

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1798  
By: Wentworth  
Economic Development  
5-7-97  
Committee Report (Substituted)

### **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. In addition, this legislation exempts a representative of a bank or savings and loan association acting on behalf of the savings and loan association from the requirement of obtaining a license; and provides that only such representatives are authorized lenders.

### **PURPOSE**

As proposed, C.S.S.B. 1798 revises the penalties assessed against a person for charging an 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 (n)(1), Article 5069-1.04, V.T.C.S., to provide that any person, except a representative of the bank or savings and loan association acting on behalf of the bank or savings and loan association, is required to obtain a license under Chapter 3 of this title.

SECTION 2. Amends Section (1), Article 5069-3.01, V.T.C.S., to provide that only a representative of the bank or savings and loan association acting on behalf of the bank or savings and loan association is an authorized lender under this chapter and may engage in certain business.

SECTION 3. Amends Section 8.01(a), Article 5069-8.01, 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 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 4. Amends Section 8.02, Article 5069-8.02, 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 5. Emergency clause.  
Effective date: upon passage.

**SUMMARY OF COMMITTEE CHANGES**

Amends the relating clause to remove the reference to an "excess" amount in connection with a loan or other extension of credit.

SECTION 1.

Amends Section (n)(1), Article 5069-1.04, V.T.C.S., to provide that any person except a representative of the bank or savings and loan association is required to obtain a license under Chapter 3 of this title.

SECTION 2.

Amends Section (1), Article 5069-3.01, V.T.C.S., to provide that only a representative of a bank or savings and loan association is an authorized lender.