

- SUBJECT:** Office of Consumer Credit Commissioner changes
- COMMITTEE:** Financial Institutions — favorable, with amendment
- VOTE:** 8 ayes — Marchant, Elkins, Giddings, Grusendorf, Gutierrez, Hudson, Patterson, Romo
- 0 nays
- 1 absent — Carona
- WITNESSES:** For — Sam Kelley, Texas Consumer Finance Association; Robert Duke, Texas Financial Services Association; Robert Schneider, Consumers Union
- Against — None
- On — Leslie Pettijohn, Office of Consumer Credit Commissioner
- DIGEST:** HB 1992, as amended, would allow the Consumer Credit Commissioner to accept money, gifts and grants for certain purposes; prohibit and provide penalties for false advertising for loans or credit; and prohibit and provide penalties for loan or credit discrimination.
- Money, gifts and grants.** HB 1992 would allow the Consumer Credit Commissioner to accept money, gifts and grants to be used for official duties or for educational purposes with approval of the Finance Commission. The funds would have to be deposited in the general revenue fund and could only be appropriated for the purposes for which the money was given. The commissioner could not accept or use money for investigating or prosecuting a matter. The commissioner would be prohibited from accepting or using money from anyone connected with anyone regulated by the Finance Commission, unless it was part of a claim or negotiated settlement.
- Prohibit false advertising.** The bill, as amended, would prohibit anyone not licensed or registered to provide loans or credit (credit service organizations, pawnbrokers or authorized or registered lenders) from

advertising, performing or making anyone believe they are authorized to provide loan or credit services.

The bill would make the above offense a Class C misdemeanor (a fine of not less than \$25 nor more than \$500), unless the person had previously been convicted of the same offense, then it would be a Class A misdemeanor (a fine of not less than \$500 nor more than \$2,000 or confinement in jail for a term not to exceed one year, or both). Instead of being prosecuted, a person could be subject to the penalties assessed a lender that charges more than allowed under the usury laws — up to three times the actual economic cost suffered by the person aggrieved and reasonable attorney's fees or an amount up to \$4,000, if the amount financed was more than \$5,000 and reasonable attorney's fees — and any civil penalties that the Consumer Credit Commissioner might assess.

The bill would specify that certain information identifying the lender be used in advertising and makes some exceptions for radio and television advertising.

**Discrimination.** The bill, as amended, would prohibit persons authorized to provide credit or loans from restricting or denying a loan or credit to persons who have the capacity to enter into a contract because of their marital status, age or because they are on welfare or have exercised their rights under the federal Consumer Credit Protection Act. (The law provides a lender cannot discriminate against a person because of sex, race, color, religion or national origin.)

Any lender who discriminates against a person would be liable for punitive damages not to exceed \$10,000, in addition to actual damages and court costs. (Current law provides a penalty of the greater of actual damages or \$50 and court costs.) A lender would be liable either under state or federal law, but not both.

The bill would apply to acts done or transactions entered into on or after September 1, 1995, the effective date of the bill.

NOTES:

The committee amendment would decrease the penalty for first offense of false advertising from a Class A to a Class C misdemeanor, add the Class A penalty for a second offense and require that a person could either be prosecuted or have civil penalties assessed, but not both. The amendment would also add information allowed for advertising over radio or television.