

By: Harris

S.B. No. 417

A BILL TO BE ENTITLED

AN ACT

relating to interest rate ceilings on certain commercial loans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 306.001, Finance Code, is amended by adding Subdivision (5-a) and amending Subdivision (9) to read as follows:

(5-a) "Exempt qualified commercial loan":

(A) means:

(i) a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value of:

(a) \$7 million or more if the commercial loan is secured by real property; or

(b) \$250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than \$500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and

1 (ii) a renewal or extension of a commercial
2 loan described by this paragraph, regardless of the principal
3 amount of the loan at the time of the renewal or extension; and

4 (B) does not include a commercial loan made for
5 the purpose of financing a business licensed by the Motor Vehicle
6 Board of the Texas Department of Transportation under Section
7 2301.251(a), Occupations Code.

8 (9) "Qualified commercial loan":

9 (A) means:

10 (i) a commercial loan secured by real
11 property in which one or more persons as part of the same
12 transaction lends, advances, borrows, or receives, or is obligated
13 to lend or advance or entitled to borrow or receive, money or credit
14 with an aggregate value of [+

15 [~~(a)~~] \$3 million or more but less than
16 \$7 million [~~if the commercial loan is secured by real property; or~~

17 [~~(b) \$250,000 or more if the~~
18 ~~commercial loan is not secured by real property and, if the~~
19 ~~aggregate value of the commercial loan is less than \$500,000, the~~
20 ~~loan documents contain a written certification from the borrower~~
21 ~~that:~~

22 [~~(1) the borrower has been~~
23 ~~advised by the lender to seek the advice of an attorney and an~~
24 ~~accountant in connection with the commercial loan; and~~

25 [~~(2) the borrower has had the~~
26 ~~opportunity to seek the advice of an attorney and accountant of the~~
27 ~~borrower's choice in connection with the commercial loan]; and~~

1 (ii) a renewal or extension of a commercial
2 loan described by this paragraph [~~Paragraph (A)~~], regardless of the
3 principal amount of the loan at the time of the renewal or
4 extension; and

5 (B) does not include a commercial loan made for
6 the purpose of financing a business licensed by the Motor Vehicle
7 Board of the Texas Department of Transportation under Section
8 2301.251(a), Occupations Code [~~4.01(a), Texas Motor Vehicle~~
9 ~~Commission Code (Article 4413(36), Vernon's Texas Civil~~
10 ~~Statutes)~~].

11 SECTION 2. Subsection (a), Section 306.002, Finance Code,
12 is amended to read as follows:

13 (a) Except as provided by Section 306.1015, a [~~A~~] creditor
14 may contract for, charge, and receive from an obligor on a
15 commercial loan a rate or amount of interest that does not exceed
16 the applicable ceilings computed in accordance with Chapter 303.

17 SECTION 3. Subchapter B, Chapter 306, Finance Code, is
18 amended by adding Section 306.1015 to read as follows:

19 Sec. 306.1015. EXEMPT QUALIFIED COMMERCIAL LOAN--RATE
20 CEILINGS INAPPLICABLE. (a) The parties to an exempt qualified
21 commercial loan agreement may contract for, charge, and receive any
22 rate or amount of interest to which the parties agree, however
23 computed.

24 (b) A rate ceiling provided by this title or another law of
25 this state does not apply to an exempt qualified commercial loan.

26 SECTION 4. This Act takes effect January 1, 2004, but only
27 if the constitutional amendment authorizing the legislature to

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1 define rates of interest for commercial loans is approved by the
2 voters. If that amendment is not approved by the voters, this Act
3 has no effect.