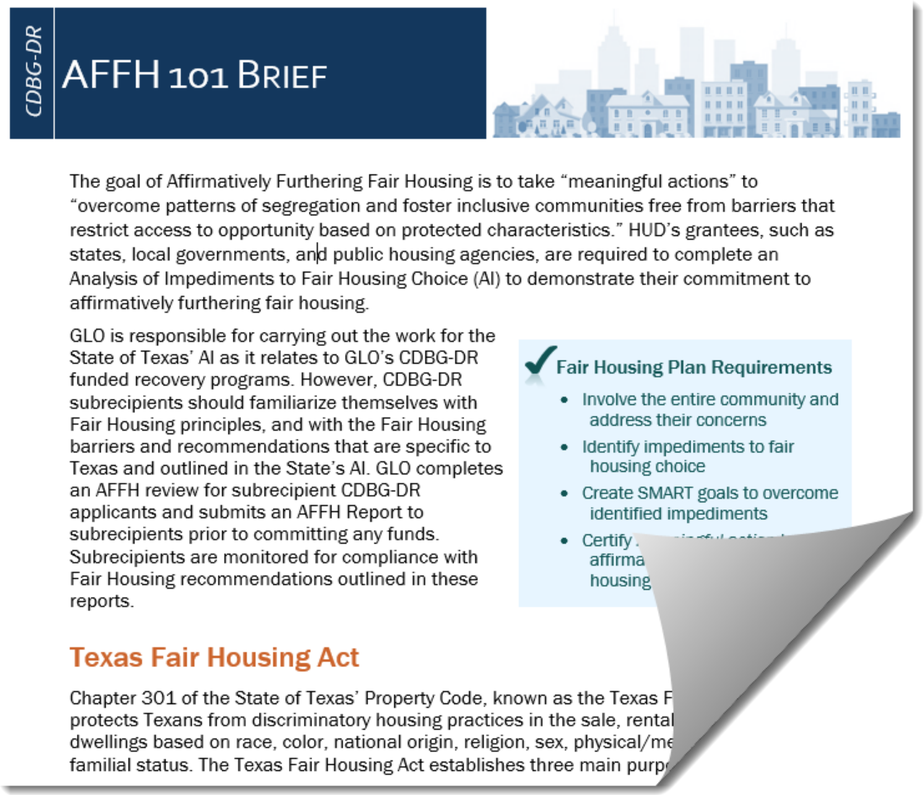
Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892).

Key Point

AFFH is designed to improve community planning to overcome impediments to fair housing.

In 2015, HUD released the AFFH Final Rule, significantly revising its Fair Housing requirements and creating a new report called the Assessment of Fair Housing (AFH). The AFH used GIS mapping and data analysis to uncover fair housing needs such as patterns of integration and separation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs.

In 2018, HUD withdrew its AFFH Final Rule, reverting to its original
grantees submit an Analysis of Impediments (AI). GLO is responsibl
state agencies) for carrying out the work of the State of Texas' AI, si
and disburses CDBG-DR funding. GLO reviews all subrecipient CDBG
(i.e. infrastructure, buyout applications) from a Fair Housing perspec
an AFFH report to subrecipients. Subrecipients do not have ongoing
requirements, but are expected to comply with recommendations in
preparation for monitoring visits.



CDBG-DR

AFFH 101 BRIEF

The goal of Affirmatively Furthering Fair Housing is to take "meaningful actions" to "overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics." HUD's grantees, such as states, local governments, and public housing agencies, are required to complete an Analysis of Impediments to Fair Housing Choice (AI) to demonstrate their commitment to affirmatively furthering fair housing.

GLO is responsible for carrying out the work for the State of Texas' AI as it relates to GLO's CDBG-DR funded recovery programs. However, CDBG-DR subrecipients should familiarize themselves with Fair Housing principles, and with the Fair Housing barriers and recommendations that are specific to Texas and outlined in the State's AI. GLO completes an AFFH review for subrecipient CDBG-DR applicants and submits an AFFH Report to subrecipients prior to committing any funds. Subrecipients are monitored for compliance with Fair Housing recommendations outlined in these reports.

