HOUSE RESEARCH ORGANIZATION bill analysis 5/6/1999

HB 2338
Ehrhardt
(CSHB 2338 by Ehrhardt)

SUBJECT: Increasing the administrative fee on certain small loans

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 9 ayes — Averitt, Solomons, Denny, Ehrhardt, Elkins, Grusendorf, Marchant, Pitts, Juan Solis

0 nays

WITNESSES: For — Pat Whatley, Independent Bankers Association of Texas

Against — Rob Schneider, Consumers Union

BACKGROUND: In 1997, the Legislature enacted SB 251 by Carona, authorizing banks and finance companies to assess administrative fees on loans that are not secured by real property. Finance Code, sec. 342.502(b) provides for a maximum administrative fee of $10 for loans of $1,000 or less and a maximum fee of $25 for loans greater than $1,000.

DIGEST: CSHB 2338 would amend art. 5069-3A, VTCS, and Finance Code, chapter 342, as applicable, to increase the maximum administrative fee for loans of $1,000 or less from $10 to $20.

The bill would prohibit a lender refinancing the loan from collecting an administrative fee more than once in any 180-day period. It would require 50 cents of each administrative fee to be deposited with the comptroller for use in research conducted by the Texas Finance Commission on the availability of credit and the business practices of lenders.

The bill would repeal Finance Code, sec. 342.502(c), regarding the authority of lenders to charge administrative fees.

CSHB 2338 would take effect September 1, 1999.

SUPPORTERS SAY: CSHB 2338 would help assure the availability of small, short-term loans made predominantly by community banks to meet their customers' emergency needs. Many community banks make small loans, often as little as $100, even though interest and administrative fees on small loans do not cover the cost of making the loan. The average loan costs between $75 and $100 to put on the books. Should this form of consumer financing disappear because of its unprofitability, consumers would have to enter loan agreements with pawnshops, signature loan makers, and other higher-interest lenders.

The administrative fees would be permissive, not required, allowing local banks to decide an appropriate amount to charge. Competition in the marketplace likely would keep these fees below the maximum.

OPPONENTS SAY: Administrative fees are simply another way for lenders to get around usury laws and to increase the effective interest rate of loans. Consumers already pay between 18 and 32 percent annual interest on small loans. Increasing these fees, especially for the smallest of these loans, would increase the effective interest rate greatly.

NOTES: The committee substitute would set the maximum administrative fee for loans of $1,000 or less at $20, rather than at $25 as in the original bill.

Amendments to the Finance Code would be effective only if SB 1368 by Harris, making nonsubstantive additions to and corrections in enacted codes, took effect. SB 1368 was sent to the governor on April 29 after final passage by both houses. Should SB 1368 not take effect, HB 2338 instead would amend the civil statutes (VTCS).

The bill's proposed repeal of Finance Code, sec. 342.502(c) would not repeal provisions allowing the consumer credit commissioner or a representative to administer oaths and examine people during examinations of lenders' places of business. The section number refers to the provision that would be in place only if SB 1368 by Harris took effect. The repealer would not go into effect if SB 1368 did not take effect.