

BILL ANALYSIS

Senate Research Center

S.B. 1798
By: Wentworth
Economic Development
4-29-97
As Filed

DIGEST

Currently, a person who charges an excess amount in connection with a loan or other extension of credit can be liable for the full amount of the interest for the life of the loan under the agreement. Such a penalty may not bear a rational relationship to the specific violation. This bill would revise the penalties assessed against a person for charging excess interest, time price differentials, or other charges in connection with a loan or other extension of credit.

PURPOSE

As proposed, S.B. 1798 revises the penalties assessed against a person for charging an excess amount in connection with a loan or other extension of credit.

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 Section 8.01(a), Article 5069, V.T.C.S., to require any person who violates this subtitle by contracting for, charging or receiving interest or time price differential greater than the amount authorized by this subtitle, to forfeit to the obligor twice the amount of interest or time price differential contracted for, charged or received, and reasonable attorneys' fees fixed by the court. Deletes references to other charges and default and deferment charges. Requires any person who violates this subtitle by contracting for, charging or receiving a charge, other than interest or time price differential, which is greater than the amount authorized by this subtitle, to forfeit to the obligor the greater of three times the amount of the difference between the amount of the other charge contracted for, charged or received, and the appropriate amount authorized by this subtitle; or \$2,000 or 20 percent of the principal balance, whichever is less; and reasonable attorneys' fees fixed by the court.

SECTION 2. Amends Section 8.02, Article 5069, V.T.C.S., to require any person who violates this subtitle by contracting for, charging or receiving interest or time price differential which are in the aggregate in excess of double the total amount of interest or time price differential authorized by this subtitle to forfeit to the obligor as an additional penalty all principal or principal balance, as well as all interest or time price differential, and to pay reasonable attorneys' fees actually incurred by the obligor in enforcing the provisions of this article; under certain conditions. Deletes references to other charges.

SECTION 3. Emergency clause.

Effective date: upon passage.