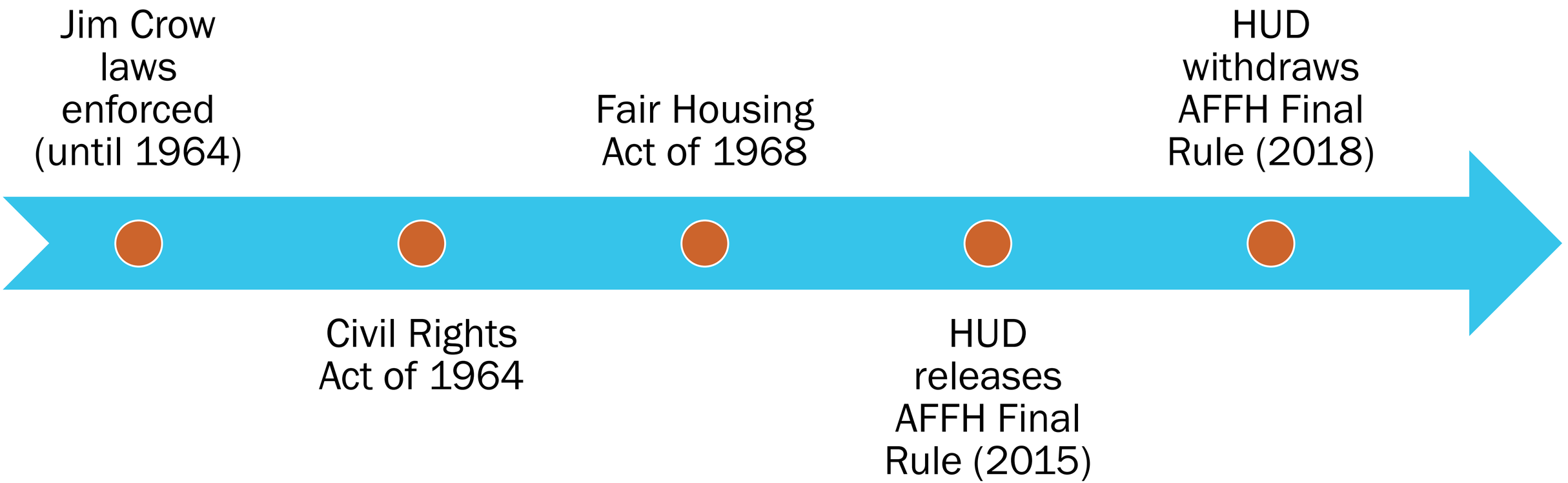
Fair Housing Plan Requirements

- Involve the entire community and address their concerns
- Identify impediments to fair housing choice
- Create SMART goals to overcome identified impediments
- Certify
  affirma
  housing

Texas Fair Housing Act

Chapter 301 of the State of Texas' Property Code, known as the Texas F
protects Texans from discriminatory housing practices in the sale, rental
dwellings based on race, color, national origin, religion, sex, physical/me
familial status. The Texas Fair Housing Act establishes three main purp

History of Fair Housing



Purpose of AFFH

Meaningful Actions

- Address significant disparities in housing needs and in access to community opportunity
- Replace segregated living patterns with truly integrated and balanced living patterns
- Transform racially and ethnically concentrated areas of poverty into areas of opportunity
- Foster and maintain compliance with civil rights and fair housing laws

Applicability of AFFH

- All GLO CDBG-DR subrecipients must certify in their project applications that they will affirmatively further fair housing

- Applications should show that projects are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, non-minority areas in response to natural hazard related impacts

- GLO performs an AFFH review of all projects and submits an AFFH report to subrecipients prior to committing funds

Test Your Knowledge

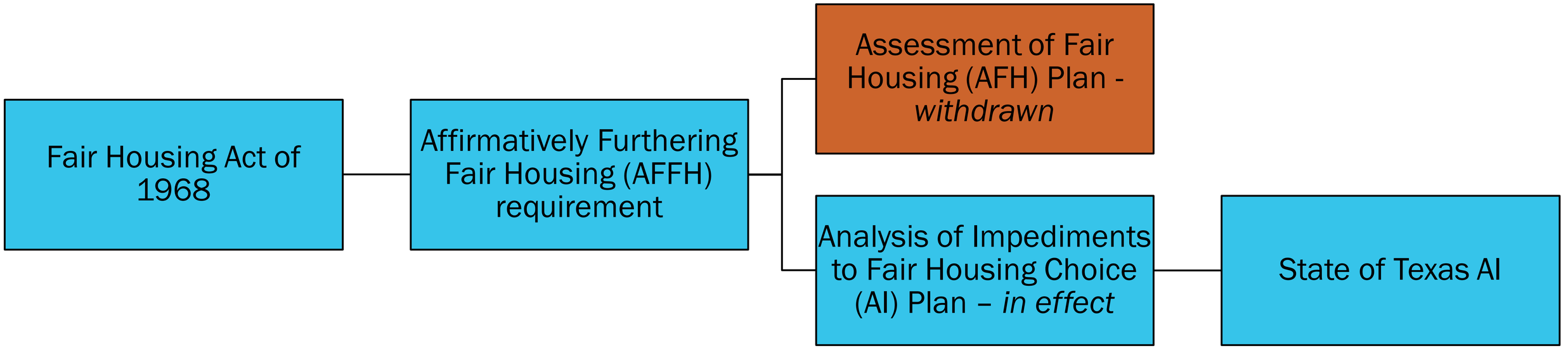
True or False

AFFH differs from fair housing because fair housing is not a legal requirement

False

Both are legal requirements; the difference is that AFFH outlines proactive, meaningful actions that must be taken

History of Fair Housing Plans



Fair Housing Plan Requirements

Analysis of Impediments

Involve the entire community and address their concerns

Identify impediments to fair housing choice

Create SMART goals to overcome identified impediments

Certify meaningful action toward affirmatively furthering fair housing

Definitions: Impediments

Impediments to Fair Housing

- Directly or indirectly create a barrier to fair housing choice
- Have a disproportionate effect on a protected class
- Be caused by an “action, omission, or decision”

Actions, omissions, or decisions taken or which have the effect of restricting housing choices or the availability of housing choices on the basis of a protected class status

Definitions: Protected Classes

- National Origin
- Disability
- Sex
- Family Status
- Race
- Religion

Texas Fair Housing Requirements

Texas Property Code Chapter 301

- Protects Texans from discriminatory housing practices in the sale, rental, and financing of dwellings based on race, color, national origin, religion, sex, physical/mental disability, and familial status

GLO AFFH Review

- GLO submits an AFFH Report to subrecipients prior to committing funds
- Subrecipients will be monitored for compliance with Fair Housing recommendations included in the report

Test Your Knowledge

True or False

A fair housing impediment is defined as a barrier that impacts a residential neighborhood

False

An impediment must have a **disproportionate effect** on a federally **protected class**

