

By: Hancock

S.J.R. No. 60

1 SENATE JOINT RESOLUTION

2 proposing a constitutional amendment establishing a lower amount
3 for expenses that can be charged to a borrower and removing certain
4 financing expense limitations for a home equity loan, establishing
5 certain authorized lenders to make a home equity loan, changing
6 certain options for the refinancing of home equity loans, changing
7 the threshold for an advance of a home equity line of credit, and
8 allowing home equity loans on agricultural homesteads.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Section 50, Article XVI, Texas Constitution, is
11 amended by amending Subsections (a), (f), (g), and (t) and adding
12 Subsection (f-1) to read as follows:

13 (a) The homestead of a family, or of a single adult person,
14 shall be, and is hereby protected from forced sale, for the payment
15 of all debts except for:

16 (1) the purchase money thereof, or a part of such
17 purchase money;

18 (2) the taxes due thereon;

19 (3) an owelty of partition imposed against the
20 entirety of the property by a court order or by a written agreement
21 of the parties to the partition, including a debt of one spouse in
22 favor of the other spouse resulting from a division or an award of a
23 family homestead in a divorce proceeding;

24 (4) the refinance of a lien against a homestead,

1 including a federal tax lien resulting from the tax debt of both
2 spouses, if the homestead is a family homestead, or from the tax
3 debt of the owner;

4 (5) work and material used in constructing new
5 improvements thereon, if contracted for in writing, or work and
6 material used to repair or renovate existing improvements thereon
7 if:

8 (A) the work and material are contracted for in
9 writing, with the consent of both spouses, in the case of a family
10 homestead, given in the same manner as is required in making a sale
11 and conveyance of the homestead;

12 (B) the contract for the work and material is not
13 executed by the owner or the owner's spouse before the fifth day
14 after the owner makes written application for any extension of
15 credit for the work and material, unless the work and material are
16 necessary to complete immediate repairs to conditions on the
17 homestead property that materially affect the health or safety of
18 the owner or person residing in the homestead and the owner of the
19 homestead acknowledges such in writing;

20 (C) the contract for the work and material
21 expressly provides that the owner may rescind the contract without
22 penalty or charge within three days after the execution of the
23 contract by all parties, unless the work and material are necessary
24 to complete immediate repairs to conditions on the homestead
25 property that materially affect the health or safety of the owner or
26 person residing in the homestead and the owner of the homestead
27 acknowledges such in writing; and

1 (D) the contract for the work and material is
2 executed by the owner and the owner's spouse only at the office of a
3 third-party lender making an extension of credit for the work and
4 material, an attorney at law, or a title company;

5 (6) an extension of credit that:

6 (A) is secured by a voluntary lien on the
7 homestead created under a written agreement with the consent of
8 each owner and each owner's spouse;

9 (B) is of a principal amount that when added to
10 the aggregate total of the outstanding principal balances of all
11 other indebtedness secured by valid encumbrances of record against
12 the homestead does not exceed 80 percent of the fair market value of
13 the homestead on the date the extension of credit is made;

14 (C) is without recourse for personal liability
15 against each owner and the spouse of each owner, unless the owner or
16 spouse obtained the extension of credit by actual fraud;

17 (D) is secured by a lien that may be foreclosed
18 upon only by a court order;

19 (E) does not require the owner or the owner's
20 spouse to pay, in addition to any interest or any bona fide discount
21 points used to buy down the interest rate, any fees to any person
22 that are necessary to originate, evaluate, maintain, record,
23 insure, or service the extension of credit that exceed, in the
24 aggregate, two [~~three~~] percent of the original principal amount of
25 the extension of credit, excluding fees for:

26 (i) an appraisal performed by a third party
27 appraiser;

1 (ii) a property survey performed by a state
2 registered or licensed surveyor;

3 (iii) a state base premium for a mortgagee
4 policy of title insurance with endorsements established in
5 accordance with state law; or

