

1-1 By: Harris S.B. No. 417  
1-2 (In the Senate - Filed February 10, 2003; February 17, 2003,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 March 12, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 12, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 417 By: Williams

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to interest rate ceilings on certain commercial loans.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 306.001, Finance Code, is amended by  
1-13 adding Subdivision (5-a) and amending Subdivision (9) to read as  
1-14 follows:

1-15 (5-a) "Exempt qualified commercial loan":

1-16 (A) means:

1-17 (i) a commercial loan in which one or more  
1-18 persons as part of the same transaction lends, advances, borrows,  
1-19 or receives, or is obligated to lend or advance or entitled to  
1-20 borrow or receive, money or credit with an aggregate value of:

1-21 (a) \$7 million or more if the  
1-22 commercial loan is secured by real property; or

1-23 (b) \$250,000 or more if the commercial  
1-24 loan is not secured by real property and, if the aggregate value of  
1-25 the commercial loan is less than \$500,000, the loan documents  
1-26 contain a written certification from the borrower that:

1-27 (1) the borrower has been  
1-28 advised by the lender to seek the advice of an attorney and an  
1-29 accountant in connection with the commercial loan; and

1-30 (2) the borrower has had the  
1-31 opportunity to seek the advice of an attorney and accountant of the  
1-32 borrower's choice in connection with the commercial loan; and

1-33 (ii) a renewal or extension of a commercial  
1-34 loan described by this paragraph, regardless of the principal  
1-35 amount of the loan at the time of the renewal or extension; and

1-36 (B) does not include a commercial loan made for  
1-37 the purpose of financing a business licensed by the Motor Vehicle  
1-38 Board of the Texas Department of Transportation under Section  
1-39 2301.251(a), Occupations Code.

1-40 (9) "Qualified commercial loan":

1-41 (A) means:

1-42 (i) a commercial loan secured by real  
1-43 property in which one or more persons as part of the same  
1-44 transaction lends, advances, borrows, or receives, or is obligated  
1-45 to lend or advance or entitled to borrow or receive, money or credit  
1-46 with an aggregate value of [+

1-47 [~~(a)~~] \$3 million or more but less than  
1-48 \$7 million [~~if the commercial loan is secured by real property, or~~

1-49 [~~(b)~~] \$250,000 or more if the  
1-50 commercial loan is not secured by real property and, if the  
1-51 aggregate value of the commercial loan is less than \$500,000, the  
1-52 loan documents contain a written certification from the borrower  
1-53 that:

1-54 [~~(1)~~] the borrower has been  
1-55 advised by the lender to seek the advice of an attorney and an  
1-56 accountant in connection with the commercial loan; and

1-57 [~~(2)~~] the borrower has had the  
1-58 opportunity to seek the advice of an attorney and accountant of the  
1-59 borrower's choice in connection with the commercial loan]; and

1-60 (ii) a renewal or extension of a commercial  
1-61 loan described by this paragraph [~~Paragraph (A)~~], regardless of the  
1-62 principal amount of the loan at the time of the renewal or  
1-63 extension; and

2-1 (B) does not include a commercial loan made for  
2-2 the purpose of financing a business licensed by the Motor Vehicle  
2-3 Board of the Texas Department of Transportation under Section  
2-4 2301.251(a), Occupations Code [4.01(a), Texas Motor Vehicle  
2-5 Commission Code (Article 4413(36), Vernon's Texas Civil  
2-6 Statutes)].

2-7 SECTION 2. Subsection (a), Section 306.002, Finance Code,  
2-8 is amended to read as follows:

2-9 (a) Except as provided by Section 306.1015, a [A] creditor  
2-10 may contract for, charge, and receive from an obligor on a  
2-11 commercial loan a rate or amount of interest that does not exceed  
2-12 the applicable ceilings computed in accordance with Chapter 303.

2-13 SECTION 3. Subchapter B, Chapter 306, Finance Code, is  
2-14 amended by adding Section 306.1015 to read as follows:

2-15 Sec. 306.1015. EXEMPT QUALIFIED COMMERCIAL LOAN--RATE  
2-16 CEILINGS INAPPLICABLE. (a) The parties to an exempt qualified  
2-17 commercial loan agreement may contract for, charge, and receive any  
2-18 rate or amount of interest to which the parties agree, however  
2-19 computed.

2-20 (b) A rate ceiling provided by this title or another law of  
2-21 this state does not apply to an exempt qualified commercial loan.

2-22 SECTION 4. This Act takes effect January 1, 2004, but only  
2-23 if the constitutional amendment authorizing the legislature to  
2-24 define rates of interest for commercial loans is approved by the  
2-25 voters. If that amendment is not approved by the voters, this Act  
2-26 has no effect.

2-27 \* \* \* \* \*