

## **BILL ANALYSIS**

Senate Research Center

H.B. 1971  
By: Marchant (Cain)  
Economic Development  
5-5-97  
Engrossed

### **DIGEST**

The Texas Credit Code, as it is commonly called, was originally passed by the Texas Legislature in 1967. Since that time numerous amendments have occurred, the most significant being the "omnibus interest rate" bill in 1981. Chapter 1 of Article 5069 (also Subtitle 1) defines "interest," fixes maximum rates of interest, and provides penalties for contracting for, charging, or receiving interest at a rate in excess of the maximum rate. Generally, Chapter 1 does not apply to consumer transactions, which are governed by Subtitle II, consisting of Chapters 2 through 8, and additionally, Chapter 15 of Subtitle III. H.B. 1971 modernizes language and begins the rewrite of the entire Texas Credit Code in the code format. The Legislative Council is undertaking a recodification of the financial services statutes; the revision project parallels and incorporates the council's effort.

### **PURPOSE**

As proposed, H.B. 1971 modernizes language and begins to rewrite the entire Texas Credit Code in the code format.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Finance Commission of Texas in SECTIONS 1 and 2 (Articles 1B.002(c) and 3A.901, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 79(1), V.T.C.S., by adding Chapters B-1H, as follows:

#### CHAPTER B. GENERAL PROVISIONS

Art. 1B.001. SHORT TITLE: Texas Credit Title.

Art. 1B.002. DEFINITIONS. Defines "contract interest," "credit card transaction," "creditor," "interest," "judgment creditor," "judgment debtor," "judgment interest," "legal interest," "lender credit card agreement," "loan," "merchant discount," "money judgment," "obligor," "open-end account," "person," "prepayment penalty," "time price differential," and "usury." Requires these definitions to be strictly construed. Authorizes the Finance Commission of Texas (finance commission) to adopt rules to accomplish the purposes of this subtitle.

#### CHAPTER 1C. INTEREST RATES

##### SUBCHAPTER A. USURY

Art. 1C.001. USURIOUS RATE OF INTEREST. Sets forth the requirements for interest rates.

Art. 1C.002. ACCRUAL OF INTEREST WHEN NO RATE SPECIFIED. Sets forth the requirements for accrual of interest when a creditor has not specified a rate of interest.

##### SUBCHAPTER B. OTHER RATES AND PROVISIONS ON LOANS SECURED BY REAL

## PROPERTY

Art. 1C.101. DETERMINING RATES OF INTEREST BY SPREADING. Sets forth procedures for determining if a rate is usurious and sets forth duties for a lender under this section.

Art. 1C.102. PROHIBITION ON PREPAYMENT CHARGE OR PENALTY. Prohibits a lender from charging a prepayment charge or penalty.

Art. 1C.103. EFFECT OF FEDERAL PREEMPTION ON LATE CHARGES. Provides that late charges are covered by the federal preemption of state interest rate limitations.

### CHAPTER 1D. OPTIONAL RATE CEILINGS

#### SUBCHAPTER A. RATE CEILINGS: APPLICABILITY, COMPUTATION, AND PUBLICATION

Art. 1D.001. USE OF CEILINGS. Sets forth requirements for using rate ceilings provided by this chapter.

Art. 1D.002. WEEKLY CEILING. Authorizes parties to an agreement described in certain chapters to agree to an interest rate or on an amount of time price differential producing a rate, that does not exceed the applicable weekly ceiling.

Art. 1D.003. COMPUTATION OF WEEKLY CEILING. Sets forth calculations of weekly ceilings. Defines "auction rate."

Art. 1D.004. MONTHLY CEILING. Sets forth requirements for using a monthly ceiling.

Art. 1D.005. COMPUTATION OF MONTHLY CEILING. Sets forth calculation of monthly ceiling.

Art. 1D.006. QUARTERLY CEILING. Sets forth requirements for using an quarterly ceilings.

Art. 1D.007. ANNUALIZED CEILING. Sets forth requirements for using a annualized ceilings.

Art. 1D.008. COMPUTATION OF QUARTERLY AND ANNUALIZED CEILINGS. Sets forth calculations for quarterly and annualized ceilings.

Art. 1D.009. MAXIMUM AND MINIMUM WEEKLY, MONTHLY, QUARTERLY, OR ANNUALIZED CEILING. Sets forth requirements for a maximum and minimum weekly, monthly, quarterly, or annualized ceiling.

Art. 1D.010. COMPUTATION OF CEILING IF INFORMATION UNAVAILABLE. Sets forth requirements of calculating a ceiling with missing information.

Art. 1D.011. PUBLICATION OF RATE CEILINGS. Sets forth requirements for publicizing rate ceilings.

Art. 1D.012. JUDICIAL NOTICE. Authorizes a court to take judicial notice of certain interpretations.

