

HOUSE BILL 1759

By Odom

AN ACT to amend Tennessee Code Annotated, Title 47,
relative to commercial instruments and
transactions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-24-102, is hereby amended by deleting the section in its entirety and by substituting instead the following:

§ 47-24-102.

(a) A lender has the right to participate in the borrower's enterprise or venture to such extent as may be set forth in a written agreement between the lender and the borrower; provided, that the original principal amount of the funds advanced to the borrower pursuant to the loan transaction shall be not less than seven hundred fifty thousand dollars (\$750,000), or, alternatively, that there shall be contemplated to be a series of advances of money aggregating not less than seven hundred fifty thousand dollars (\$750,000).

(b) The consideration or value received by the lender in any such participation, as distinct from interest received pursuant to the loan transaction, shall not be deemed to be interest, loan charges, commitment fees, or brokerage commissions for purposes of chapter 14 of this title, notwithstanding the fact that the parties may describe such consideration or value to be interest or other such charges in a written agreement between the parties.

(c) Nothing herein shall be construed to limit, modify, or otherwise affect rights which the lender may have, including, but not limited to, foreclosure rights, pursuant to the loan transaction.

(d) The lender shall not be deemed to be a partner or joint venturer with the borrower, or otherwise jointly liable as to the financing with the borrower, as a result of such participation, unless the agreement between the lender and borrower shall expressly make the lender so liable.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.