AFFH Responsibility

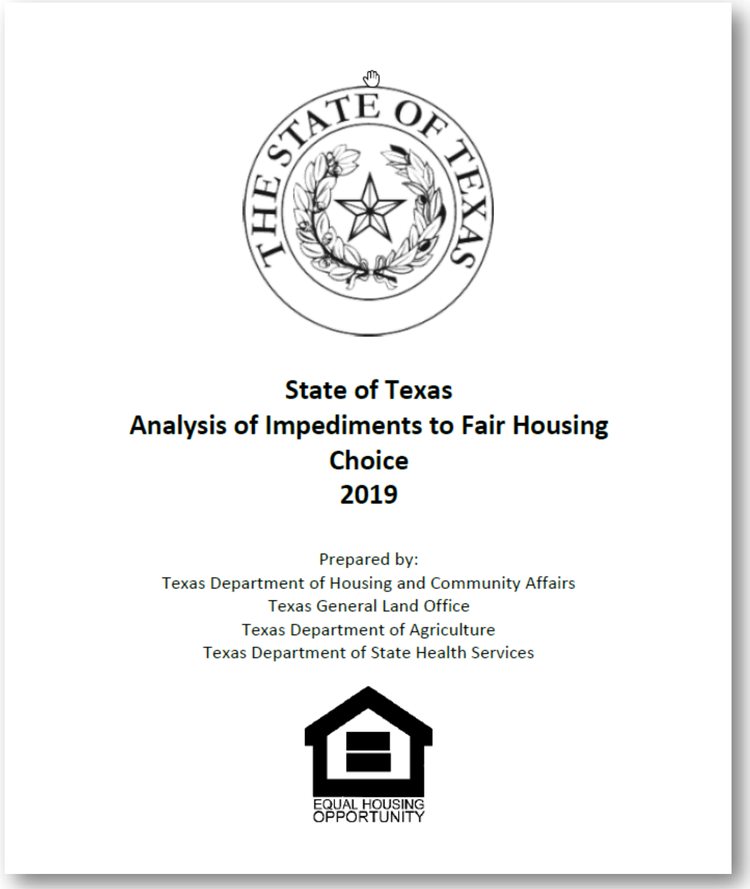
Responsible Entity	Activity
Subrecipients	Undertaking activities to support TX AI goals Following/Implementing Fair Housing Laws
State of Texas	Completing the AI Communicating AI goals to subrecipients Monitoring subrecipients on Fair Housing Activities
HUD	Providing guidance to Grantees on AI Monitoring State of TX for Fair Housing compliance

State of Texas AI

State of Texas AI

- Drafted primarily by the Texas Department of Housing and Community Affairs (TDHCA)
- GLO does not draft its own AI
- 2019 TX AI is the first to include a disaster recovery chapter

Find the full analysis here



THE STATE OF TEXAS

State of Texas
Analysis of Impediments to Fair Housing Choice
2019

Prepared by:
Texas Department of Housing and Community Affairs
Texas General Land Office
Texas Department of Agriculture
Texas Department of State Health Services

EQUAL HOUSING OPPORTUNITY

State of Texas AI

Mission Statement Goals

- Fair housing planning: increasing housing choice and identifying patterns of fair housing complaints
- Expanding housing opportunities and choice, regardless of protected class status
- Identification of impediments and taking steps to address impediments within State's control
- Expanding housing opportunities and choice requiring action and engagement across all levels of government

