

Texas Home Equity Lending

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Covered Topics

- ✦ Brief overview of the homestead in Texas
- ✦ New Texas §50(a)(6) Requirements
 - Fee Limitation
 - Agricultural Use (“AG”) Exemption
- ✦ “Once a Home Equity, Not Always a Home Equity”
- ✦ Takeaways

I. Important concepts in Texas homestead law

A. The Urban Homestead

1. One or more contiguous lots amounting to not more than 10 acres in a city, town, or village and used for purposes of a home or both as an urban home and a place to exercise a business or calling of the claimant together with improvements.
2. located within the limits of a municipality or its extraterritorial jurisdiction or a platted subdivision; **and**
 - a. served by police protection, paid or volunteer fire protection, **and** at least three of the following services provided by a municipality or under contract to a municipality:
 - i. electric
 - ii. natural gas
 - iii. sewer
 - iv. storm sewer; **or**
 - v. water



I. Important concepts in Texas homestead law

B. The Rural Homestead

1. Family – 200 acres not in a city, town, or village used for the purpose of a home together with improvements
2. Single – 100 acres
3. May be noncontiguous parcels



I. Important concepts in Texas homestead law

B1. Homestead or Non-homestead?

1. Borrower's Current Usage of Property

Tax Cert.

2. Borrower's Intent

1003

Property will be:
<input checked="" type="checkbox"/> Primary Residence <input type="checkbox"/> Secondary Residence <input type="checkbox"/> Investment

MONTGOMERY COUNTY
400 N. SAN JACINTO CONROE, TX 77301 PHONE 936-539-7897
EXEMPTIONS HMS _____

ISD - NEW CANEY
COLLECTED BY COUNTY PHONE 936-539-7897
EXEMPTIONS HMS _____

MC ESD #6
COLLECTED BY COUNTY PHONE 936-539-7897
EXEMPTIONS HMS _____

cont...

C. Valid liens against the homestead - Article 16, §50(a)

1. purchase money
2. taxes
3. dowelty
4. **refinance** (including federal tax lien)
5. improvements, repairs, renovations
6. **home equity cash-out**
7. reverse mortgages
8. conversion of mobile home to real property



cont...

C1. Rate/Term Refi vs. Home Equity (“HE”)

Rate/Term Refi	Home Equity
ZERO cash to borrower on CD	Cash to borrower on CD
HE rules inapplicable	HE rules applicable
FNMA “limited cash out”	Cash out/equity
Regular FNMA loan documents	HE loan documents

cont...

C1. Rate/Term Refi vs. Home Equity

Title commitment –SCHEDULE C

1. Existing Home Equity Lien

6. Home Equity Lien dated November 29, 2011, recorded in/under Clerk's File No. 20110514339 of the Real Property Records of Harris County, Texas, executed by Christian Andrew Barthol, a single person a/k/a Christian A. Barthol, securing the payment of one note in the principal amount of \$179,200.00, bearing interest and payable as therein provided to the order of Mortgage Electronic Registration Systems, Inc. as nominee for Ally Bank.

2. Existing Non-Home Equity Lien

9. Deed of Trust/Security Agreement/Financing Statement dated June 19, 2014 securing Note in the amount of \$151,740.00, executed by Blackstone Designer Homes, Inc., a Texas corporation and Robert A. Myers, Individually in favor of Bank of San Angelo, a branch of the First National Bank of Ballinger recorded under Clerk's File No. 201407954, Official Public Records of Tom Green County, Texas. **Obtain and file for record a release of the aforementioned Deed of Trust/Security Agreement/Financing Statement.**

cont...

C1. Rate/Term Refi vs. Home Equity

ASK QUESTIONS

The loan is to -

- Pay off credit card debt?
- Finance a trip to Paris?
- Get a lower interest rate?
- Pay for kids' college?



II. Article 16, §50(a)(6) Requirements

E. Fees may not exceed ___% of the principal loan amount.

Current	New
3%	2%

“[F]ees necessary to originate, evaluate, maintain, record, insure, or service the loan” are included.

II. Article 16, §50(a)(6) Requirements

Fees included in the cap

3%	2%
Section A Origination Charges	Section A Origination Charges
Section B Non Shoppable Services	Section B Non Shoppable Services
Section C Shoppable Services	Section C Shoppable Services
Section E Recording Fees	Section E Recording Fees
Section H Other	Section H Other

II. Article 16, §50(a)(6) Requirements

Fees excluded in the cap

Section	3%	2%
A	Bona fide discount points	Bona fide discount points
B		Appraisal Fee (only the portion to the appraiser)
B/C		Survey Fee
B/C		Lender's title policy premium
B/C		Lender's title policy endorsements
B/C		OR a Title Examination Report Fee*

II. Article 16, §50(a)(6) Requirements

- ✦ §50(a)(6)(I) is repealed.
- ✦ Now homesteads with agricultural (AG) tax exemptions can now secure a §50(a)(6) lien.



III. Article 16, §50(f)

Under current law, a § 50(a)(6) loan must be refinanced by another § 50(a)(6) loan or a reverse mortgage.



“Once a home equity, always a home equity.”

III. Article 16, §50(f)

Under the new law, a § 50(a)(6) loan may be refinanced by another § 50(a)(6) loan or a reverse mortgage; or a rate-and-term (non equity) refinance loan.



“Once a home equity, not always a home equity.”

III. Article 16, §50(f)

⊕ Equity to non-equity refinance

- 1 year seasoning requirement (from the closing of the previous equity loan – the date the NOTE is signed).
- No additional advances in the new loan except for:
 - Refinance debts in Section (a)(1)—(7)
 - Actual closing costs and reserves required by lender to refinance the debt
- CLTV does not exceed 80% of the FMV on the closing date
- Provide the newly promulgated disclosure within 3 business days of the application (12-day waiting period still applies)
 - We recommend providing this disclosure to every borrower requesting a refinance of their primary residence

“Once a home equity, not always a home equity.”

Documents

- ✦ §50(a)(6) Loans
 - 12-Day Disclosure to be updated
 - Affidavit and Agreement to be updated
- ✦ §50(f) Loans
 - 3-Day Disclosure (promulgated verbiage)

Equity Loans in 2017 Pipeline

- ✦ If TX home equity loans cannot close on or before 12/31/2017, Lender must re-disclose the updated 12-Day Disclosure.
- ✦ If re-disclosed on 1/2/2018, the earliest day to close would be 1/15/2018 (please note this date would be a federal holiday).
- ✦ FNMA will not purchase (a)(6) loans closed during the first 12 days of 2018.

Takeaways

- A new Texas refinance product (equity to non equity)
- Lower fee cap from 3% to 2%
- More third-party fees excluded from the fee cap
- AG exemption no longer a problem
- Equity loans in 2017 pipeline - new 12-Day Disclosure and additional waiting period
- New disclosures/Updated disclosures and documents
- Training for MLOs, processors, closers, and funders

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