

1-1 By: Averitt S.B. No. 807
1-2 (In the Senate - Filed February 28, 2005; March 10, 2005,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 31, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 31, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to interest rate ceilings on certain commercial loans.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 306.001, Finance Code, is amended by
1-11 adding Subdivision (5-a) and amending Subdivision (9) to read as
1-12 follows:

1-13 (5-a) "Exempt qualified commercial loan" means a
1-14 commercial loan in which one or more persons as part of the same
1-15 transaction lends, advances, borrows, or receives, or is obligated
1-16 to lend or advance or entitled to borrow or receive, money or credit
1-17 with an aggregate value of:

1-18 (A) \$7 million or more if the commercial loan is
1-19 secured by real property; or

1-20 (B) \$500,000 or more if the commercial loan is
1-21 not secured by real property.

1-22 (9) "Qualified commercial loan":

1-23 (A) means:

1-24 (i) a commercial loan in which one or more
1-25 persons as part of the same transaction lends, advances, borrows,
1-26 or receives, or is obligated to lend or advance or entitled to
1-27 borrow or receive, money or credit with an aggregate value of:

1-28 (a) \$1 [~~\$3~~] million or more but less
1-29 than \$7 million if the commercial loan is secured by real property;
1-30 or

1-31 (b) \$100,000 [~~\$250,000~~] or more but
1-32 less than \$500,000 if the commercial loan is not secured by real
1-33 property and [~~if the aggregate value of the commercial loan is less~~
1-34 ~~than \$500,000,~~] the loan documents contain a written certification
1-35 from the borrower that:

1-36 (1) the borrower has been
1-37 advised by the lender to seek the advice of an attorney and an
1-38 accountant in connection with the commercial loan; and

1-39 (2) the borrower has had the
1-40 opportunity to seek the advice of an attorney and accountant of the
1-41 borrower's choice in connection with the commercial loan; and

1-42 (ii) a renewal or extension of a commercial
1-43 loan described by this paragraph [~~Paragraph (A)~~], regardless of the
1-44 principal amount of the loan at the time of the renewal or
1-45 extension; and

1-46 (B) does not include a commercial loan made for
1-47 the purpose of financing a business licensed by the Motor Vehicle
1-48 Board of the Texas Department of Transportation under Section
1-49 2301.251(a), Occupations Code.

1-50 SECTION 2. Subsection (a), Section 306.002, Finance Code,
1-51 is amended to read as follows:

1-52 (a) Except as provided by Section 306.1015, a [A] creditor
1-53 may contract for, charge, and receive from an obligor on a
1-54 commercial loan a rate or amount of interest that does not exceed
1-55 the applicable ceilings computed in accordance with Chapter 303.

1-56 SECTION 3. Subchapter B, Chapter 306, Finance Code, is
1-57 amended by adding Section 306.1015 to read as follows:

1-58 Sec. 306.1015. EXEMPT QUALIFIED COMMERCIAL LOAN--RATE
1-59 CEILINGS INAPPLICABLE. (a) The parties to an exempt qualified
1-60 commercial loan agreement may contract for, charge, and receive any
1-61 rate or amount of interest to which the parties agree, however
1-62 computed.

1-63 (b) A rate ceiling provided by this title or another law of
1-64 this state does not apply to an exempt qualified commercial loan.

2-1 SECTION 4. This Act takes effect on the date on which the
2-2 constitutional amendment proposed by the 79th Legislature, Regular
2-3 Session, 2005, authorizing the legislature to define rates of
2-4 interest for commercial loans, takes effect. If that amendment is
2-5 not approved by the voters, this Act has no effect.

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