

By: Flynn

H.B. No. 1049

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" means 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) \$500,000 or more if the commercial loan is not secured by real property.

(9) "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) \$1 [~~\$3~~] million or more but less than \$7 million if the commercial loan is secured by real property;

or

1 (b) \$100,000 [~~\$250,000~~] or more but
2 less than \$500,000 if the commercial loan is not secured by real
3 property and [~~, if the aggregate value of the commercial loan is less~~
4 ~~than \$500,000,~~] the loan documents contain a written certification
5 from the borrower that:

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

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

12 (ii) a renewal or extension of a commercial
13 loan described by this paragraph [~~Paragraph (A)~~], regardless of the
14 principal amount of the loan at the time of the renewal or
15 extension; and

16 (B) does not include a commercial loan made for
17 the purpose of financing a business licensed by the Motor Vehicle
18 Board of the Texas Department of Transportation under Section
19 2301.251(a), Occupations Code.

20 SECTION 2. Section 306.002(a), Finance Code, is amended to
21 read as follows:

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

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

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

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

8 SECTION 4. This Act takes effect on the date on which the
9 constitutional amendment proposed by the 79th Legislature, Regular
10 Session, 2005, authorizing the legislature to define rates of
11 interest for commercial loans, takes effect. If that amendment is
12 not approved by the voters, this Act has no effect.