6 (iv) a title examination report if its cost
7 is less than the state base premium for a mortgagee policy of title
8 insurance without endorsements established in accordance with
9 state law;

10 (F) is not a form of open-end account that may be
11 debited from time to time or under which credit may be extended from
12 time to time unless the open-end account is a home equity line of
13 credit;

14 (G) is payable in advance without penalty or
15 other charge;

16 (H) is not secured by any additional real or
17 personal property other than the homestead;

18 (I) (repealed) [~~is not secured by homestead~~
19 ~~property that on the date of closing is designated for agricultural~~
20 ~~use as provided by statutes governing property tax, unless such~~
21 ~~homestead property is used primarily for the production of milk];~~

22 (J) may not be accelerated because of a decrease
23 in the market value of the homestead or because of the owner's
24 default under other indebtedness not secured by a prior valid
25 encumbrance against the homestead;

26 (K) is the only debt secured by the homestead at
27 the time the extension of credit is made unless the other debt was

1 made for a purpose described by Subsections (a)(1)-(a)(5) or
2 Subsection (a)(8) of this section;

3 (L) is scheduled to be repaid:

4 (i) in substantially equal successive
5 periodic installments, not more often than every 14 days and not
6 less often than monthly, beginning no later than two months from the
7 date the extension of credit is made, each of which equals or
8 exceeds the amount of accrued interest as of the date of the
9 scheduled installment; or

10 (ii) if the extension of credit is a home
11 equity line of credit, in periodic payments described under
12 Subsection (t)(8) of this section;

13 (M) is closed not before:

14 (i) the 12th day after the later of the date
15 that the owner of the homestead submits a loan application to the
16 lender for the extension of credit or the date that the lender
17 provides the owner a copy of the notice prescribed by Subsection (g)
18 of this section;

19 (ii) one business day after the date that
20 the owner of the homestead receives a copy of the loan application
21 if not previously provided and a final itemized disclosure of the
22 actual fees, points, interest, costs, and charges that will be
23 charged at closing. If a bona fide emergency or another good cause
24 exists and the lender obtains the written consent of the owner, the
25 lender may provide the documentation to the owner or the lender may
26 modify previously provided documentation on the date of closing;
27 and

1 (iii) the first anniversary of the closing
2 date of any other extension of credit described by Subsection
3 (a)(6) of this section secured by the same homestead property,
4 except a refinance described by Paragraph (Q)(x)(f) of this
5 subdivision, unless the owner on oath requests an earlier closing
6 due to a state of emergency that:

7 (a) has been declared by the president
8 of the United States or the governor as provided by law; and

9 (b) applies to the area where the
10 homestead is located;

11 (N) is closed only at the office of the lender, an
12 attorney at law, or a title company;

13 (O) permits a lender to contract for and receive
14 any fixed or variable rate of interest authorized under statute;

15 (P) is made by one of the following that has not
16 been found by a federal regulatory agency to have engaged in the
17 practice of refusing to make loans because the applicants for the
18 loans reside or the property proposed to secure the loans is located
19 in a certain area:

20 (i) a bank, savings and loan association,
21 savings bank, or credit union doing business under the laws of this
22 state or the United States, including a subsidiary of a bank,
23 savings and loan association, savings bank, or credit union
24 described by this subparagraph;

25 (ii) a federally chartered lending
26 instrumentality or a person approved as a mortgagee by the United
27 States government to make federally insured loans;

1 (iii) a person licensed to make regulated
2 loans, as provided by statute of this state;

3 (iv) a person who sold the homestead
4 property to the current owner and who provided all or part of the
5 financing for the purchase;

6 (v) a person who is related to the homestead
7 property owner within the second degree of affinity or
8 consanguinity; or

9 (vi) a person regulated by this state as a
10 mortgage banker or mortgage company [~~broker~~]; and

11 (Q) is made on the condition that:

12 (i) the owner of the homestead is not
13 required to apply the proceeds of the extension of credit to repay
14 another debt except debt secured by the homestead or debt to another
15 lender;