Art. 1D.013. DETERMINATION OF CEILING FOR CONTRACT TO RENEW OR EXTEND DEBT PAYMENT. Provides that the rate ceiling for a contract to renew or extend the terms of payment of a debt is the ceiling in effect under this chapter when the contract for renewal or extension is made, regardless of when the debt is incurred.

Art. 1D.014. RATE FOR LENDER CREDIT CARD AGREEMENT WITH MERCHANT DISCOUNT. Sets forth the rate for a lender credit card agreement with a merchant discount.

Art. 1D.015. VARIABLE RATE. Sets forth requirements for a variable rate.

Art. 1D.016. CHARGING OF RATE LOWER THAN AGREED RATE. Authorizes a creditor to charge a rate that is lower than the rate agreed to in the contract.

#### SUBCHAPTER B. OPEN-END ACCOUNTS

Art. 1D.101. OPEN-END ACCOUNT: CEILINGS. Sets forth ceiling requirements for certain open-end accounts.

Art. 1D.102. VARIABLE RATE OPEN-END ACCOUNT: CEILINGS. Sets forth ceiling requirements for certain open-end accounts which have a variable rate.

Art. 1D.103. OPEN-END ACCOUNT: CHANGE OF ANY AGREEMENT TERM. Sets forth requirements for changing terms of an agreement for certain open-end accounts.

Art. 1D.104. OPEN-END ACCOUNT: DISCLOSURE OF CERTAIN RATE VARIATIONS. Sets forth disclosure requirements for certain rate variations.

Art. 1D.105. OPEN-END ACCOUNT: CEILING FOR PLAN OR ARRANGEMENT. Sets forth the ceiling for particular plans or arrangements.

#### SUBCHAPTER C. OTHER PROVISIONS

Art. 1D.201. CONSUMER LOANS AND SECONDARY MORTGAGE LOANS. Sets forth the applicability of Chapter 3A, Subtitle 2, or Chapter 15. Provides that Subsection (c) does not apply to persons subject to Chapter 24, Insurance Code.

#### SUBCHAPTER D. LIMITATIONS ON APPLICABILITY OF CHAPTER

Art. 1D.301. AGREEMENT TO WHICH CHAPTER DOES NOT APPLY. Sets forth agreements to which this chapter does not apply.

Art. 1D.302. REQUIREMENTS INCONSISTENT WITH FEDERAL LAW. Sets forth compliance with disclosure or notice requirements.

#### SUBCHAPTER E. ENFORCEMENT

Art. 1D.401. WHEN ACT OR OMISSION NOT VIOLATION. Sets forth acts or omissions which do not violate this chapter.

Art. 1D.403. PENALTY FOR VIOLATION OF CHAPTER FOR CERTAIN CONTRACTS SUBJECT TO SUBTITLE 2. Sets forth penalties for violations of this chapter for taking certain actions upon contracts subject to Subtitle 2.

Art. 1D.403. PENALTY FOR VIOLATION OF CEILING IN CERTAIN CONTRACTS. Sets forth penalties for violating ceiling requirements in certain contracts.

Art. 1D.404. ENFORCEMENT BY CONSUMER CREDIT COMMISSIONER. Requires the consumer credit commissioner (commissioner) to enforce certain chapters.

Art. 1D.405. EXAMINATION OF RECORDS; INSPECTIONS; RULES. Provides that Article 3A.902 applies to certain transactions.

Art. 1D.406. ENFORCEMENT BY CREDIT UNION COMMISSIONER. Requires the credit union commissioner to enforce this chapter as it applies to certain contracts.

Art. 1D.407. ENFORCEMENT BY DEPARTMENT OF INSURANCE. Requires the Department of Insurance to enforce this chapter as it applies to certain contracts.

#### SUBCHAPTER F. EFFECT ON OTHER STATUTES OF USING OPTIONAL RATE

Art. 1D.501. APPLICABILITY OF CREDIT UNION ACT. Sets forth the applicability of the Credit Union Act.

Art. 1D.502. APPLICABILITY OF CHAPTER 24, INSURANCE CODE. Sets forth the applicability of Chapter 24, Insurance Code.

### CHAPTER 1E. JUDGMENT INTEREST

#### SUBCHAPTER A. GENERAL PROVISIONS

Art. 1E.001. INTEREST RATE REQUIRED IN JUDGMENT. Requires a money judgment to specify the postjudgment interest rate.

Art. 1E.002. JUDGMENT INTEREST RATE: INTEREST RATE OR TIME PRICE DIFFERENTIAL IN CONTRACT. Sets forth the interest rate for certain money judgments.

Art. 1E.003. JUDGMENT INTEREST RATE: INTEREST RATE OR TIME PRICE DIFFERENTIAL NOT IN CONTRACT. Sets forth the interest rate for certain money judgments.

