

## **BILL ANALYSIS**

Senate Research Center

H.B. 2338  
By: Ehrhardt (Carona)  
Economic Development  
5/12/1999  
Engrossed

### **DIGEST**

In the last legislative session, an administrative fee was added to small loans in the amount of \$10 for loans under \$1,000, or \$25 for loans over that amount. Many community banks located in small towns make loans as small as one hundred dollars to their customers for emergency purposes. Local banks want to continue to make these loans; however, the interest and current administrative fee added together on such a small loan does not cover the costs of making the loan. H.B. 2338 increases the sliding rate to \$25 for a loan of more than \$1,000 or \$20 for a loan of \$1,000 or less. This bill also requires fifty cents of each administrative fee to be deposited with the comptroller for use in carrying out the finance commission's responsibilities, and deletes the authority of the consumer credit commissioner to administer oaths and examine any person under oath during an examination of lenders.

### **PURPOSE**

As proposed, H.B. 2338 increases the sliding rate to \$25 for a loan of more than \$1,000 or \$20 for a loan of \$1,000 or less. This bill also requires fifty cents of each administrative fee to be deposited with the comptroller for use in carrying out the finance commission's responsibilities, and deletes the authority of the consumer credit commissioner to administer oaths and examine any person under oath during an examination of lenders.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. AMENDMENTS TO TITLE 79, REVISED STATUTES

SECTION 1.01. Amends Article 3A.301, Title 79, Article 5069-3A.301, V.T.C.S., by adding Subsection (e), as follows: (e) Authorizes a loan contract under this subchapter to provide for an administrative fee in an amount not to exceed \$25 for a loan of more than \$1,000 or \$20 for a loan of \$1,000 or less. Provides that the administrative fee is considered earned when the loan is made or refinanced and is not subject to refund. Prohibits a lender refinancing the loan from contracting for or receiving an administrative fee for the loan more than once in any 180-day period. Requires fifty cents of each administrative fee to be deposited with the comptroller for use in carrying out the finance commission's responsibilities under Section 11.305 (Research), Finance Code.

SECTION 1.02. Amends Section 3A.508, Title 79, Article 5069-3A.508, V.T.C.S., by amending Subsection (a) and adding Subsection (c), as follows: (a) Authorizes a lender or a person who is assigned a secondary mortgage to collect on or before the closing of the loan, or include in the principal of the loan an administrative fee, subject to Subsection (c), in an amount not to exceed \$25 for a loan of more than \$1,000 or \$20 for a loan of \$1,000 or less. (c) Provides that an administrative fee is considered earned when the loan is made or refinanced and is not subject to refund. Prohibits a lender refinancing the loan from contracting for or receiving an administrative fee for the loan more than once in any 180-day period. Requires fifty cents of each administrative fee to be deposited with the comptroller for use in carrying out the finance commission's responsibilities under Section 11.305, Finance Code. Makes a conforming change.

#### ARTICLE 2. AMENDMENTS TO FINANCE CODE

SECTION 2.01. Amends Section 342.201, Finance Code, by adding Subsection (e), to make conforming changes.

SECTION 2.02. Amends Section 342.308, Finance Code, by amending Subsection(a) and adding Subsection (c), to make conforming changes.

SECTION 2.03. Amends Section 342.502(b), Finance Code, to delete text referring to an administrative fee in an amount not to exceed \$25 for a loan of more than \$1,000, or \$10 for a loan of \$1,000 or less. Redesignates Paragraphs (A)-(F) to Subdivisions (1)-(6). Makes a conforming change.

SECTION 2.04. Repealer: Section 342.502(c), Finance Code. This section relates to the authority of the consumer credit commissioner to administer oaths and examine any person under oath during an examination of lenders.

### ARTICLE 3. EFFECTIVE DATE; EMERGENCY

SECTION 3.01. (a) Provides that except as provided by Subsections (b) and(c) of this section, this Act takes effect September 1, 1999. (b) Provides that Article 1 of this Act takes effect only if the Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions to and corrections in enacted codes does not take effect. (c) Provides that Article 2 of this Act takes effect only if the Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions to and corrections in enacted codes takes effect.

SECTION 3.02. Emergency clause.