

FINANCE CODE

TITLE 4. REGULATION OF INTEREST, LOANS, AND FINANCED TRANSACTIONS

SUBTITLE A. INTEREST

CHAPTER 302. INTEREST RATES

SUBCHAPTER A. USURIOUS INTEREST

Sec. 302.001. CONTRACTING FOR, CHARGING, OR RECEIVING INTEREST OR TIME PRICE DIFFERENTIAL; USURIOUS INTEREST. (a) A creditor may contract for, charge, and receive from an obligor interest or time price differential.

(b) The maximum rate or amount of interest is 10 percent a year except as otherwise provided by law. A greater rate of interest than 10 percent a year is usurious unless otherwise provided by law. All contracts for usurious interest are contrary to public policy and subject to the appropriate penalty prescribed by Chapter 305.

(c) To determine the interest rate of a loan under this subtitle, all interest at any time contracted for shall be aggregated and amortized using the actuarial method during the stated term of the loan.

(d) In addition to interest authorized by Subsection (b), a loan providing for a rate of interest that is 10 percent a year or less may provide for a delinquency charge on the amount of any payment in default for a period of not less than 10 days in an amount not to exceed the greater of five percent of the amount of the payment or \$7.50. The charging of the delinquency charge does not make the loan subject to Chapter 342 or any other provision of Subtitle B.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.18(a), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 916, Sec. 8, eff. Sept. 1, 2001.

Sec. 302.002. ACCRUAL OF INTEREST WHEN NO RATE SPECIFIED. If a creditor has not agreed with an obligor to charge the obligor any interest, the creditor may charge and receive from the obligor legal interest at the rate of six percent a year on the principal amount of the credit extended beginning on the 30th day after the

date on which the amount is due. If an obligor has agreed to pay to a creditor any compensation that constitutes interest, the obligor is considered to have agreed on the rate produced by the amount of that interest, regardless of whether that rate is stated in the agreement.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.18(a), eff. Sept. 1, 1999.

SUBCHAPTER B. OTHER RATES AND PROVISIONS ON LOANS SECURED BY REAL
PROPERTY

Sec. 302.101. DETERMINING RATES OF INTEREST BY SPREADING.

(a) To determine whether a loan secured in any part by an interest in real property, including a lien, mortgage, or security interest, is usurious, the interest rate is computed by amortizing or spreading, using the actuarial method during the stated term of the loan, all interest at any time contracted for, charged, or received in connection with the loan.

(b) If a loan described by Subsection (a) is paid in full before the end of the stated term of the loan and the amount of interest received for the period that the loan exists exceeds the amount that produces the maximum rate authorized by law for that period, the lender shall:

(1) refund the amount of the excess to the borrower;
or

(2) credit the amount of the excess against amounts owing under the loan.

(c) A lender who complies with Subsection (b) is not subject to any of the penalties provided by law for contracting for, charging, or receiving interest in excess of the maximum rate authorized.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.18(a), eff. Sept. 1, 1999.

Sec. 302.102. PROHIBITION ON PREPAYMENT PENALTY. If the interest rate on a loan for property that is or is to be the residential homestead of the borrower is greater than 12 percent a

year, a prepayment penalty may not be collected on the loan unless the penalty is required by an agency created by federal law.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.18(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 909, Sec. 2.02, eff. Sept. 1, 1999.

Sec. 302.103. EFFECT OF FEDERAL PREEMPTION ON LATE CHARGES.

On loans subject to 12 U.S.C. Sections 1735f-7 and 1735f-7a, as amended, any late charges assessed are interest that is included in computing the amount or rate of interest on the loan and, therefore, covered by the federal preemption of state interest rate limitations.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.18(a), eff. Sept. 1, 1999.

Sec. 302.104. LOAN TO PURCHASE INTEREST IN ENTITY WITH FOREIGN REAL PROPERTY AS PRINCIPAL ASSET. (a) A loan the proceeds of which are used primarily to purchase an interest in a trust or other entity that has as its principal asset real property located outside the United States is:

(1) not subject to Subtitle B; and

(2) subject to the interest rate limitations of Chapter 303.

(b) For the purpose of determining the interest rate on a loan to which this section applies, all interest contracted for, charged, or received shall be amortized, prorated, allocated, and spread over the full stated term of the loan.

(c) This section does not affect application of a law of this state governing collateral that may be used to secure a loan to which this section applies.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.18(a), eff. Sept. 1, 1999.