16 (ii) the owner of the homestead not assign
17 wages as security for the extension of credit;

18 (iii) the owner of the homestead not sign
19 any instrument in which blanks relating to substantive terms of
20 agreement are left to be filled in;

21 (iv) the owner of the homestead not sign a
22 confession of judgment or power of attorney to the lender or to a
23 third person to confess judgment or to appear for the owner in a
24 judicial proceeding;

25 (v) at the time the extension of credit is
26 made, the owner of the homestead shall receive a copy of the final
27 loan application and all executed documents signed by the owner at

1 closing related to the extension of credit;

2 (vi) the security instruments securing the
3 extension of credit contain a disclosure that the extension of
4 credit is the type of credit defined by Subsection (a)(6) of this
5 section [~~Section 50(a)(6), Article XVI, Texas Constitution~~];

6 (vii) within a reasonable time after
7 termination and full payment of the extension of credit, the lender
8 cancel and return the promissory note to the owner of the homestead
9 and give the owner, in recordable form, a release of the lien
10 securing the extension of credit or a copy of an endorsement and
11 assignment of the lien to a lender that is refinancing the extension
12 of credit;

13 (viii) the owner of the homestead and any
14 spouse of the owner may, within three days after the extension of
15 credit is made, rescind the extension of credit without penalty or
16 charge;

17 (ix) the owner of the homestead and the
18 lender sign a written acknowledgment as to the fair market value of
19 the homestead property on the date the extension of credit is made;

20 (x) except as provided by Subparagraph (xi)
21 of this paragraph, the lender or any holder of the note for the
22 extension of credit shall forfeit all principal and interest of the
23 extension of credit if the lender or holder fails to comply with the
24 lender's or holder's obligations under the extension of credit and
25 fails to correct the failure to comply not later than the 60th day
26 after the date the lender or holder is notified by the borrower of
27 the lender's failure to comply by:

1 (a) paying to the owner an amount
2 equal to any overcharge paid by the owner under or related to the
3 extension of credit if the owner has paid an amount that exceeds an
4 amount stated in the applicable Paragraph (E), (G), or (O) of this
5 subdivision;

6 (b) sending the owner a written
7 acknowledgement that the lien is valid only in the amount that the
8 extension of credit does not exceed the percentage described by
9 Paragraph (B) of this subdivision, if applicable, or is not secured
10 by property described under Paragraph (H) [~~or (I)~~] of this
11 subdivision, if applicable;

12 (c) sending the owner a written notice
13 modifying any other amount, percentage, term, or other provision
14 prohibited by this section to a permitted amount, percentage, term,
15 or other provision and adjusting the account of the borrower to
16 ensure that the borrower is not required to pay more than an amount
17 permitted by this section and is not subject to any other term or
18 provision prohibited by this section;

19 (d) delivering the required documents
20 to the borrower if the lender fails to comply with Subparagraph (v)
21 of this paragraph or obtaining the appropriate signatures if the
22 lender fails to comply with Subparagraph (ix) of this paragraph;

23 (e) sending the owner a written
24 acknowledgement, if the failure to comply is prohibited by
25 Paragraph (K) of this subdivision, that the accrual of interest and
26 all of the owner's obligations under the extension of credit are
27 abated while any prior lien prohibited under Paragraph (K) remains

1 secured by the homestead; or

2 (f) if the failure to comply cannot be
3 cured under Subparagraphs (x)(a)-(e) of this paragraph, curing the
4 failure to comply by a refund or credit to the owner of \$1,000 and
5 offering the owner the right to refinance the extension of credit
6 with the lender or holder for the remaining term of the loan at no
7 cost to the owner on the same terms, including interest, as the
8 original extension of credit with any modifications necessary to
9 comply with this section or on terms on which the owner and the
10 lender or holder otherwise agree that comply with this section; and