Art. 1E.004. PUBLICATION OF JUDGMENT INTEREST RATE. Sets forth publication requirements for postjudgment interest rates.

Art. 1E.005. ACCRUAL OF JUDGMENT INTEREST. Sets forth requirements for accrual of postjudgment interest.

Art. 1E.006. COMPOUNDING OF JUDGMENT INTEREST. Provides that postjudgment interest on a judgment of a court compounds annually.

Art. 1E.007. JUDICIAL NOTICE OF JUDGMENT INTEREST RATE. Requires a court to take judicial notice of a published postjudgment interest rate.

#### SUBCHAPTER B. PREJUDGMENT INTEREST IN WRONGFUL DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE CASE

Art. 1E.101. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to certain cases.

Art. 1E.102. PREJUDGMENT INTEREST REQUIRED IN CERTAIN CASES. Provides that a judgment in certain cases earns prejudgment interest.

Art. 1E.103. PREJUDGMENT INTEREST RATE FOR WRONGFUL DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE CASE. Provides that prejudgment interest rate is equal to the postjudgment rate applicable at the time of judgment.

Art. 1E.104. ACCRUAL OF PREJUDGMENT INTEREST. Sets forth requirements for accrual of postjudgment interest.

Art. 1E.105. EFFECT OF SETTLEMENT OFFER ON ACCRUAL OF PREJUDGMENT INTEREST. Sets forth the effects of a settlement offer on prejudgment interest.

Art. 1E.106. SETTLEMENT OFFER REQUIREMENTS TO PREVENT PREJUDGMENT INTEREST ACCRUAL. Requires a settlement offer to be in writing and delivered to the

claimant or its representatives, in order for interest to stop accruing.

Art. 1E.107. VALUE OF SETTLEMENT OFFER FOR COMPUTING PREJUDGMENT INTEREST. Sets forth the amount of a settlement, if the offer does not provide for a cash payment.

Art. 1E.108. ACCRUAL OF PREJUDGMENT INTEREST DURING PERIODS OF TRIAL DELAY. Sets forth accrual of interest requirements during periods of trial delay.

#### SUBCHAPTER C. OTHER PREJUDGMENT INTEREST PROVISIONS

Art. 1E.201. PREJUDGMENT INTEREST RATE FOR CONDEMNATION CASE. Sets forth the prejudgment interest rate for condemnation cases.

#### SUBCHAPTER D. EXCEPTIONS TO APPLICATION OF CHAPTER

Art. 1E.301. EXCEPTION FOR DELINQUENT TAXES. Provides that this chapter does not apply judgments which earn interest set by Title 2, Tax Code.

Art. 1E.302. EXCEPTION FOR DELINQUENT CHILD SUPPORT. Provides that this chapter does not apply to interest on unpaid child support under Section 157.265, Family Code.

### CHAPTER 1F. PENALTIES AND REMEDIES

#### SUBCHAPTER A. CIVIL LIABILITY; CRIMINAL PENALTY

Art. 1F.001. LIABILITY FOR USURIOUS INTEREST. Sets forth civil penalties for violating this subtitle.

Art. 1F.002. ADDITIONAL LIABILITY FOR MORE THAN TWICE AUTHORIZED RATE OF INTEREST. Sets forth liability for charging more than twice the authorized rate of interest.

Art. 1F.003. LIABILITY FOR USURIOUS LEGAL INTEREST. Sets forth penalties for charging usurious legal interest.

Art. 1F.004. ADDITIONAL LIABILITY FOR MORE THAN TWICE AUTHORIZED RATE OF LEGAL INTEREST. Sets forth added liability for charging more than twice the authorized rate on legal interest.

Art. 1F.005. ATTORNEY'S FEES. Provides that a creditor liable for certain violation is also liable to pay reasonable attorney's fees.

Art. 1F.006. LIMITATION ON FILING SUIT. Sets forth the statute of limitations for a cause of action under this chapter.

Art. 1F.007. EXTENT OF LIABILITY. Provides that penalties are for certain violations of this chapter and that no common law penalties apply.

Art. 1F.008. CRIMINAL PENALTY. Sets forth criminal penalties for violating this chapter.

#### SUBCHAPTER B. EXCEPTION FROM LIABILITY

Art. 1F.101. ACCIDENTAL AND BONA FIDE ERROR. Provides that there is no liability for charging any usurious interest by an accidental and a bona fide error.

Art. 1F.102. LEGAL INTEREST DURING INTEREST-FREE PERIOD. Provides that there is no liability for charging legal interest before the 30th day after the date on which a debt is

due.

Art. 1F.103. CORRECTION OF VIOLATION. Sets forth requirements for correcting a violation without incurring liability.

