HOUSE RESEARCH ORGANIZATION bill analysis | 4/21/97 | HB 594 Thompson et al. (CSHB 594 by Giddings)

SUBJECT: Administrative fees not to exceed $25 on certain loans

COMMITTEE: Financial Institutions — committee substitute recommended

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

0 nays

2 absent —Gutierrez, Elkins

WITNESSES: (*On original version*):
For —Richard Elvis Goddard, Robert Duke, Texas Financial Services Association; Kelly Rogers, Texas Bankers Association; Robert Power, Nations Credit Corporation

Against—Rob Schneider, Consumers Union

On —Leslie Pettijohn, Office of Consumer Credit Commission

BACKGROUND: VACS art. 5069-3.15 regulates loans made for personal family and household purposes that are not secured by real estate. These loans are referred to a "split rate loans," and a finance company can make only one such loan per customer. Loans are generally between $1,000 and $5,000, with the average loan at about $2,000, and interest rates vary depending on the loan amount. The lower the loan, the higher the interest rate. The average $2,000 loan carries a 25 percent annual interest rate.

VACS art. 5069-4.01 regulates closed installment loans made for personal family and household purposes. VACS art. 5069-5.02 regulates secondary mortgage loans made to finance taxes, home improvements or home purchases. The interest rates for these loans are based on a floating rate of between 18 and 24 percent, which is linked to the U.S. Treasury bill rate and is now around 18 percent.

The 74th Legislature enacted SB 844 by Ellis, which requires the State Finance Commission to conduct a study on the availability, quality and prices of financial services to agriculture, small business and individual consumers and to research the practices of business entities that provide financial services for such entities and individuals.

DIGEST: CSHB 594 would allow companies or institutions financing loans under VAC arts. 5069-3.15, 5069-4.01 and 5069.5.02 to charge an nonrefundable administrative fee of $25 on a loan above above $1,000 and a $10 fee on loans $1,000 or less. Consumers would not have to pay another administrative fee when refinancing a loan within 180 days. Fifty cents of the administrative fee would deposited with the state comptroller to finance the study on availability of credit required by SB 844, 74th Legislature.

The bill would take effect September 1, 1997.

SUPPORTERS SAY: The administrative fee proposed in CSHB 594 would allow finance companies and financial institutions making medium-sized consumer loans in Texas to recoup the administrative costs of making these loans, help defray losses associated with making these higher-risk loans and keep finance companies in Texas to make consumer loans. Because making consumer loans in Texas is not as profitable as in other states, many finance companies have either left the state or have drastically cut back their operations. Allowing finance companies to cover their costs and cushion bad loans would in turn make more money available for consumer loans to Texans. The last time the interest rate was increased for consumer loans made in Texas was in 1981. These fees are modest and would help defray the cost of processing the loan.

Fifty cents of the administrative fee would fund the annual study by the State Finance Commission mandated by the 74th Legislature that has not been done because of a lack of funds. The study is to report on the availability of credit for agriculture, small business and individuals and to research the business practices of financial institutions and companies making such loans.

OPPONENTS SAY: The administrative fees are just a way of increasing the interest rate on consumer loans. Consumers already pay between 32 and 18 percent annual interest rate on these loans, which is high enough to recoup administrative costs and risk associated with making the loans. The interest rate on these loans are sufficient for finance companies to make a profit lending money to consumers.

NOTES: The original version would have allowed a $25 administrative fee on all loans, regardless of size, and did not earmark 50 cents of the fee to fund the finance commission proposed study.

The companion bill, SB 251 by Carona, passed the Senate on April 1 by 30-0 and was reported favorably, without amendment, by the House Financial Institutions Committee on April 15, making it eligible to be considered in lieu of HB 594.