Texas Fair Housing Complaints

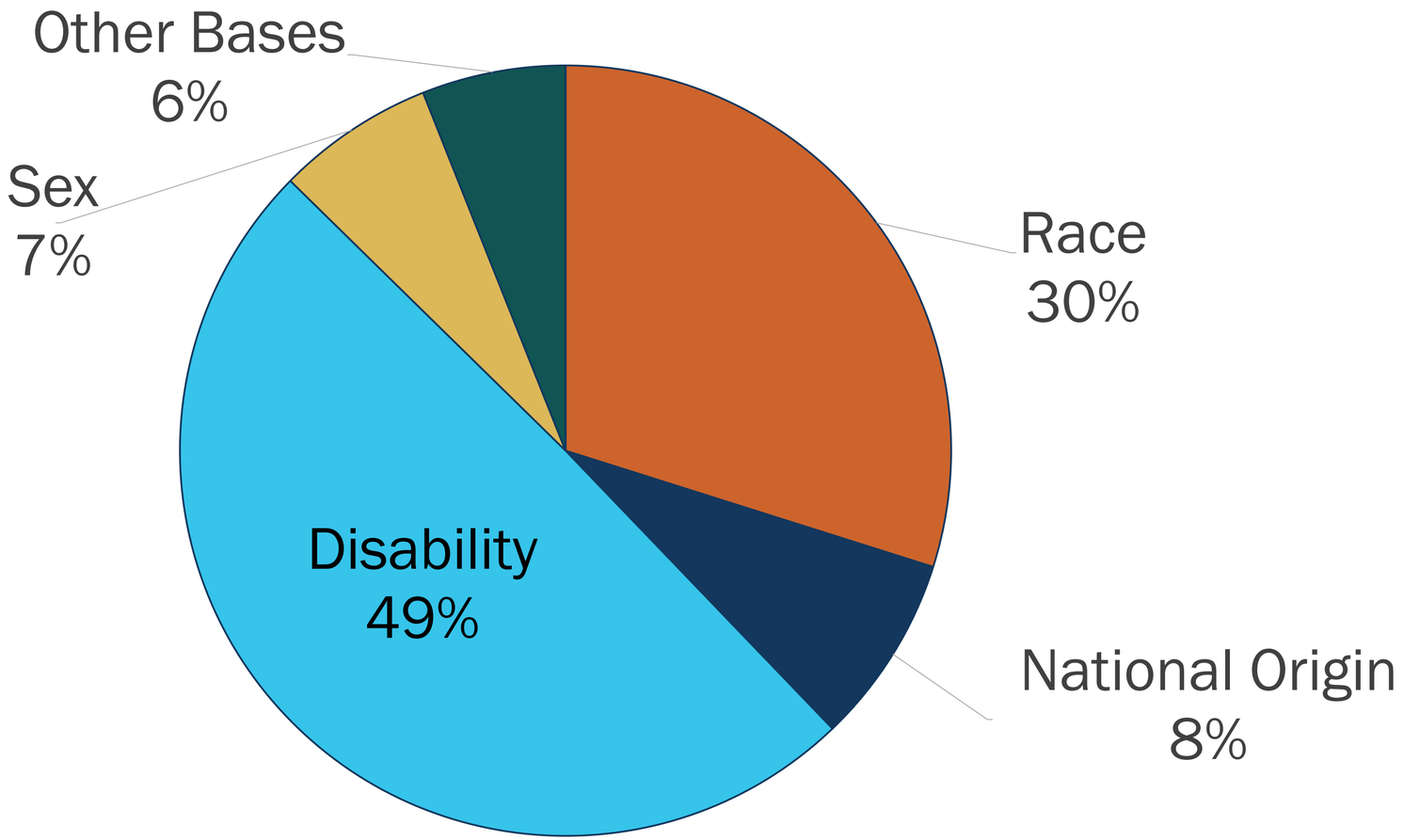
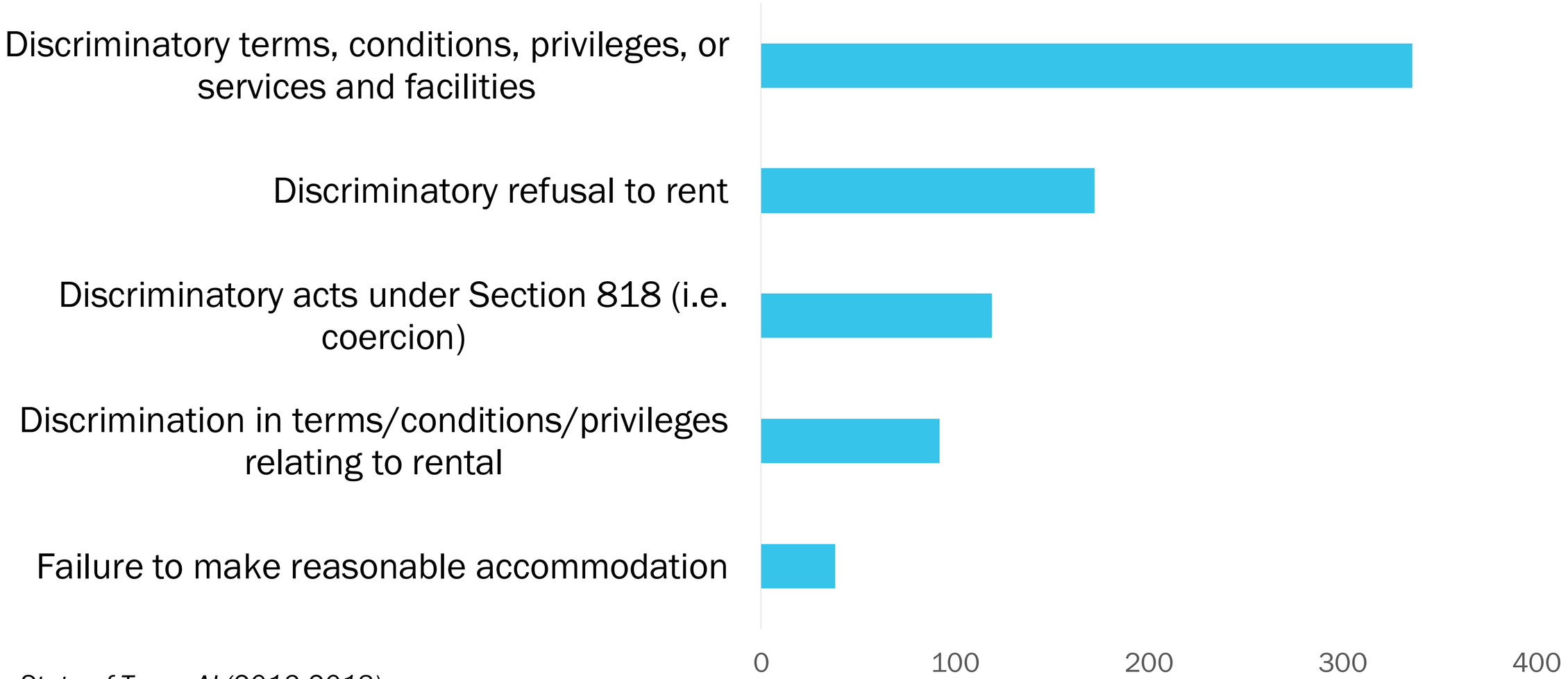