Art. 1F.104. CORRECTION EXCEPTION AVAILABLE TO ALL SIMILARLY SITUATED. Provides that if more than one creditor is liable under this subtitle, compliance by one under Article 1F.103, is considered compliance by all.

Art. 1F.105. AMOUNTS PAYABLE PURSUANT TO A FINAL JUDGMENT. Provides that a creditor is not liable for amounts payable pursuant to a final judgment.

#### CHAPTER 1G. MISCELLANEOUS PROVISIONS RELATING TO INTEREST

Art. 1G.001. IMPOSITION OF SURCHARGE FOR USE OF CREDIT CARD. Prohibits a seller from imposing a surcharge for use of a credit card. Provides that this article does not apply to certain governmental agencies.

Art. 1G.002. BILLING CYCLE INTEREST LIMITATION ON OPEN-END ACCOUNT WITHOUT MERCHANT DISCOUNT. Provides that this article applies to open-end account agreements which provide for certain credit card transactions.

Art. 1G.003. SALE OF OPEN-END ACCOUNT WITHOUT MERCHANT DISCOUNT. Sets forth requirements for selling open-end accounts without a merchant discount.

Art. 1G.004. APPLICATION OF LICENSING REQUIREMENT AND SUBTITLE 2 AND CHAPTER 15 TO CREDIT UNION OR EMPLOYEE BENEFIT PLAN. Provides that a credit union is not subject to Subtitle 2 or Chapter 15 and is not required to obtain a license under this title. Provides that a certain employee benefit plan is not subject to Subtitle 2.

#### CHAPTER 1H. COMMERCIAL TRANSACTIONS

##### SUBCHAPTER A. GENERAL PROVISIONS

Art. 1H.001. DEFINITIONS. Defines "account purchase transaction," "affiliate," "asset-backed securities," "business entity," "commercial loan," "guaranty," "pass-through entity," "prepayment charge or penalty," and "qualified commercial loan."

Art 1H.002. INTEREST. Sets forth requirements for interest on a commercial loan.

Art. 1H.003. COMPUTATION OF TERM. Sets forth the calculation of a commercial loan rate of interest.

Art. 1H.004. DETERMINATION OF RATES OF INTEREST BY SPREADING. Sets forth requirements of determining an interest rate by amortizing or spreading.

Art. 1H.005. PREPAYMENT CHARGE. Authorizes a creditor and an obligor to agree to a charge for prepayment. Provides that a prepayment charge is not interest.

Art. 1H.006. CERTAIN AUTHORIZED CHARGE ON COMMERCIAL LOANS. Sets forth permissible charges on commercial loans.

##### SUBCHAPTER B. SPECIAL PROVISIONS

Art. 1H.101. QUALIFIED COMMERCIAL LOAN. Sets forth requirements for a qualified commercial loan.

Art. 1H.102. ASSET-BACKED SECURITIES TRANSACTION. Sets forth requirements for an asset-backed securities transaction.

Art. 1H.103. ACCOUNT PURCHASE TRANSACTION. Sets forth requirements for an account purchase transaction.

SECTION 2. Amends Section 2, Title 79, Article 5069, V.T.C.S., by adding Chapter 3A, as follows:

### CHAPTER 3A. CONSUMER LOANS

#### SUBCHAPTER A. GENERAL PROVISIONS; APPLICABILITY OF CHAPTER

Art. 3A.001. DEFINITIONS. Defines "irregular transaction," "regular transaction," and "secondary mortgage loan."

Art. 3A.002. INTEREST COMPUTATION METHODS. Sets forth requirements for interest computation methods.

Art. 3A.003. PURCHASE FROM MORTGAGEE. Provides that a purchase from a mortgagee of an interest in a secondary mortgage loan that was made to secure that loan is treated as if it were a secondary mortgage.

Art. 3A.004. CONSTITUTIONAL INTEREST; EXEMPTION. Provides that the maximum interest rate is 10 percent, except as otherwise provided. Provides a loan with a rate below 10 percent is not subject to this chapter.

Art. 3A.005. APPLICABILITY OF CHAPTER. Sets forth the applicability of this chapter.

#### SUBCHAPTER B. DESCRIPTION OF AND REQUIREMENTS FOR AUTHORIZED ACTIVITIES

Art. 3A.101. AUTHORIZED ACTIVITIES; CEILING AMOUNT. Sets forth authorized activities of certain entities. Prohibits a person from using any device, subterfuge, or a pretense to evade the application of this article.

Art. 3A.102. ISSUANCE OF MORE THAN ONE LICENSE FOR A PERSON. Sets forth the requirements of being issued more than one license.

Art. 3A.103. AREA OF BUSINESS; LOANS BY MAIL. Provides that a lender is not limited to making loans to residents of the community in which the office for which the license is granted. Authorizes a lender to make certain transaction by mail.

