

SUBJECT: Purchase of accounts receivable not usurious

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 5 ayes — Marchant, Giddings, Gutierrez, Romo

0 nays

4 absent — Carona, Grusendorf, Hudson, Patterson

WITNESSES: For — Karen Neeley, Independent Bankers Association of Texas; William F. Stutts, Private Business, Inc.

Against — None

DIGEST: CSHB 3101 would exclude account purchase transactions — agreements under which a commercial enterprise sells accounts, instruments, documents and/or chattel paper — from general laws regulating interest charges. The discount for which the account purchase transaction was sold would not be considered to be interest.

The bill would apply to any account purchase transaction regardless of when it was made. The bill would take effect immediately if approved by a two-thirds vote of the membership of each house.

SUPPORTERS SAY: CSHB 3101 would clarify that the discount at which commercial accounts receivable are sold should not be considered as interest. Businesses loan or sell their accounts receivable — their future income billings — to finance their businesses. Small businesses do this frequently because of the difficulty of obtaining small business loans. The accounts receivable are sold at a discount, which varies depending on the anticipated costs of servicing the accounts and the potential default on payment.

While accounts receivable are sold at a discount in Texas today, the law is ambiguous as to whether the discount is considered to be interest. The discount is not interest because it is on future income that is uncertain. It is not the same as a loan, and the discount should not be viewed as interest.

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OPPONENTS
SAY: No apparent opposition

NOTES: The original version was essentially the same as the committee substitute except that it would have added a new section instead of amending current law.