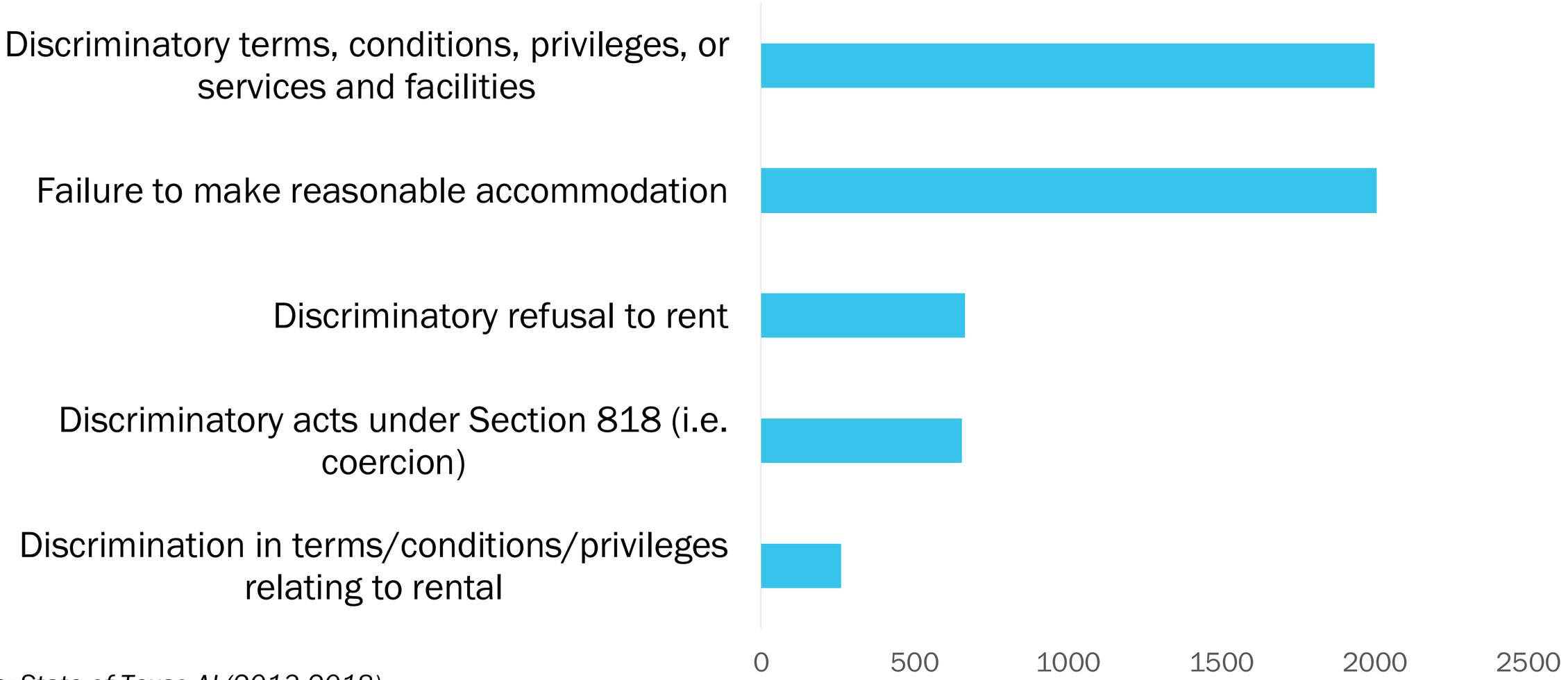
Chart displays 2017 HUD data and is adapted from Texas' AI

National Origin



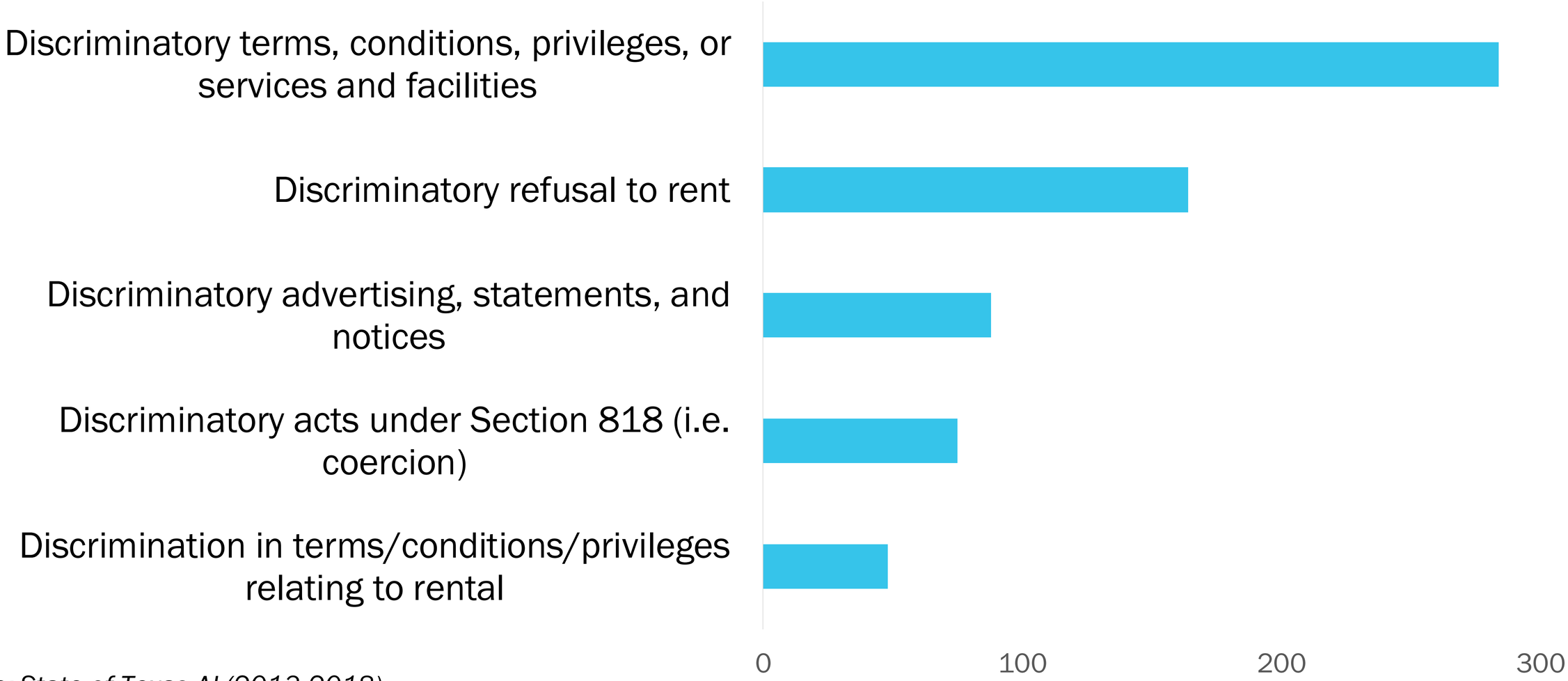
Source: State of Texas AI (2013-2018)