#### SUBCHAPTER C. APPLICATION FOR AND ISSUANCE OF LICENSE

Art. 3A.201. APPLICATION REQUIREMENTS. Sets forth application requirements for a license under this chapter.

Art. 3A.202. BOND. Sets forth bond requirements under this chapter.

Art. 3A.203. INVESTIGATION OF APPLICATION. Requires the commissioner to investigate whether to grant a license.

Art. 3A.204. APPROVAL OR DENIAL OF APPLICATION. Sets forth requirements and procedures for approving or denying an application

Art. 3A.205. DISPOSITION OF FEES ON DENIAL OF APPLICATION. Requires the commissioner to return the license fee and keep the investigation fee for denied applications.

#### SUBCHAPTER D. LICENSE

Art. 3A.251. NAME AND PLACE ON LICENSE. Sets forth requirements for placing a

name and place on a license.

Art. 3A.252. LICENSE DISPLAY. Requires a license holder to display the license.

Art. 3A.253. MINIMUM ASSETS FOR LICENSE. Sets forth the minimum assets needed for a license holder.

Sec. 3A.254. ANNUAL LICENSE FEE. Sets forth the annual license fee.

Art. 3A.255. EXPIRATION OF LICENSE ON FAILURE TO PAY ANNUAL FEE. Provides for the expiration of a license for failure to pay an annual fee.

Art. 3A.256. LICENSE SUSPENSION OR REVOCATION. Sets forth requirements for a license suspension or revocation.

Art. 3A.257. CORPORATE CHARTER FORFEITURE. Sets forth requirements for forfeiture of a corporate charter.

Art. 3A.258. LICENSE SUSPENSION OR REVOCATION FILED WITH PUBLIC RECORDS. Provides that license suspension or revocation is to be filed in the public record of the commissioner.

Art. 3A.259. REINSTATEMENT OF SUSPENDED LICENSE; ISSUANCE OF NEW LICENSE AFTER REVOCATION. Sets forth requirements for reinstating a suspended license and issuance of a new license after revocation.

Art. 3A.260. SURRENDER OF LICENSE. Authorizes a license holder to surrender a license in certain ways.

Art. 3A.261. EFFECT OF LICENSE SUSPENSION, REVOCATION, OR SURRENDER. Sets forth the effects of a license suspension, revocation, or surrender.

Art. 3A.262. MOVING AN OFFICE. Sets forth requirements for a license holder moving an office.

Art. 3A.263. TRANSFER OR ASSIGNMENT OF LICENSE. Authorizes a license to be transferred or assigned with approval of the commissioner

#### SUBCHAPTER E. INTEREST CHARGES ON NON-REAL PROPERTY LOANS

Art. 3A.301. MAXIMUM INTEREST CHARGE. Sets forth requirements for charging an interest on certain cash advances.

Art. 3A.302. MAXIMUM CHARGE FOR LOAN WITH SINGLE REPAYMENT. Sets forth the maximum charge for a loan with a single payment.

Art. 3A.303. ADDITIONAL INTEREST FOR DEFAULT: REGULAR TRANSACTION. Sets forth requirements for additional interest for default on a regular transaction.

Art. 3A.304. ADDITIONAL INTEREST FOR INSTALLMENT DEFERMENT: REGULAR TRANSACTION. Sets forth requirements for additional interest for installment deferrals on a regular transaction.

Art. 3A.305. COLLECTION OF DEFAULT OR DEFERMENT INTEREST. Authorizes certain interest to be collected when it accrues or any time after it accrues.

Art. 3A.306. ADDITIONAL INTEREST FOR DEFAULT: IRREGULAR TRANSACTION. Sets forth requirements for additional interest for default on an irregular transaction.



## SUBCHAPTER F. ALTERNATE CHARGES FOR CERTAIN LOANS

Art. 3A.401. MAXIMUM CASH ADVANCE. Provides that the maximum cash advance under this chapter is an amount computed under Article 2.08, using the reference base amount of \$100.

Art. 3A.402. ALTERNATE INTEREST CHARGE. Authorizes a loan contract to provide for alternate interest charges.

Art. 3A.403. MAXIMUM INTEREST CHARGE FOR LOAN WITH SINGLE REPAYMENT. Sets forth the maximum interest charge for a loan with a single payment.

Art. 3A.404. NO OTHER CHARGES AUTHORIZED. Prohibits a lender from contracting for, charging, or receiving an amount on a loan unless the charge is authorized. Provides that an insurance charge is not authorized.

Art. 3A.405. MAXIMUM LOAN PAYMENT. Sets forth the maximum loan term.

Art. 3A.406. REFUND. Sets forth requirements for a refund of charges.

