

SUBJECT: Credit card interest rates and fees

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 7 ayes — Marchant, Elkins, Giddings, Grusendorf, Patterson, Smith, Solomons

0 nays

2 absent — Gutierrez, Ehrhardt

WITNESSES: For — Jorge Haynes, International Bank of Commerce; Chris Williston, Independent Bankers of Texas; Stewart L. Armstrong; Charles Thomas Doyle; Patrick Kennedy, Jr.

Against — Rob Schneider, Consumers Union

On — Leslie Pettijohn, Office of Consumer Credit Commission

BACKGROUND : The Consumer Credit Code limits the credit card interest rates that may be charged by banks and other creditors based in Texas. A creditor may charge up to 14.4 percent interest on the entire average daily balance (ADB), or 18 percent interest on an ADB of up to \$1,500, 12 percent on an ADB between \$1,500 and \$2,500, and 10 percent on an ADB of more than \$2,500. Any additional fees for credit cards must be authorized by statute.

DIGEST: CSHB 1277 would allow creditors to charge interest rates on credit cards of up to 18 percent. It would allow credit card issuers to charge certain annual fees: up to \$50 on accounts with a credit limit of \$5,000 or less, \$75 on accounts between \$5,000 and \$25,000, and \$125 for accounts of more than \$25,000. The creditor also could collect fees for late charges, cash advances, dishonored checks, and overextended accounts.

Credit card issuers could charge variable interest rates, provided that only purchases made after the variable rate change would be subject to the new rate and the maximum interest rate could not exceed 18 percent. At least 30 days before the increase took effect, the creditor would have to inform the cardholder in writing about the increase, the cardholder's rights

regarding a variable rate increase, and the address to which the cardholder could write to cancel the account. The notice would have to clearly state that the cardholder could cancel the account at any time. Along with this notice, the creditor would have to send a form on which cardholders could indicate whether or not they wished to continue the account.

Cardholders who wanted to close their accounts would have to notify the creditor in writing within 45 days. They would be able to pay the remaining balance at the interest rate in effect before the proposed revision. The balance could be paid off at the minimum payment terms in effect before the revision unless the cardholder agreed in writing to new payment terms. Creditors could not accelerate the balance due because the cardholder discontinued using the account.

Creditors that offered demand deposit accounts (credit cards that draw directly from the cardholders checking or savings account) would be able to impose any charges customarily imposed by the creditor. These would include charges for checks, monthly maintenance, checkbooks, checks drawn in excess of the available line of credit, and similar charges. These fees could be charged to the cardholder's account as a loan if the balance in the account was insufficient to cover the charge.

CSHB 1277 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house, and would apply to open-end credit card agreements entered into, amended or renewed on or after that date.

**SUPPORTERS
SAY:**

CSHB 1277 would allow Texas banks to begin to compete with out-of-state banks in the lucrative credit card market and allow Texas to gain back thousands of jobs that were lost as a result of caps on credit card interest rates. The current caps on credit card interest rates, enacted in 1983, are too low to be competitive; as a result, most banks and other creditors have moved their operations to other states that allow higher rates. While an 18 percent cap on interest rates may still not be high enough to attract large banks and other creditors back to the state, it would be an important first step in making Texas competitive in the credit card business.

CSHB 1277 would have little if any effect on Texas consumers, because most Texans already hold credit cards issued in other states that have completely deregulated credit card interest rates. Since federal law preempts state laws in this area, the cap on credit card rates does not serve its intended purpose of protecting Texans from usury, while having the negative effect of making Texas banks unable to compete in this market.

CSHB 1277 contains enough protections to ensure that consumers are not gouged by credit card companies. The late fees and other fees outlined in the bill are consistent with those allowed in other states and with charges most credit card companies are currently assessing. Currently, Texas banks are not allowed to charge any fees, which makes it difficult to cover the administrative cost of special programs offered by credit card companies in other states. Many consumers in Texas want these special credit card programs; banks should have the option of offering them.

In the fiercely competitive credit card market, consumers have many options to shop around for favorable rates and terms. Consumers are not required to accept any credit card with interest rates and fees they consider too high.

**OPPONENTS
SAY:**

CSHB 1277 would undermine Texas laws that have protected against credit scams and consumer ripoffs that now can originate only in other states. The bill would not serve the intended purpose of attracting big credit card companies, and the thousands of jobs they generate, back to Texas. But it would authorize smaller banks to charge excessive fees at a time when banks are making record profits.

Just because a handful of states have completely deregulated credit card interest rates does not mean Texas should. Texas should preserve its long history of protecting consumers from excessive interest fees.

By allowing a variety of charges and fees, CSHB 1277 would feed a growing trend among credit card companies of confusing consumers with numerous conditions and terms, such as annual fees, interest rates, and variable rate charges, that make it difficult to compare products and allow companies to confuse consumers.

CSHB 1277 would allow banks to collect a \$15 late fee in addition to the interest they already collect on the amount that has not been paid. This is excessive and should not be authorized by Texas law.

OTHER
OPPONENTS
SAY:

The 18 percent cap on credit card interest is not high enough to attract credit card companies back to Texas. The cap should be raised or eliminated altogether to allow Texas banks to compete fairly with out-of-state banks.

NOTES:

The committee substitute added the notice and account cancellation provisions for variable rate credit cards and the \$75 and \$125 annual fee limits for certain accounts. The original version of the bill would have allowed creditors to charge a late fee of five percent of the unpaid amount or \$15, whichever was greater, if the payment was 10 days late or more, including Sundays and holidays; the committee substitute would allow a late fee of five percent of the unpaid amount or \$15, whichever was less, if the payment was more than 15 days late. The committee substitute specified that a new variable interest rate could be applied only to debt incurred after the new rate took effect.