11 (xi) the lender or any holder of the note
12 for the extension of credit shall forfeit all principal and
13 interest of the extension of credit if the extension of credit is
14 made by a person other than a person described under Paragraph (P)
15 of this subdivision or if the lien was not created under a written
16 agreement with the consent of each owner and each owner's spouse,
17 unless each owner and each owner's spouse who did not initially
18 consent subsequently consents;

19 (7) a reverse mortgage; or

20 (8) the conversion and refinance of a personal
21 property lien secured by a manufactured home to a lien on real
22 property, including the refinance of the purchase price of the
23 manufactured home, the cost of installing the manufactured home on
24 the real property, and the refinance of the purchase price of the
25 real property.

26 (f) A refinance of debt secured by the homestead, any
27 portion of which is an extension of credit described by Subsection

1 (a)(6) of this section, may not be secured by a valid lien against
2 the homestead unless either:

3 (1) the refinance of the debt is an extension of credit
4 described by Subsection (a)(6) or (a)(7) of this section; or

5 (2) all of the following conditions are met:

6 (A) the refinance is not closed before the first
7 anniversary of the date the extension of credit was closed;

8 (B) the refinanced extension of credit does not
9 include the advance of any additional funds other than:

10 (i) funds advanced to refinance a debt
11 described by Subsections (a)(1) through (a)(7) of this section; or

12 (ii) actual costs and reserves required by
13 the lender to refinance the debt;

14 (C) the refinance of the extension of credit is
15 of a principal amount that when added to the aggregate total of the
16 outstanding principal balances of all other indebtedness secured by
17 valid encumbrances of record against the homestead does not exceed
18 80 percent of the fair market value of the homestead on the date the
19 refinance of the extension of credit is made; and

20 (D) the lender provides the owner the following
21 written notice on a separate document not later than the third
22 business day after the date the owner submits the loan application
23 to the lender and at least 12 days before the date the refinance of
24 the extension of credit is closed:

25 "YOUR EXISTING LOAN THAT YOU DESIRE TO REFINANCE IS A HOME
26 EQUITY LOAN. YOU MAY HAVE THE OPTION TO REFINANCE YOUR HOME EQUITY
27 LOAN AS EITHER A HOME EQUITY LOAN OR AS A NON-HOME EQUITY LOAN, IF

1 OFFERED BY YOUR LENDER.

2 "HOME EQUITY LOANS HAVE IMPORTANT CONSUMER PROTECTIONS. A
3 LENDER MAY ONLY FORECLOSE A HOME EQUITY LOAN BASED ON A COURT ORDER.
4 A HOME EQUITY LOAN MUST BE WITHOUT RECOURSE FOR PERSONAL LIABILITY
5 AGAINST YOU AND YOUR SPOUSE.

6 "IF YOU HAVE APPLIED TO REFINANCE YOUR EXISTING HOME EQUITY
7 LOAN AS A NON-HOME EQUITY LOAN, YOU WILL LOSE CERTAIN CONSUMER
8 PROTECTIONS. A NON-HOME EQUITY REFINANCED LOAN:

9 "(1) WILL PERMIT THE LENDER TO FORECLOSE WITHOUT A
10 COURT ORDER;

11 "(2) WILL BE WITH RECOURSE FOR PERSONAL LIABILITY
12 AGAINST YOU AND YOUR SPOUSE; AND

13 "(3) MAY ALSO CONTAIN OTHER TERMS OR CONDITIONS THAT
14 MAY NOT BE PERMITTED IN A TRADITIONAL HOME EQUITY LOAN.

15 "BEFORE YOU REFINANCE YOUR EXISTING HOME EQUITY LOAN TO MAKE
16 IT A NON-HOME EQUITY LOAN, YOU SHOULD MAKE SURE YOU UNDERSTAND THAT
17 YOU ARE WAIVING IMPORTANT PROTECTIONS THAT HOME EQUITY LOANS
18 PROVIDE UNDER THE LAW AND SHOULD CONSIDER CONSULTING WITH AN
19 ATTORNEY OF YOUR CHOOSING REGARDING THESE PROTECTIONS.