Art. 3A.407. DEFAULT CHARGE; DEFERMENT OF PAYMENT. Provides that the provisions of Subchapter E apply to a loan under this subchapter.

Art. 3A.408. SCHEDULES FOR WEEKLY, BIWEEKLY, OR SEMIMONTHLY INSTALLMENTS. Authorizes the commissioner to prepare certain schedules.

## SUBCHAPTER G. INTEREST AND OTHER CHARGES ON SECONDARY MORTGAGE LOANS

Art. 3A.501. MAXIMUM INTEREST CHARGE. Sets forth the maximum interest charged on secondary mortgage loans.

Art. 3A.502. ADDITIONAL INTEREST FOR DEFAULT: REGULAR TRANSACTION. Sets forth requirements for additional interest for a default.

Art. 3A.503. ADDITIONAL INTEREST FOR INSTALLMENT DEFERMENT: REGULAR TRANSACTIONS. Sets forth requirements for additional interest for an installment deferment.

Art. 3A.504. COLLECTION OF DEFAULT OR DEFERMENT INTEREST. Authorizes certain interest to be collected when it accrues or any time after it accrues.

Art. 3A.505. ADDITIONAL INTEREST FOR DEFAULT: IRREGULAR TRANSACTION. Sets forth requirements for additional interest for a default in an irregular transaction.

Art. 3A.506. DATE OF FIRST SCHEDULED INSTALLMENT. Sets forth the date of the first scheduled installment.

Art. 3A.507. AMOUNTS AUTHORIZED TO BE INCLUDED IN CONTRACT. Authorizes a secondary mortgage contract to provide for certain fees and costs.

Art. 3A.508. AMOUNTS AUTHORIZED TO BE COLLECTED OR ADDED TO LOAN. Authorizes certain amounts to be collected or added to a loan.

## SUBCHAPTER H. REFUND OF PRECOMPUTED INTEREST

Art. 3A.601. REFUND OF PRECOMPUTED INTEREST: REGULAR TRANSACTION. Sets forth requirements of refunding precomputed interest in a regular transaction.

Art. 3A.602. REFUND OF PRECOMPUTED INTEREST ON CONTRACT: IRREGULAR TRANSACTION OR TERM OF MORE THAN 60 MONTHS. Sets forth requirements of refunding precomputed interest on a loan contract in an irregular transaction.

Art. 3A.603. NO REFUND ON PARTIAL PREPAYMENT OR OF AMOUNT LESS THAN \$1. Provides that a refund is not required under this subchapter for a partial payment or if the amount to be refunded is less than \$1.

#### SUBCHAPTER I. INSURANCE

Art. 3A.701. REQUIRED PROPERTY INSURANCE. Sets forth requirements for having insurance on certain property.

Art. 3A.702. CREDIT LIFE INSURANCE, CREDIT HEALTH AND ACCIDENT INSURANCE, OR INVOLUNTARY UNEMPLOYMENT INSURANCE. Sets forth requirements for a lender requesting a borrower to carry certain insurance.

Art. 3A.703. MAXIMUM AMOUNT OF INSURANCE COVERAGE. Sets forth the maximum amount of insurance required.

Art 3A.704. INSURANCE NOTICE. Sets forth notice requirements for lenders.

Art 3A.705. INSURANCE MAY BE FURNISHED BY BORROWER. Authorizes a borrower to furnish insurance from an existing insurance policy.

Art. 3A.706. BORROWER'S FAILURE TO PROVIDE REQUIRED INSURANCE. Sets forth the effects of a borrower who fails to provide required insurance.

Art. 3A.707. REQUIREMENTS FOR INCLUDING INSURANCE CHARGE IN CONTRACT. Requires insurance for which a charge is included in a loan contract to meet certain requirements.

Art. 3A.708. FURNISHING OF INSURANCE DOCUMENT TO BORROWER. Sets forth requirements for a lender in furnishing an insurance document to a borrower.

Art. 3A.709. LENDER'S DUTY IF INSURANCE IS ADJUSTED OR TERMINATED. Sets forth a lender's duty if insurance coverage is adjusted or terminated.

Art 3A.710. PAYMENT FOR INSURANCE FROM LOAN PROCEEDS. Provides that a lender who accepts insurance under this subchapter as protection for a loan may take certain actions.

Art. 3A.711. INSURANCE GAIN NOT INTEREST. Provides that a gain to a lender from insurance is not considered interest.

Art. 3A.712. ACTION UNDER SUBCHAPTER NOT SALE OF INSURANCE. Provides that collecting a charge from insurance is not a sale of insurance.

Art. 3A.713. REQUIRED AGENT OR BROKER PROHIBITED. Prohibits a lender from requiring the purchase of insurance from an agent or broker.

