BILL ANALYSIS

Senate Research Center
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H.B. 2585
By: Woolley (Cain)
Economic Development
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Engrossed

DIGEST

On January 1, 1999, the "euro" became the single currency of the eleven participating members of the European Economic and Monetary Union. On that date, the conversion rates between the currencies of Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal, and Spain, and the euro were legally fixed. Although these eleven nations now have a single foreign exchange policy and a single interest rate tied to the euro, no euro banknotes or coins are available. This is because the conversion to the euro will occur gradually during a three-year transition period from January 1, 1999, to December 31, 2001. During this transition period, the national currencies of the participating members continue to exist parallel to the euro. However, their status has changed. These national currencies are now temporary "denominations" or"units" of the euro. Nevertheless, national banknotes and coins are being used for all cash transactions. It is expected that euro banknotes and coins will be introduced in participating countries on January 1, 2002. From that date until June 30, 2002, euro banknotes and coins will circulate alongside national currency banknotes and coins. By the end of that period, national banknotes and coins will be withdrawn from circulation and cease to be legal tender. The introduction of the euro and the three-year transition period during which the currency will not circulate create uncertainty about existing contracts and other instruments in which payments have been calculated using currencies that are now temporary denominations of the euro, and soon to be replaced by it. For example, discrepancies between conversion and reconversion may occur because of the use of a legally-fixed conversion rate that may not reflect market-based exchange rates. The fear is that any rounding inconsistency may place one party to a contract at a disadvantage. Some people could rely on principles of law such as the common law doctrines of impossibility, impracticability, and frustration of purpose to rescind the contract. Such rescissions could negatively impact commerce between Texas and the participating members.

H.B. 2585 provides that, if a subject or medium of payment of a contract, security, or instrument is the European currency unit or a currency that has been substituted or replaced by the euro, the euro is a commercially reasonable substitute and substantial equivalent. Under this bill, the euro may be used to determine the value of the European currency unit or currency, as appropriate, or tendered, in each case, at the conversion rate specified in, and otherwise computed in accordance with, the regulations adopted by the Council of the European Union. In addition, this bill provides that the computation or determination of the subject or medium of payment of a contract, security, or instrument with reference to interest rate or other basis that has been substituted or replaced because of the introduction of the euro and that is a commercially reasonable substitute and substantial equivalent is neither an occurrence that discharges or excuses performance under a contract, security, or instrument, nor a right to unilaterally alter or terminate any contract, security, or instrument.

PURPOSE

As proposed, H.B. 2585 sets forth provisions for the substitution of and equivalency for the single currency of the European Union in certain contracts, securities, and instruments.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Business & Commerce Code, by adding Chapter 42, as follows:

CHAPTER 42. EUROPEAN UNION CURRENCY CONVERSION

Sec. 42.001. DEFINITIONS. Defines "euro," "European currency unit," "Treaty on European Union," and "Introduction of the euro."

Sec. 42.002. APPLICABILITY OF CHAPTER. Specifies that this chapter applies to each contract, security, and instrument, including a commercial contract governed by the laws of this state. Provides that, with respect to currency alteration, other than the introduction of the euro, this chapter does not create any negative inference or negative presumption regarding the validity or enforceability of a contract, security, or instrument denominated wholly or partly in a currency affected by the alteration.

Sec. 42.003. CONFLICTS OF LAW. Sets forth that this chapter prevails to the extent of any conflict between this chapter and any other law of this state.

Sec. 42.004. CONTINUITY OF CONTRACT. Provides that, if a subject or medium of payment of a contract, security, or instrument is the European currency unit or a currency that has been substituted or replaced by the euro, the euro is a commercially reasonable substitute and substantial equivalent. Authorizes the euro to be used in determining the value of the European currency unit or currency, as appropriate, or tendered, in each case, at the conversion rate specified in, and otherwise computed in accordance with, the regulations adopted by the Council of the European Union (council). Authorizes a person to perform any of the obligations described in Subsection (a) in the currency or currencies originally designated in the contract, security, or instrument, if that currency or those currencies remain legal tender, or in euros. Prohibits a person from performing those obligations in any other currency, whether that other currency has been substituted or replaced by the euro or is a currency that is considered a denomination of the euro and has a fixed conversion rate with respect to the euro. Sets forth that the following occurrences neither discharge nor excuse performance under a contract, security, or instrument, nor give a party the right to unilaterally alter or terminate any contract, security, or instrument: the introduction of the euro; the tender of euros in connection with any obligation as described in Subsection (a); the determination of the value of any obligation as described in Subsection (a); or the computation or determination of the subject or medium of payment of a contract, security, or instrument with reference to interest rate or other basis that has been substituted or replaced because of the introduction of the euro and that is a commercially reasonable substitute and substantial equivalent.

Sec. 42.005. EFFECT ON CERTAIN AGREEMENTS. Provides that this chapter does not alter or impair an agreement between parties that specifically relates to the introduction of the euro.

SECTION 2. Emergency clause.
Effective date: upon passage.