BILL ANALYSIS

C.S.H.B. 1979
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Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that several amendments to current finance law have intended to allow the parties to a commercial loan to negotiate terms that are more comparable and competitive with lenders in other jurisdictions. Interested parties assert that this effort would be advanced by permitting a lender and borrower, with respect to a commercial loan, to agree to compound interest on the loan as part of the loan's principal, commonly referred to as interest "paid in kind." C.S.H.B. 1979 seeks to enhance the flexibility of lenders and borrowers in structuring financial transactions by authorizing those parties to use certain alternative methods of computing interest that are customary for commercial 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

C.S.H.B. 1979 amends the Finance Code to authorize a creditor and an obligor to agree to compute an annual interest rate on a commercial loan on a 365/360 basis or a 366/360 basis, as applicable, determined by applying the ratio of the percentage annual interest rate agreed to by the parties over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. The bill authorizes each interest rate ceiling under statutory provisions relating to interest rates and optional rate ceilings that is expressed as a rate per year to mean a rate per year computed in accordance with the method authorized by the bill's provisions or computed based on a 360-day year with 12 30-day months.

C.S.H.B. 1979 authorizes a creditor and an obligor to agree that one or more payments of interest due or that are scheduled to be due with respect to a commercial loan may be paid on a periodic basis when due wholly or partly by adding to the principal balance of the loan the amount of unpaid interest due or scheduled to be due, regardless of whether the interest added to the principal balance is evidenced by an existing or a separate promissory note or other agreement. The bill establishes that, on and after the date an amount of interest is added to the principal balance under these provisions, that amount no longer constitutes interest, but instead constitutes part of the principal for purposes of calculating the maximum lawful rate or amount of interest on the loan.

C.S.H.B. 1979 establishes that statutory provisions providing authorizations with respect to certain commercial transactions do not affect or negatively impact any rules of law applicable either to other commercial transactions subject to such provisions or to any transactions not subject to those provisions.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1979 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 306.002, Finance Code, is amended by adding Subsection (c) to read as follows: (c) The provisions of this chapter do not affect transactions that are not subject to this chapter nor affect or negatively impact any rule of law applicable to transactions not subject to this chapter.	SECTION 1. Section 306.002, Finance Code, is amended by adding Subsection (c) to read as follows: (c) The provisions of this chapter providing authorizations with respect to certain transactions do not affect or negatively impact any rules of law applicable either to other transactions subject to this chapter or to any transactions not subject to this chapter.
SECTION 2. Section 306.003, Finance Code, is amended to read as follows: Sec. 306.003. COMPUTATION OF LOAN TERMS [~~TERM~~]. (a) In addition to any other method otherwise permitted under this title, a creditor and an obligor may agree to compute an annual interest rate on a commercial loan on a 365/360 basis, determined by applying the ratio of the percentage annual interest rate agreed to by the parties over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding.	SECTION 2. Section 306.003, Finance Code, is amended to read as follows: Sec. 306.003. COMPUTATION OF LOAN TERMS [~~TERM~~]. (a) In addition to any other method otherwise permitted under this title, a creditor and an obligor may agree to compute an annual interest rate on a commercial loan on a 365/360 basis or a 366/360 basis, as applicable, determined by applying the ratio of the percentage annual interest rate agreed to by the parties over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding.
A creditor and an obligor may also agree to compute the term and rate of a commercial loan based on a 360-day year consisting of 12 30-day months. Each [~~For purposes of this chapter, each~~] rate ceiling under Chapters 302 and 303 expressed as a rate per year may mean a rate per year computed in accordance with this section [~~consisting of 360 days and of 12 30-day months~~].	A creditor and an obligor may also agree to compute the term and rate of a commercial loan based on a 360-day year consisting of 12 30-day months. Each interest [~~For purposes of this chapter, each~~] rate ceiling under Chapters 302 and 303 expressed as a rate per year may mean a rate per year computed in accordance with this section [~~consisting of 360 days and of 12 30-day months~~].
(b) A creditor and an obligor may agree that one or more payments of interest due or that are scheduled to be due with respect to a commercial loan may be paid on a periodic basis, but not more often than monthly, wholly or partly by adding to the principal balance of the loan the amount of unpaid interest due or scheduled to be due.	(b) A creditor and an obligor may agree that one or more payments of interest due or that are scheduled to be due with respect to a commercial loan may be paid on a periodic basis when due wholly or partly by adding to the principal balance of the loan the amount of unpaid interest due or scheduled to be due, regardless of whether the interest added to the principal balance is evidenced

	by an existing or a separate promissory note or other agreement.
On and after the date an amount of interest is added to the principal balance under this subsection, that amount no longer constitutes interest, but instead constitutes part of the principal for purposes of calculating the maximum lawful rate or amount of interest on the loan.	On and after the date an amount of interest is added to the principal balance under this subsection, that amount no longer constitutes interest, but instead constitutes part of the principal for purposes of calculating the maximum lawful rate or amount of interest on the loan.
SECTION 3. The changes in law made by this Act apply only to a loan agreement entered into on or after the effective date of this Act. A loan agreement entered into before the effective date of this Act is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose.	SECTION 3. Same as introduced version.
SECTION 4. This Act takes effect September 1, 2013.	SECTION 4. Same as introduced version.