Art. 3A.714. DECLINATION OF EQUAL INSURANCE COVERAGE PROHIBITED. Prohibits a lender from declining existing insurance coverage providing substantially equal benefits.

Art. 3A.715. EFFECT OF UNAUTHORIZED INSURANCE CHARGE. Sets forth the effects of unauthorized insurance charges.

Art. 3A.716. NONFILING INSURANCE. Sets forth requirements for charging fees for

nonfiling insurance.

#### SUBCHAPTER J. AUTHORIZED LENDER'S DUTIES AND AUTHORITY

Art. 3A.801. DELIVERY OF INFORMATION TO BORROWER. Sets forth requirements for delivery of certain information to the borrower.

Art. 3A.802. RECEIPT FOR CASH PAYMENT. Requires a lender to give a receipt for a cash payment on a loan.

Art. 3A.803. ACCEPTANCE OF PREPAYMENT. Sets forth requirements by which the lender will accept prepayments.

Art. 3A.804. RETURN OF INSTRUMENTS TO BORROWER ON REPAYMENT. Provides for the return by the lender of certain instruments to the borrower upon repayment.

Art. 3A.805. AGREEMENT FOR MORE THAN ONE LOAN OR CASH ADVANCE. Sets forth requirements of an agreement between a lender and a borrower for more than one loan or a cash advance.

Art. 3A.806. AGREEMENT TO MODIFY TERM OF SECONDARY MORTGAGE LOAN CONTRACT. Sets forth requirements of an agreement to modify a term of a secondary mortgage loan contract.

#### SUBCHAPTER K. PROHIBITIONS ON AUTHORIZED LENDER

Art. 3A.851. OBLIGATION UNDER MORE THAN ONE CONTRACT. Prohibits a lender from inducing or permitting persons to become obligated under more than one contract.

Art. 3A.852. AMOUNT AUTHORIZED. Sets forth amounts authorized to be charged by a lender.

Art. 3A.853. SECURITY FOR LOAN. Prohibits a lender from securing a loan with certain items. Sets forth assignments of certain items a lender may take as security for a loan.

Art. 3A.854. CONFESSION OF JUDGMENT; POWER OF ATTORNEY. Prohibits a lender from taking a confession of judgment or a power of attorney for certain purposes.

Art. 3A.855. DISCLOSURE OF AMOUNT FINANCED AND SCHEDULE OF PAYMENTS. Sets forth requirements for disclosure of amounts financed and a schedule of payments.

Art. 3A.856. INSTRUMENT WITH BLANK PROHIBITED. Prohibits a lender from taking an instrument in which a blank is left unfilled.

Art. 3A.857. WAIVER OF BORROWER'S RIGHT PROHIBITED. Prohibits a waiver from being taken in which a borrower waives rights.

Art. 3A.858. MAXIMUM LOAN TERM. Sets forth the maximum loan term for a borrower.

#### SUBCHAPTER L. ADMINISTRATION OF CHAPTER

Art. 3A.901. ADOPTION OF RULES. Authorizes the finance commission to adopt rules to enforce this chapter. Requires the commissioner to recommend proposed rules. Sets forth requirements of the rules.

Art. 3A.902. EXAMINATION OF LENDERS; ACCESS TO RECORDS. Sets forth requirements for the commissioner to examine a lender's records. Sets forth the lender's duties under this article.

Art. 3A.903. GENERAL INVESTIGATION. Sets forth requirements of a general investigation.

Art. 3A.904. CERTIFICATE; CERTIFIED DOCUMENT. Requires a commissioner to put the commissioner's seal on certain payments.

Art. 3A.905. TRANSCRIPT OF HEARING: PUBLIC. Provides that a transcript from a hearing under this chapter is a public record.

Art. 3A.906. APPOINTMENT OF AGENT. Requires an authorized lender to maintain on file with the commissioner a written appointment of a resident as the lender's agent in this state.

Art. 3A.907. PAYMENT OF EXAMINATION COSTS AND ADMINISTRATION EXPENSES. Requires the lender to pay certain costs.

Art. 3A.908. AUTHORIZED LENDER'S RECORDS. Sets forth requirements for an authorized lender's records.

Art. 3A.909. ANNUAL REPORT. Sets forth requirements for an annual report by an authorized lender.

Art. 3A.910. CONDUCTING ASSOCIATED BUSINESS. Authorizes an authorized lender to conduct certain business unless otherwise required by the commissioner.

SECTION 3. Amends Article 2.02A(1), Title 79, Article 5069, V.T.C.S., to make a conforming change.

SECTION 4. Amends Article 2.03(1), Article 5069, V.T.C.S., to make a conforming change.

SECTION 5. Amends Article 2.03A(1), Article 5069, V.T.C.S., to make a conforming change.

