

BILL ANALYSIS

Senate Research Center
78R4681 DWS-F

S.B. 774
By: Averitt
Business & Commerce
3/21/2003
As Filed

DIGEST AND PURPOSE

Currently, Texas law is unclear concerning procedures for revolving lines of credit secured by real estate. Until 1997 the only collateral permitted under a revolving line of credit was personal property. As proposed, S.B. 774 provides the necessary statutory framework to ensure transactions relating to revolving credit accounts secured by an interest in real property are handled accurately by lending institutions.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 346.005, Finance Code, as follows:

- (a) Creates this Subsection from existing text.
- (b) Requires a creditor in a revolving credit account under this chapter for personal, family, or household use to hold a license under Chapter 342, unless the person is not required to obtain a license under Section 342.051.

SECTION 2. Amends Section 346.101(a), Finance Code, to authorize a revolving credit account to provide for interest on an account at an annual rate that does not exceed the greater of 18 percent a year or the applicable alternative rate ceiling under Chapter 303.

SECTION 3. Amends section 346.103, Finance Code, by adding Subsection (d), to authorize a creditor to contract for, charge, and receive additional fees or charges permitted under Section 342.308 as if the revolving credit account were a secondary mortgage loan under Chapter 342, with respect to a revolving credit account secured by an interest in real property.

SECTION 4. Amends Section 346.201, Finance Code, to delete references to collateral and security in connection with a revolving credit account and a creditor's rights. Authorizes a creditor to require or take real or personal property as collateral.

SECTION 5. Amends Section 346.202, Finance Code, as follows:

- (a) Creates this subsection from existing text.
- (b) Authorizes a creditor to contract for, charge, and receive additional fees or charges permitted under Section 342.307 as if the revolving credit account were a secondary mortgage loan under Chapter 342, with respect to a revolving credit account secured by an interest in real property.

SECTION 6. Amends Section 346.204, Finance Code, by adding Subsection (c) to require a creditor who makes a change under Subsection (a) that relates to an existing or future balance of the account and is adverse to the customer to comply with the procedures in Section 303.103, with respect to a revolving credit account secured by an interest in real property.

SECTION 7. Amends Chapter 346C, Finance Code, by adding Section 346.206, as follows:

Sec. 346.206. ACCELERATION OR IMMEDIATE PAYMENT DEMAND PROHIBITED. Prohibits a creditor from accelerating or demanding immediate payment of an amount owed under the account unless the customer is in default under the terms of the account agreement, with respect to a revolving credit account secured by an interest in real property.

SECTION 8. Effective date: September 1, 2003.
Makes application of this Act prospective.