

By: Parker

H.J.R. No. 99

A JOINT RESOLUTION

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

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

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

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

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

17 (2) the taxes due thereon;

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

23 (4) the refinance of a lien against a homestead,
24 including a federal tax lien resulting from the tax debt of both

1 spouses, if the homestead is a family homestead, or from the tax
2 debt of the owner;

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

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

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

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

27 (D) the contract for the work and material is

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

4 (6) an extension of credit that:

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

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

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

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

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

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

27 (ii) a property survey performed by a state

1 registered or licensed surveyor;

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

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

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

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

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

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

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

25 (K) is the only debt secured by the homestead at
26 the time the extension of credit is made unless the other debt was
27 made for a purpose described by Subsections (a)(1)-(a)(5) or

1 Subsection (a)(8) of this section;

2 (L) is scheduled to be repaid:

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

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

12 (M) is closed not before:

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

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

27 (iii) the first anniversary of the closing

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

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

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

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

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

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

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

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

27 (iii) a person licensed to make regulated

1 loans, as provided by statute of this state;

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

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

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

10 (Q) is made on the condition that:

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

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

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

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

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

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

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

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

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

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

27 (a) paying to the owner an amount

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

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

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

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

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

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

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

18 (7) a reverse mortgage; or

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

25 (f) A refinance of debt secured by the homestead, any
26 portion of which is an extension of credit described by Subsection
27 (a)(6) of this section, may not be secured by a valid lien against

1 the homestead unless either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 section have been met.

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

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

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

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

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

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

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

25 "(E) FEES AND CHARGES TO MAKE THE LOAN MAY NOT EXCEED 2 [~~3~~]
26 PERCENT OF THE LOAN AMOUNT, EXCEPT FOR A FEE OR CHARGE FOR AN
27 APPRAISAL PERFORMED BY A THIRD PARTY APPRAISER, A PROPERTY SURVEY

1 PERFORMED BY A STATE REGISTERED OR LICENSED SURVEYOR, A STATE BASE
2 PREMIUM FOR A MORTGAGEE POLICY OF TITLE INSURANCE WITH
3 ENDORSEMENTS, OR A TITLE EXAMINATION REPORT;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 "(5) PROVIDE THAT YOU RECEIVE A COPY OF YOUR FINAL LOAN
27 APPLICATION AND ALL EXECUTED DOCUMENTS YOU SIGN AT CLOSING;

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

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

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

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

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

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

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

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

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

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

27 "(5) THE MAXIMUM PRINCIPAL AMOUNT THAT MAY BE EXTENDED, WHEN

1 ADDED TO ALL OTHER DEBTS SECURED BY YOUR HOME, MAY NOT EXCEED 80
2 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME ON THE DATE THE LINE OF
3 CREDIT IS ESTABLISHED;

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

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

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

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

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

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

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

25 (3) the owner does not use a credit card, debit card,
26 or similar device, or preprinted check unsolicited by the borrower,
27 to obtain an advance;

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

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

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

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

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

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

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

26 SECTION 2. The following temporary provision is added to
27 the Texas Constitution:

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

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

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

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

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

H.J.R. No. 99

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