Disability



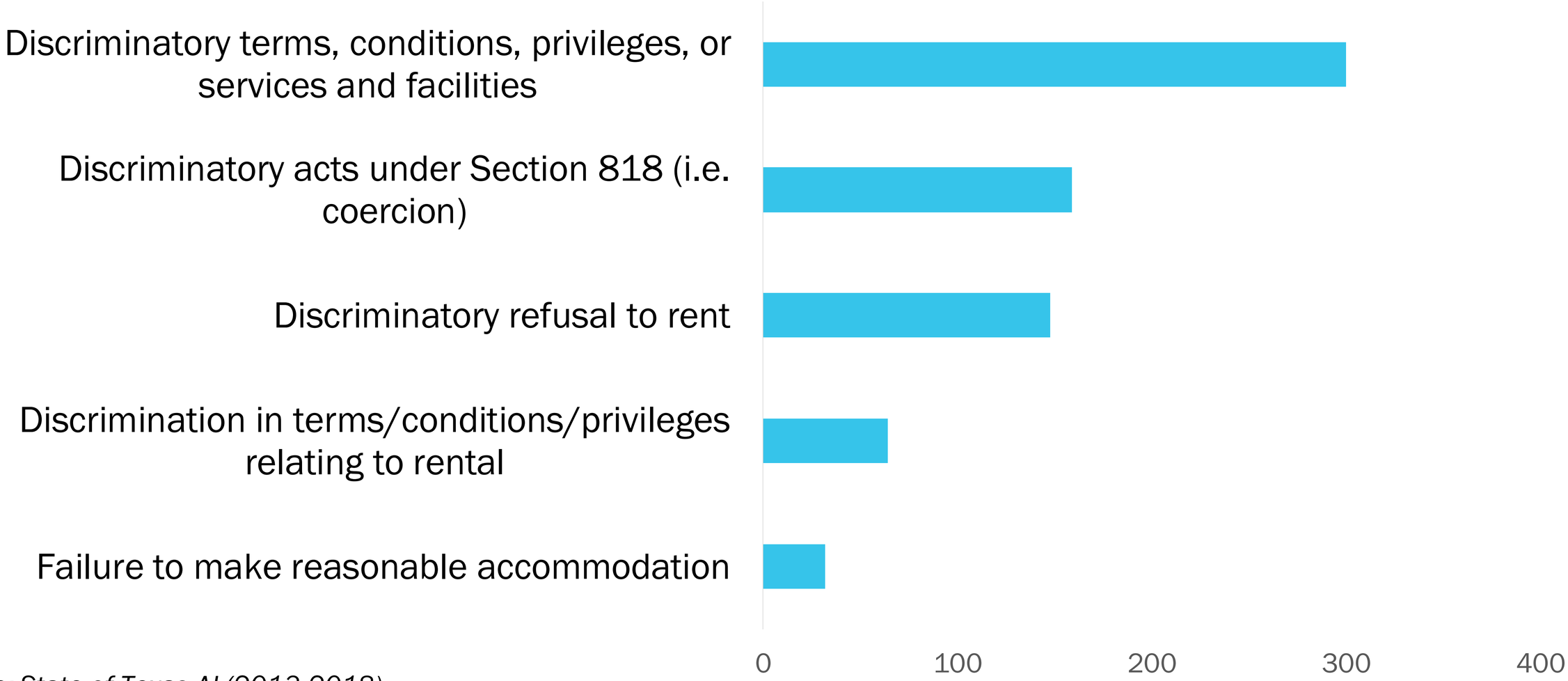
Source: State of Texas AI (2013-2018)

Family Status



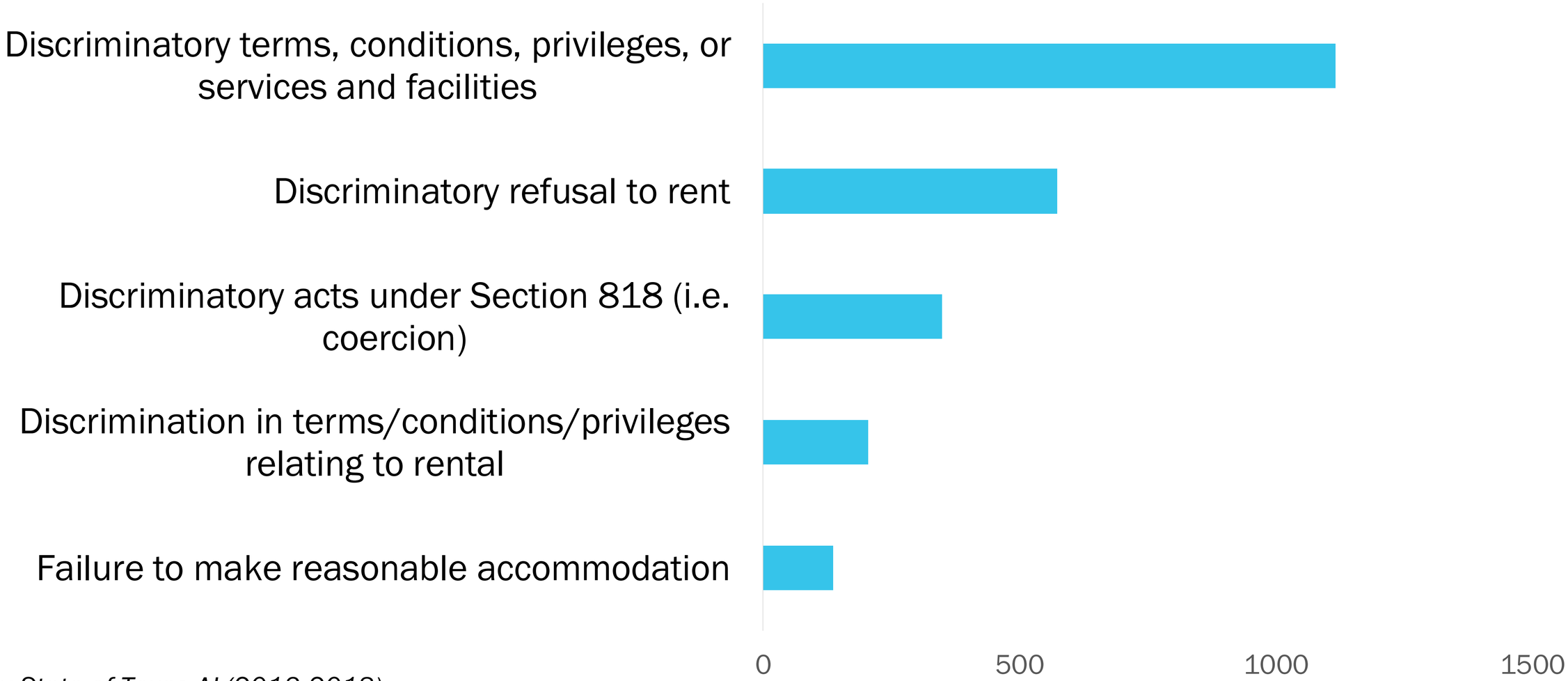
Source: State of Texas AI (2013-2018)

