

SUBJECT: Revising statutes regarding usury and the regulation of lenders

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 7 ayes — Averitt, Denny, Ehrhardt, Elkins, Grusendorf, Marchant, Juan Solis
0 nays
2 absent — Solomons, Pitts

WITNESSES: For — Sam Kelley, Texas Consumer Finance Association and Commercial Credit Corporation; Robert Power, Texas Financial Services Association
Against — None
On — Leslie L. Pettijohn, Office of Consumer Credit Commissioner

BACKGROUND: HB 1971 by Marchant, enacted by the 75th Legislature, rewrote portions of the Texas Credit Code regulating consumer and commercial credit. At the same time, the Legislature adopted HB 10, a nonsubstantive recodification bill proposed by the Texas Legislative Council. HB 10 codified all of the state's credit laws into the new Finance Code.

DIGEST: CSHB 2180 has two main articles, each of which would make nearly identical amendments to two sets of finance laws. Article I would amend various sections of Article 5069, Title 79, VACS. Article II would amend various sections of the Finance Code. Specifically, the bill would:

- ! require that lenders must hold separate licenses for each office at which loans are made, negotiated, serviced, held, or collected;
- ! provide that a prepayment penalty cannot be collected on a loan for a residential homestead property that has an annual interest rate above 12 percent;
- ! provide that interest on certain loans can be calculated only on the outstanding principal, not including prepaid interest;
- ! provide that loans with a single repayment with a term of less than a month are subject to the same interest and fee limitations as are loans with a term of a month or more;

- ! revise licensing requirements to reflect the advent of interstate branch banking;
- ! increase bonding requirements for certain licensees;
- ! provide for the collection of attorneys' fees for secondary mortgage loans; and
- ! provide for the lender's ability to collect returned-check fees.

CSHB 2180 would take effect September 1, 1999. The bill contains alternate provisions to amend either the civil statutes or the Finance Code, depending on whether the Legislature enacts SB 1368 by Harris, which would make nonsubstantive additions and corrections to various codes.

**SUPPORTERS
SAY:**

The enactment last session of two complex bills amending the same body of finance laws has resulted in a number of ambiguities and conflicts, leaving lenders and consumers to operate under uncertainties. CSHB 2180 would correct these problems and would modernize bonding requirements, update licensing procedures, and clarify various technical issues regarding the lending industry.

The ambiguities in current statutes may draw consumers, lenders, and the consumer credit commissioner into unnecessary legal skirmishes and court cases. Last session's revisions to the finance laws inadvertently created loopholes in licensing requirements that have hampered the commissioner's ability to exercise regulatory authority and protect consumers. For example, the commissioner should not have to go to court to examine the lending records of a licensee that has not obtained a license for all of its offices. HB 2180 would close potential loopholes and restore continuity to the finance statutes.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The committee substitute made two changes to secs. 1.01 and 2.01, regarding the definitions of terms generally, and to sec. 1.08, regarding the commissioner's authority to require licensees to secure bonds.

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The companion bill, SB 1201 by Cain, has been referred to the Senate Economic Development Committee.