

- SUBJECT:** Interest and fees on revolving credit accounts
- COMMITTEE:** Financial Institutions — committee substitute recommended
- VOTE:** 7 ayes — Averitt, Denny, Ehrhardt, Elkins, Grusendorf, Marchant, Juan Solis
0 nays
2 absent — Solomons, Pitts
- WITNESSES:** For — William S. Hough, Neiman Marcus; Mickey Moore, Texas Retailers Association
Against — Rob Schneider, Consumers Union
- BACKGROUND:** Current law allows credit card issuers based in Texas to charge interest at an annual rate that does not exceed:
- ! 18 percent on the portion of an average daily balance below \$1,500;
 - ! 12 percent on the portion between \$1,500 and \$2,500;
 - ! 10 percent on the portion above \$2,500; or
 - ! 14.4 percent on the entire balance.
- Current law does not allow credit card issuers to charge an annual fee and limits fees for returned checks to \$15. No other fees are authorized.
- DIGEST:** CSHB 744 would amend the Finance Code to allow credit card issuers based in Texas to charge interest at an annual rate of up to 18 percent on the entire average daily balance of a revolving credit account. The bill would allow the following fees to be charged to a customer with a revolving credit account:
- ! an annual fee not to exceed \$50 for credit limits up to \$5,000, not to exceed \$75 for credit limits from \$5,000 to \$25,000, and not to exceed \$125 for credit limits exceeding \$25,000;
 - ! a late fee not to exceed the lesser of \$15 or 5 percent of the payment due;
 - ! a cash advance charge not to exceed the greater of \$2 or 2 percent of the cash advance;
 - ! a returned check fee; and

! a fee for exceeding the credit limit not to exceed the greater of \$15 or 5 percent of the amount by which the credit limit is exceeded.

CSHB 744 would prohibit creditors from charging interest on these fees. The bill would repeal sections of the Finance Code concerning optional interest-rate ceilings.

For retail charge agreements, the bill would raise the maximum delinquency charge to \$15 from \$10. The bill would require that 50 cents of each delinquency charge in excess of \$10 be remitted to the comptroller for credit to an account in the general revenue fund. Half of this fund could be appropriated only to pay for research conducted by the Finance Commission of Texas, and half could be appropriated only to pay for educational activities and debt-counseling services.

CSHB 744 would take effect September 1, 1999. The bill contains alternate provisions for incorporating its provision into the Finance Code depending on whether the Legislature enacts a pending bill (SB 1368 by Harris) making nonsubstantive additions and corrections to various codes.

**SUPPORTERS
SAY:**

CSHB 744 would enable Texas banks to compete with out-of-state banks in the lucrative credit card market. The current caps on interest and fees, enacted in 1983, are too low to be competitive. As a result, many banks and other credit card issuers have moved these operations to states with higher allowable interest rates, causing Texas to lose thousands of jobs to states like South Dakota, Delaware, and Maryland. Besides being an important first step in making Texas competitive in the credit card business, CSHB 744 would enable banks chartered and based in Texas to issue cards from Texas rather than through an out-of-state issuer, thus creating new jobs in the state.

The bill would not raise interest rates for Texas consumers. Most Texans already hold credit cards issued by out-of-state companies. The fees and charges outlined in the bill are consistent with those allowed by other states and are familiar to consumers. All credit cards issued from Texas would have a fixed rate, not a variable rate indexed to the prime lending rate or any other financial indicator.

The current cap on credit card rates does not serve its intended purpose to

protect Texans from usury. Federal law allows a credit card issuer to export the interest rate, fees, and terms of agreement from the state where it is located to consumers in other states. Many Texans have credit card accounts with interest rates exceeding the maximum amount allowed under state law, and many of these accounts have annual fees, late fees, and other charges not specifically authorized under state law. Instead of protecting consumers, current law only discourages credit card issuers from coming to the state and restricts competition. More than any state law, the fiercely competitive nature of the marketplace protects consumers from high interest rates and fees if consumers are free to shop around for the best deal.

Texas consumers already have sufficient notification about changes in their credit card agreements. Finance Code, sec. 346.204 requires creditors to provide at least 90 days' notice before any change adverse to the consumer can take effect. By contrast, South Dakota law has a 25-day notification period. CSHB 744 would not change the 90-day requirement.

The 18 percent rate envisioned by the bill would not be unreasonable and is not the highest permissible interest rate in the state. Many small, short-term consumer lenders are allowed to use substantially higher interest rates that effectively may reach as high as 240 percent per year.

OPPONENTS
SAY:

The fact that a handful of states have deregulated their credit-card interest rates and fees does not mean that Texas should follow suit. Texas should preserve its long history of protecting consumers from excessive interest and fees. Consumers are being bombarded by credit offers, and CSHB 744 would feed a growing trend among credit card companies to confuse consumers with many conditions and terms that make it difficult to compare products.

OTHER
OPPONENTS
SAY:

The 18 percent cap on credit-card interest rates is not high enough to attract credit card issuers back to the state. Texas will not be competitive until it deregulates these activities as other states have done. For example, South Dakota sets no maximum interest rate, so long as the rate is contained in a written agreement between the debtor and creditor, and the state places virtually no restrictions on the kinds and amounts of fees that may be collected.

NOTES:

The substitute differs from the original bill in that the substitute:

- ! would set the maximum annual interest rate at 18 percent, rather than at the greater of 18 percent or the highest rate authorized for installment loans governed by Finance Code, chapter 342;
- ! would allow the lesser of \$15 or 5 percent, rather than the greater of, to be assessed as a late fee;
- ! added the provision concerning delinquency charges; and
- ! added the provision repealing the statute on the optional interest-rate ceiling.

Sec. 5 of CSHB 744 would repeal Finance Code, sec. 303.009(e), which does not exist now. It will exist, and thus would be repealed, if SB 1368 by Harris, making nonsubstantive additions to and corrections in enacted codes, takes effect. SB 1368 passed the Senate on the Local and Uncontested Calendar on March 30 and was reported favorably, without amendment, by the House State Affairs Committee on April 6 and recommended for the Local, Consent, and Resolutions Calendar.