Sex



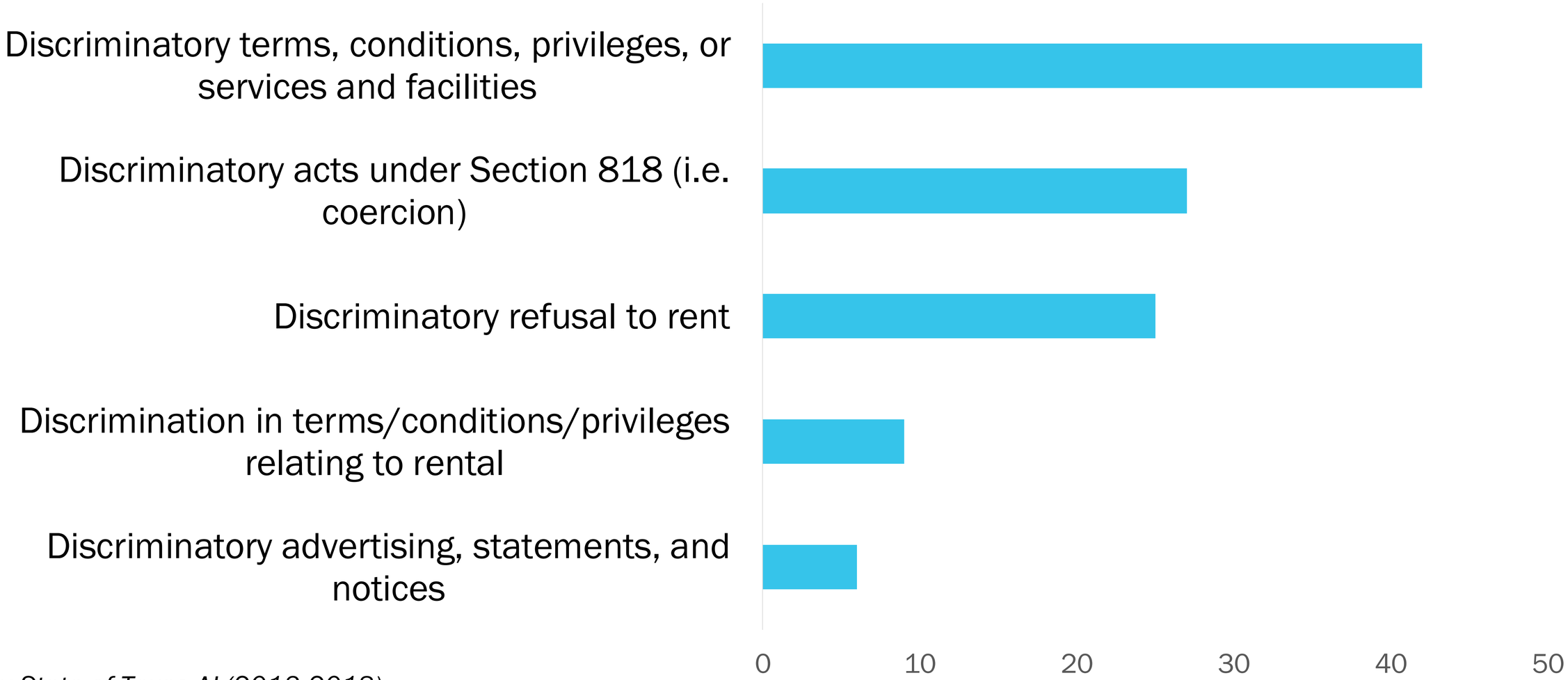
Source: State of Texas AI (2013-2018)

Race



Source: State of Texas AI (2013-2018)

Religion



Source: State of Texas AI (2013-2018)

State of Texas Impediments

1. Not in My Backyard Syndrome (NIMBYism)

2. Lack of understanding of resources on fair housing law, rights, and duties to assist LMI residents and persons with disabilities

3. Obstacles to homeownership and lending products for protected classes

4. Lack of accessible and visitable housing units for persons with disabilities

5. Barriers for specific protected classes that limit mobility and free housing choice

#1: NIMBYism

Issue

- Residents near proposed project site voice opposition, typically expressed as concerns about traffic, property values, or school overcrowding

AI Recommendations

- If same issues (traffic, etc.) would not prevent a market rate property from being developed, then it should not prevent an affordable property from being developed
- Greater community participation in development process

#2: Lack of Understanding

Issue

- Lack of understanding and awareness about fair housing laws, rights and responsibilities
- Housing providers lack knowledge to respond to reasonable accommodations requests and consumers lack sufficient information to know and protect their rights