20 "YOU MAY WISH TO ASK YOUR LENDER TO REFINANCE YOUR LOAN AS A
21 HOME EQUITY LOAN. HOWEVER, A HOME EQUITY LOAN MAY HAVE A HIGHER
22 INTEREST RATE AND CLOSING COSTS THAN A NON-HOME EQUITY LOAN."

23 (f-1) A lien securing a refinance of debt under Subsection
24 (f)(2) of this section is deemed to be a lien described by
25 Subsection (a)(4) of this section. An affidavit executed by the
26 owner or the owner's spouse acknowledging that the requirements of
27 Subsection (f)(2) of this section have been met conclusively

1 establishes that the requirements of Subsection (a)(4) of this
2 section have been met.

3 (g) An extension of credit described by Subsection (a)(6) of
4 this section may be secured by a valid lien against homestead
5 property if the extension of credit is not closed before the 12th
6 day after the lender provides the owner with the following written
7 notice on a separate instrument:

8 "NOTICE CONCERNING EXTENSIONS OF CREDIT DEFINED BY SECTION
9 50(a)(6), ARTICLE XVI, TEXAS CONSTITUTION:

10 "SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION
11 ALLOWS CERTAIN LOANS TO BE SECURED AGAINST THE EQUITY IN YOUR HOME.
12 SUCH LOANS ARE COMMONLY KNOWN AS EQUITY LOANS. IF YOU DO NOT REPAY
13 THE LOAN OR IF YOU FAIL TO MEET THE TERMS OF THE LOAN, THE LENDER MAY
14 FORECLOSE AND SELL YOUR HOME. THE CONSTITUTION PROVIDES THAT:

15 "(A) THE LOAN MUST BE VOLUNTARILY CREATED WITH THE CONSENT OF
16 EACH OWNER OF YOUR HOME AND EACH OWNER'S SPOUSE;

17 "(B) THE PRINCIPAL LOAN AMOUNT AT THE TIME THE LOAN IS MADE
18 MUST NOT EXCEED AN AMOUNT THAT, WHEN ADDED TO THE PRINCIPAL BALANCES
19 OF ALL OTHER LIENS AGAINST YOUR HOME, IS MORE THAN 80 PERCENT OF THE
20 FAIR MARKET VALUE OF YOUR HOME;

21 "(C) THE LOAN MUST BE WITHOUT RECOURSE FOR PERSONAL LIABILITY
22 AGAINST YOU AND YOUR SPOUSE UNLESS YOU OR YOUR SPOUSE OBTAINED THIS
23 EXTENSION OF CREDIT BY ACTUAL FRAUD;

24 "(D) THE LIEN SECURING THE LOAN MAY BE FORECLOSED UPON ONLY
25 WITH A COURT ORDER;

26 "(E) FEES AND CHARGES TO MAKE THE LOAN MAY NOT EXCEED 2 [~~3~~]
27 PERCENT OF THE LOAN AMOUNT, EXCEPT FOR A FEE OR CHARGE FOR AN

1 APPRAISAL PERFORMED BY A THIRD PARTY APPRAISER, A PROPERTY SURVEY
2 PERFORMED BY A STATE REGISTERED OR LICENSED SURVEYOR, A STATE BASE
3 PREMIUM FOR A MORTGAGEE POLICY OF TITLE INSURANCE WITH
4 ENDORSEMENTS, OR A TITLE EXAMINATION REPORT;

5 "(F) THE LOAN MAY NOT BE AN OPEN-END ACCOUNT THAT MAY BE
6 DEBITED FROM TIME TO TIME OR UNDER WHICH CREDIT MAY BE EXTENDED FROM
7 TIME TO TIME UNLESS IT IS A HOME EQUITY LINE OF CREDIT;

8 "(G) YOU MAY PREPAY THE LOAN WITHOUT PENALTY OR CHARGE;