SECTION 6. Amends Article 2.07, Article 5069, V.T.C.S., to make a conforming change.

SECTION 7. Amends Article 2.08(1), Article 5069, V.T.C.S., to make a conforming change.

SECTION 8. Amends Article 6.01(q), Article 5069, V.T.C.S., to make a conforming change.

SECTION 9. Amends Article 6.02(15), Article 5069, V.T.C.S., to make a conforming change.

SECTION 10. Amends Article 6.03(5), Article 5069, V.T.C.S., to make conforming changes.

SECTION 11. Amends Articles 6.03(6)(a) and (e), Article 5069, V.T.C.S., to make conforming changes.

SECTION 12. Amends Article 6.05, Article 5069, V.T.C.S., to make a conforming change.

SECTION 13. Amends Article 6.12, Article 5069, V.T.C.S., to make a conforming change.

SECTION 14. Amends Article 6.13, Article 5069, V.T.C.S., to make a conforming change.

SECTION 15. Amends Article 6A.03(7), Article 5069, V.T.C.S., to make a conforming change.

SECTION 16. Amends Article 6A.16(b)(1), Article 5069, V.T.C.S., to make a conforming change.

SECTION 17. Amends Article 7.03(7), Article 5069, V.T.C.S., to make a conforming change.

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SECTION 18. Amends Article 7.11(1), Article 5069, V.T.C.S., to make a conforming change.

SECTION 19. Amends Article 8.01(i), Article 5069, V.T.C.S., to make a conforming change.

SECTION 20. Amends Article 8.03, Article 5069, V.T.C.S., to make a conforming change.

SECTION 21. Amends Article 15.01(i), Article 5069, V.T.C.S., to make a conforming change.

SECTION 22. Amends Articles 15.02(d) and (e), Article 5069, V.T.C.S., to make conforming changes.

SECTION 23. Amends Article 15.07, Article 5069, V.T.C.S., to make a conforming change.

SECTION 24. Amends Section 24.03(g), Insurance Code, to make a conforming change.

SECTION 25. Amends Section 24.11(h), Insurance Code, to make a conforming change.

SECTION 26. Amends Section 24.15, Insurance Code, to make a conforming change.

SECTION 27. Amends Section 24.16, Insurance Code, to make a conforming change.

SECTION 28. Amends Section 24.17(a), Insurance Code, to make a conforming change.

SECTION 29. Amends Section 24.20, Insurance Code, to make a conforming change.

SECTION 30. Amends Section 26.02(a)(2), Business & Commerce Code, to make a conforming change.

SECTION 31. Amends Section 242.098(b), Health and Safety Code, to make a conforming change.

SECTION 32. Amends Section 143.1215(c), Local Government Code, to make a conforming change.

SECTION 33. Amends Section 395.025(d), Local Government Code, to make a conforming change.

SECTION 34. Amends Section 32.35(a)(5), Penal Code, to make a conforming change.

SECTION 35. Amends Section 32.065(d), Tax Code, to make conforming changes.

SECTION 36. Amends Section 35-1, Article 581, V.T.C.S. (The Securities Act), to make conforming changes.

SECTION 37. Amends Section 35-2, Article 581, V.T.C.S., to make a conforming change.

SECTION 38. Amends Article 2.09A, Article 1302, V.T.C.S. (Texas Miscellaneous Corporation Laws Act), to make a conforming change.

SECTION 39. Amends Section 7.01, Article 2461, V.T.C.S. (Texas Credit Union Act), to make conforming changes.

SECTION 40. Amends Section 16.01, Article 4590i, V.T.C.S. (Medical Liability and Insurance Improvement Act of Texas), to make a conforming change.

SECTION 41. Amends Section 16.02(c), Article 4590i, V.T.C.S., to make a conforming change.

SECTION 42. Amends Section 1.04(c), Article 6132b, V.T.C.S. (Texas Revised Partnership Act), to make a conforming change.

SECTION 43. Amends Section 1(a), Chapter 617, Article 9022, V.T.C.S., to make a conforming change.

SECTION 44. Repealers: Chapters 1, 1A, 3, 4, and 5, Title 79, V.T.C.S. (Interest and consumer credit).

SECTION 45. Amends Title 16, V.T.C.S., by adding Article 375, as follows:

Art. 375. LIMITATIONS ON CHARGES ON LOANS REQUIRING ESCROW ACCOUNT

Sec. 1. Sets forth requirements of an escrow account under this section.

Sec. 2. Sets forth penalties for a lender who violates Section 1.

Sec. 3. Provides that a violation of Section 1 is a deceptive trade practice.

SECTION 46. Makes application of this Act prospective.

SECTION 47. Provides that this Act prevails over other conflicting law.

SECTION 48. Effective date: September 1, 1997.

SECTION 49. Emergency clause.