AI Recommendations

- Educational events, literature, and conferences with tenants/landlords, elected officials, emergency personnel etc., on housing obligations and how to report violations

#3: Obstacles to Homeownership

Issue

- Volume of home purchase loans originated to Black and Hispanic borrowers has declined, potentially resulting from:
  - Decreased access to credit for minorities following the financial crisis
  - Bank failure to meet obligations under the Community Reinvestment Act
  - Differential unemployment growth by race and ethnicity or differential changes in preferences for homeownership since the housing bust
  - Low English proficiency creates challenge accessing traditional credit products

AI Recommendation

- Financial literacy education to improve credit ratings for households seeking lending products

#4: Lack of Accessible Housing

Issue

- 3+ million Texans with disabilities have extreme housing needs and face challenges finding:
  - Housing that is affordable, accessible, and located near transit and supportive services
  - Accessible housing that is both integrated and dispersed throughout the community

#5: Limited Mobility & Housing Choice

Issue

- Limited access to transportation and supportive services
- Credit history is used to worthiness for rental tenancy and loans for home purchase
- Fair Market Rent limits
- Source of income discrimination
- Lack of larger housing units

Texas 2019 AI Goals

- **Recommendation 1:** Maximize accessible housing choice by promoting preservation and limiting displacement, continuing to encourage development in high opportunity areas, and encouraging creative, innovative solutions

- **Recommendation 2:** Increase the provision of educational resources to the developer, property manager, and tenant communities, and to the mortgage lending and realtor industries

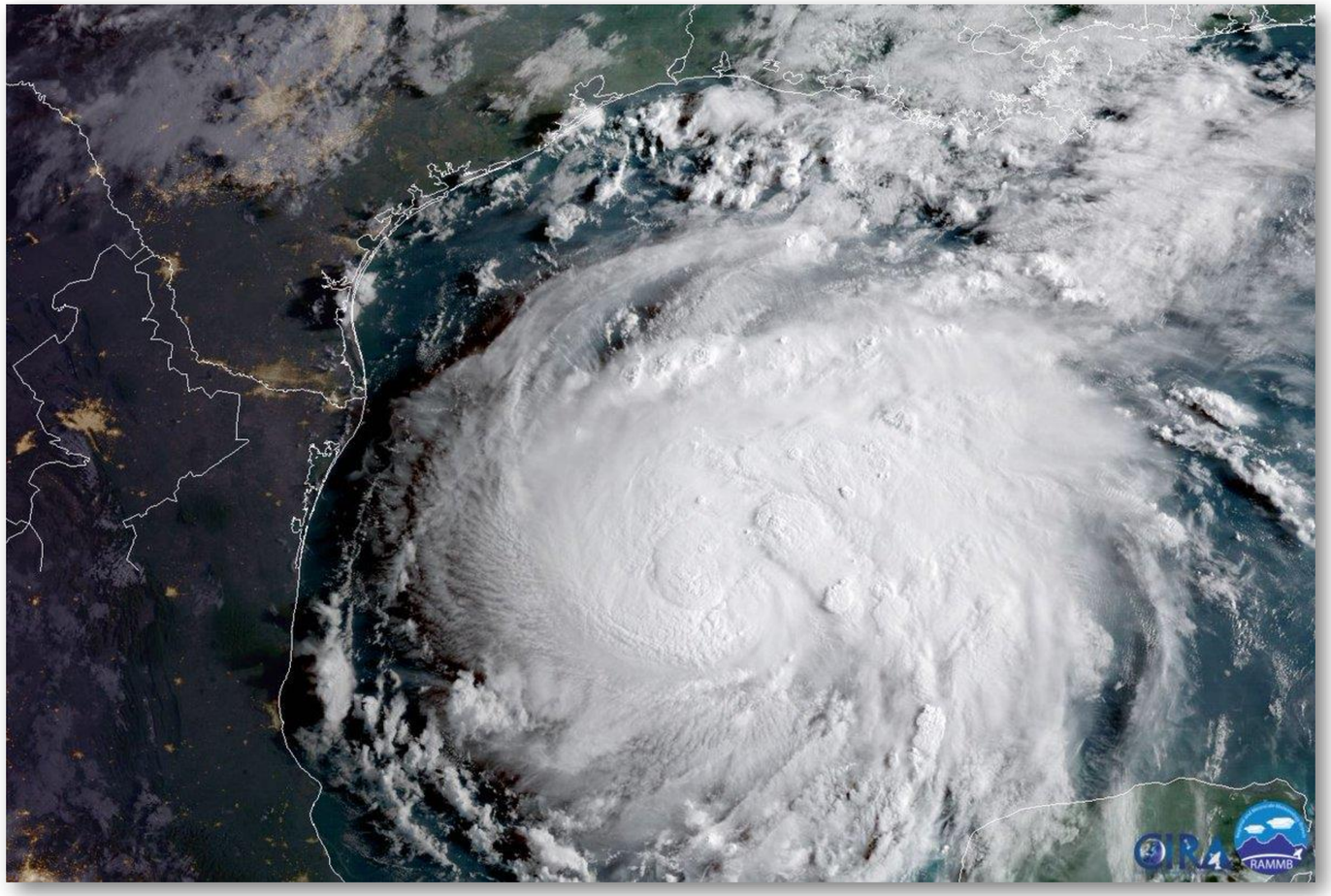
- **Recommendation 3:** Reduce stigmatizing language and practices

Texas 2019 AI Goals

- **Recommendation 4:** Actively engage in the enforcement of the Fair Housing Act

- **Recommendation 5:** Work with trade organizations, local jurisdictions, and regulatory agencies for mutual benefit

Questions?



Survey

AFFH 101 Survey