9 "(H) NO ADDITIONAL COLLATERAL MAY BE SECURITY FOR THE LOAN;

10 "(I) (repealed) [~~THE LOAN MAY NOT BE SECURED BY HOMESTEAD~~
11 ~~PROPERTY THAT IS DESIGNATED FOR AGRICULTURAL USE AS OF THE DATE OF~~
12 ~~CLOSING, UNLESS THE AGRICULTURAL HOMESTEAD PROPERTY IS USED~~
13 ~~PRIMARILY FOR THE PRODUCTION OF MILK~~];

14 "(J) YOU ARE NOT REQUIRED TO REPAY THE LOAN EARLIER THAN
15 AGREED SOLELY BECAUSE THE FAIR MARKET VALUE OF YOUR HOME DECREASES
16 OR BECAUSE YOU DEFAULT ON ANOTHER LOAN THAT IS NOT SECURED BY YOUR
17 HOME;

18 "(K) ONLY ONE LOAN DESCRIBED BY SECTION 50(a)(6), ARTICLE
19 XVI, OF THE TEXAS CONSTITUTION MAY BE SECURED WITH YOUR HOME AT ANY
20 GIVEN TIME;

21 "(L) THE LOAN MUST BE SCHEDULED TO BE REPAYED IN PAYMENTS THAT
22 EQUAL OR EXCEED THE AMOUNT OF ACCRUED INTEREST FOR EACH PAYMENT
23 PERIOD;

24 "(M) THE LOAN MAY NOT CLOSE BEFORE 12 DAYS AFTER YOU SUBMIT A
25 LOAN APPLICATION TO THE LENDER OR BEFORE 12 DAYS AFTER YOU RECEIVE
26 THIS NOTICE, WHICHEVER DATE IS LATER; AND MAY NOT WITHOUT YOUR
27 CONSENT CLOSE BEFORE ONE BUSINESS DAY AFTER THE DATE ON WHICH YOU

1 RECEIVE A COPY OF YOUR LOAN APPLICATION IF NOT PREVIOUSLY PROVIDED
2 AND A FINAL ITEMIZED DISCLOSURE OF THE ACTUAL FEES, POINTS,
3 INTEREST, COSTS, AND CHARGES THAT WILL BE CHARGED AT CLOSING; AND IF
4 YOUR HOME WAS SECURITY FOR THE SAME TYPE OF LOAN WITHIN THE PAST
5 YEAR, A NEW LOAN SECURED BY THE SAME PROPERTY MAY NOT CLOSE BEFORE
6 ONE YEAR HAS PASSED FROM THE CLOSING DATE OF THE OTHER LOAN, UNLESS
7 ON OATH YOU REQUEST AN EARLIER CLOSING DUE TO A DECLARED STATE OF
8 EMERGENCY;

9 "(N) THE LOAN MAY CLOSE ONLY AT THE OFFICE OF THE LENDER,
10 TITLE COMPANY, OR AN ATTORNEY AT LAW;

11 "(O) THE LENDER MAY CHARGE ANY FIXED OR VARIABLE RATE OF
12 INTEREST AUTHORIZED BY STATUTE;

13 "(P) ONLY A LAWFULLY AUTHORIZED LENDER MAY MAKE LOANS
14 DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS
15 CONSTITUTION;

16 "(Q) LOANS DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE
17 TEXAS CONSTITUTION MUST:

18 "(1) NOT REQUIRE YOU TO APPLY THE PROCEEDS TO ANOTHER DEBT
19 EXCEPT A DEBT THAT IS SECURED BY YOUR HOME OR OWED TO ANOTHER
20 LENDER;

21 "(2) NOT REQUIRE THAT YOU ASSIGN WAGES AS SECURITY;

22 "(3) NOT REQUIRE THAT YOU EXECUTE INSTRUMENTS WHICH HAVE
23 BLANKS FOR SUBSTANTIVE TERMS OF AGREEMENT LEFT TO BE FILLED IN;

