HOUSE RESEARCH ORGANIZATION bill analysis | 5/2/2013 | HB 2315 Villarreal (CSHB 2315 by Villarreal)

SUBJECT: Authorized charges and terms for certain consumer loans

COMMITTEE: Investments and Financial Services — committee substitute recommended

VOTE: 6 ayes — Villarreal, Flynn, Anderson, Burkett, Longoria, Phillips

1 nay — Laubenberg

WITNESSES: For — Deidre Gwin and Phil Hitz, Springleaf Financial Services; William Moore, Texas Consumer Finance Association; (*Registered, but did not testify*: David Bell, Carl Galant, and Robert Howden, Texas Consumer Finance Association; Gerald Fierro; Deborah Polan, Springleaf Financial Services; Steve Scurlock, Independent Bankers Association of Texas)

Against — None

On — Leslie Pettijohn, Office of Consumer Credit Commissioner

DIGEST: CSHB 2315 would prevent a consumer lender from compounding interest under the finance code's acceptable interest computation methods for non-real estate loans.

Under the bill, an administrative fee would not be considered interest. The finance commission could prescribe a reasonable maximum administrative fee for a non-real estate loan contract that could exceed the current maximum amount allowable for a given loan size.

For loans under subchapter F, which prescribes alternate charges for certain consumer loans, CSHB 2315 would allow the finance commission to prescribe a reasonable maximum acquisition fee on loans that could exceed the maximum amount allowable for a given cash advance size and would state that an acquisition charge under subchapter F would not be considered interest.

CSHB 2315 would allow subchapter F loans to be calculated using the true daily earnings method or schedule installment earnings method that did not exceed the equivalent rate or effective return of the installment account handling charge for the original scheduled term of the loan.

The bill would not allow the acquisition charge, installment account handling charges, default charges, deferment charges, or return check fees to be included in the principal balance of a loan contract. Interest could accrue on the principal balance at the rate provided in the loan contract until the final payment date or demand for payment in full.

CSHB 2315 would require a payment to be applied to a small consumer loan borrowers account in the following order, or in a method more favorable to the borrower:

- the straight-line allocation of the acquisition charge using the original scheduled loan term;
- default charges provided in subchapter E of Finance Code sec. 342;
- authorized return check fees;
- other charges authorized in subchapter F;
- accrued interest authorized under alternative interest charge computation methods; and
- principal.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

CSHB 2315 would allow the Office of the Consumer Credit Commissioner (OCCC) to update allowable fees, modernize interest calculation methods on consumer loans, and clarify lending standards for both lenders and consumers.

Finance Code, ch. 342 allows a regulated, licensed lender to charge an effective interest rate higher than 10 percent and sets out the rates for non-real estate loans in Subchapters E and F, including an annual administrative fee. CSHB 2315 would give the OCCC the authority to adjust the fee to a reasonable amount that would reflect the true cost to the lender while looking out for consumers. The bill would also make it clear that these fees were not considered interest on the loans. These changes would add flexibility and promote competition among lenders.

CSHB 2315 would modernize the lending standards for non-real estate loans by clarifying the interest calculation methods available to Subchapter F lenders. Most of these lenders use the pre-computed, monthly interest method, although the Finance Code allows them to use other methods — the true-daily earnings and scheduled installment earnings methods. The bill would clarify the use of these methods, which would provide guidance and options to both lenders and consumers.

OPPONENTS SAY: CSHB 2315 would give the government too much influence over banks' lending standards, which are better determined by the free market.