

BILL ANALYSIS

S.B. 1067
By: Carona
Financial Institutions
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texans have been able to borrow against the equity in their homes and use the funds for any purpose since 1998, when a constitutional amendment authorizing home equity loans took effect. Unlike all other lending laws, the specific details of home equity lending are found in the constitution and not in statute. No state agency has the authority to interpret constitutional provisions relating to home equity law, leaving the resolution of questions over the meaning of the law exclusively to the judiciary. This lack of interpretive authority for home equity lending in Texas may result in fewer choices and higher interest costs for homeowners.

S.B. 1067 is enabling legislation for a provision of S.J.R. 42, a proposed constitutional amendment relating to home equity lending, which would permit the Legislature to delegate to one or more state agencies the authority to interpret home equity lending constitutional provisions. S.B. 1067 delegates this authority to the Finance Commission of Texas and the Credit Union Commission. The bill also addresses two problems relating to high-cost home loans that may result in borrowers paying excessive amounts for such loans.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1067 adds new Sections 11.308 and 15.413 to the Finance Code to authorize the Finance Commission of Texas and the Credit Union Commission to issue interpretations of certain constitutional provisions relating to home equity lending. These agencies may issue interpretations on request of an interested person or on their own motion. Interpretations are subject to Chapter 2001, Government Code (Administrative Procedures Act) and are applicable to all lenders authorized to make home equity loans in this state. The two agencies shall attempt to adopt interpretations that are as consistent as feasible or shall state justifications for any inconsistencies.

The bill adds new Section 343.206 to the Finance Code to prohibit lenders making a high-cost home loan from charging a borrower an amount for a product or service the borrower does not receive. The bill repeals Section 343.102(b), Finance Code, to eliminate the sunset date for a provision of current law requiring certain disclosures relating to high-cost home loans.

EFFECTIVE DATE

This Act takes effect on the date on which the constitutional amendment authorizing a home equity line of credit, providing for administrative interpretation of home equity lending law, and otherwise relating to the making, refinancing, repayment, and enforcement of home equity loans takes effect. If this amendment is not approved by the voters, this Act has no effect.