24 "(4) NOT REQUIRE THAT YOU SIGN A CONFESSION OF JUDGMENT OR
25 POWER OF ATTORNEY TO ANOTHER PERSON TO CONFESS JUDGMENT OR APPEAR IN
26 A LEGAL PROCEEDING ON YOUR BEHALF;

27 "(5) PROVIDE THAT YOU RECEIVE A COPY OF YOUR FINAL LOAN

1 APPLICATION AND ALL EXECUTED DOCUMENTS YOU SIGN AT CLOSING;

2 "(6) PROVIDE THAT THE SECURITY INSTRUMENTS CONTAIN A
3 DISCLOSURE THAT THIS LOAN IS A LOAN DEFINED BY SECTION 50(a)(6),
4 ARTICLE XVI, OF THE TEXAS CONSTITUTION;

5 "(7) PROVIDE THAT WHEN THE LOAN IS PAID IN FULL, THE LENDER
6 WILL SIGN AND GIVE YOU A RELEASE OF LIEN OR AN ASSIGNMENT OF THE
7 LIEN, WHICHEVER IS APPROPRIATE;

8 "(8) PROVIDE THAT YOU MAY, WITHIN 3 DAYS AFTER CLOSING,
9 RESCIND THE LOAN WITHOUT PENALTY OR CHARGE;

10 "(9) PROVIDE THAT YOU AND THE LENDER ACKNOWLEDGE THE FAIR
11 MARKET VALUE OF YOUR HOME ON THE DATE THE LOAN CLOSES; AND

12 "(10) PROVIDE THAT THE LENDER WILL FORFEIT ALL PRINCIPAL AND
13 INTEREST IF THE LENDER FAILS TO COMPLY WITH THE LENDER'S
14 OBLIGATIONS UNLESS THE LENDER CURES THE FAILURE TO COMPLY AS
15 PROVIDED BY SECTION 50(a)(6)(Q)(x), ARTICLE XVI, OF THE TEXAS
16 CONSTITUTION; AND

17 "(R) IF THE LOAN IS A HOME EQUITY LINE OF CREDIT:

18 "(1) YOU MAY REQUEST ADVANCES, REPAY MONEY, AND REBORROW
19 MONEY UNDER THE LINE OF CREDIT;

20 "(2) EACH ADVANCE UNDER THE LINE OF CREDIT MUST BE IN AN
21 AMOUNT OF AT LEAST \$4,000;

22 "(3) YOU MAY NOT USE A CREDIT CARD, DEBIT CARD, OR SIMILAR
23 DEVICE, OR PREPRINTED CHECK THAT YOU DID NOT SOLICIT, TO OBTAIN
24 ADVANCES UNDER THE LINE OF CREDIT;

25 "(4) ANY FEES THE LENDER CHARGES MAY BE CHARGED AND COLLECTED
26 ONLY AT THE TIME THE LINE OF CREDIT IS ESTABLISHED AND THE LENDER
27 MAY NOT CHARGE A FEE IN CONNECTION WITH ANY ADVANCE;

1 "(5) THE MAXIMUM PRINCIPAL AMOUNT THAT MAY BE EXTENDED, WHEN
2 ADDED TO ALL OTHER DEBTS SECURED BY YOUR HOME, MAY NOT EXCEED 80
3 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME ON THE DATE THE LINE OF
4 CREDIT IS ESTABLISHED;

5 "(6) IF THE PRINCIPAL BALANCE UNDER THE LINE OF CREDIT AT ANY
6 TIME EXCEEDS 80 [~~50~~] PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME,
7 AS DETERMINED ON THE DATE THE LINE OF CREDIT IS ESTABLISHED, YOU MAY
8 NOT CONTINUE TO REQUEST ADVANCES UNDER THE LINE OF CREDIT UNTIL THE
9 BALANCE IS LESS THAN 80 [~~50~~] PERCENT OF THE FAIR MARKET VALUE; AND

10 "(7) THE LENDER MAY NOT UNILATERALLY AMEND THE TERMS OF THE
11 LINE OF CREDIT.

12 "THIS NOTICE IS ONLY A SUMMARY OF YOUR RIGHTS UNDER THE TEXAS
13 CONSTITUTION. YOUR RIGHTS ARE GOVERNED BY SECTION 50, ARTICLE XVI,
14 OF THE TEXAS CONSTITUTION, AND NOT BY THIS NOTICE."

15 If the discussions with the borrower are conducted primarily
16 in a language other than English, the lender shall, before closing,
17 provide an additional copy of the notice translated into the
18 written language in which the discussions were conducted.

19 (t) A home equity line of credit is a form of an open-end
20 account that may be debited from time to time, under which credit
21 may be extended from time to time and under which:

22 (1) the owner requests advances, repays money, and
23 reborrows money;

24 (2) any single debit or advance is not less than
25 \$4,000;

26 (3) the owner does not use a credit card, debit card,
27 or similar device, or preprinted check unsolicited by the borrower,

1 to obtain an advance;

2 (4) any fees described by Subsection (a)(6)(E) of this
3 section are charged and collected only at the time the extension of
4 credit is established and no fee is charged or collected in
5 connection with any debit or advance;

6 (5) the maximum principal amount that may be extended
7 under the account, when added to the aggregate total of the
8 outstanding principal balances of all indebtedness secured by the
9 homestead on the date the extension of credit is established, does
10 not exceed an amount described under Subsection (a)(6)(B) of this
11 section;

12 (6) repealed [~~no additional debits or advances are~~
13 ~~made if the total principal amount outstanding exceeds an amount~~
14 ~~equal to 50 percent of the fair market value of the homestead as~~
15 ~~determined on the date the account is established~~];

16 (7) the lender or holder may not unilaterally amend
17 the extension of credit; and

18 (8) repayment is to be made in regular periodic
19 installments, not more often than every 14 days and not less often
20 than monthly, beginning not later than two months from the date the
21 extension of credit is established, and:

22 (A) during the period during which the owner may
23 request advances, each installment equals or exceeds the amount of
24 accrued interest; and

25 (B) after the period during which the owner may
26 request advances, installments are substantially equal.

27 SECTION 2. The following temporary provision is added to

1 the Texas Constitution:

2 TEMPORARY PROVISION. (a) This temporary provision applies
3 to the constitutional amendment proposed by the 85th Legislature,
4 Regular Session, 2017, to establish a lower amount for expenses
5 that can be charged to a borrower and removing certain financing
6 expense limitations for a home equity loan, establishing certain
7 authorized lenders to make a home equity loan, changing certain
8 options for the refinancing of home equity loans, changing the
9 threshold for an advance of a home equity line of credit, and
10 allowing home equity loans on agricultural homesteads.

11 (b) The constitutional amendment takes effect January 1,
12 2018.

13 (c) The changes in law made by the constitutional amendment
14 apply only to a home equity loan made on or after the effective date
15 of the constitutional amendment and to an existing home equity loan
16 that is refinanced on or after the effective date of the
17 constitutional amendment.

18 (d) This temporary provision takes effect on the adoption of
19 the constitutional amendment by the voters and expires January 1,
20 2019.

21 SECTION 3. This proposed constitutional amendment shall be
22 submitted to the voters at an election to be held November 7, 2017.
23 The ballot shall be printed to provide for voting for or against the
24 proposition: "The constitutional amendment to establish a lower
25 amount for expenses that can be charged to a borrower and removing
26 certain financing expense limitations for a home equity loan,
27 establishing certain authorized lenders to make a home equity loan,

S.J.R. No. 60

1 changing certain options for the refinancing of home equity loans,
2 changing the threshold for an advance of a home equity line of
3 credit, and allowing home equity loans on agricultural homesteads."