

Changes to Home Equity Lending 2017

Thomas F. Vettters II
Attorney

Topics of Discussion

- Brief Home Equity History
- S.J.R. 60
 1. Amends ~~3%~~ Fee Cap to 2%
 2. Adds: Rate-term refinance of home equity option
 - ✓ New disclosure required.
 - ✓ New Affidavit available to confirm compliance.
 3. Eliminates the 50% LTV cap on HELOC advances
 4. Eliminates the Agricultural homestead restriction
- Revises 12-Day Disclosure
- Adds: Certain subsidiaries as authorized lenders

Topics of Discussion (cont.)

- Appraisals vs. Evaluations
- Living Trusts
- Modifications
- Statutes of Limitation
- Cures
- Powers of Attorney
- Go Vote!

Brief Home Equity History

- **1997** – Constitutional amendments authorize Home Equity lending in Texas.
- **2003** – Constitutional amendments authorize state agencies to issue Home equity interpretations.
- **2004** – Interpretations issued & Lawsuit Filed
- **2013** - Texas Supreme Court issues opinion in *Norwood*
- **2014** - Texas Supreme Court issues opinion in *Sims*
- **2016** – Texas Supreme Court issues opinions in *Wood* and *Garofolo*.
- **2017** – Proposition 2 before voters November 7, 2017.

Senate Joint Resolution 60

Two Percent Fee Cap

- ~~3%~~ to 2%
- Excludes certain fees included in the 2% fee cap:
 - Appraisals (prepared by 3rd parties)
 - Surveys (must be state licensed or registered)
 - Title Insurance & Endorsements
 - Title Examination Report (if less than Title Insurance)

Loan Amount \$35,000

Current 3% Fee Cap: \$1,050

| | |
|--------------------------|-------------------------|
| • Lender's Title Policy: | \$415.00 |
| • Amend Tax Exception: | \$20.00 |
| • Not yet due & payable: | \$5.00 |
| • T-17 PUD | \$25.00 |
| • T-19 Restrictions | \$50.00 |
| • T-36 (Environmental: | \$25.00 |
| • T-42 (Home Equity): | \$41.50 |
| • T-42.1 (Home Equity): | \$62.25 |
| • Survey | \$500 |
| • Appraisal: | \$400 |
| • Settlement Fee: | \$250 |
| • Document Preparation: | \$225 |
| • Recording: | + \$100 |
| • Total Fees: | \$2,118.75 > \$1,050.00 |

Loan **violates** Constitutional Fee Cap!!

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Changes to Home Equity Lending 2017

Also available as part of the eCourse

[2017 William W. Gibson, Jr. Mortgage Lending eConference](#)

First appeared as part of the conference materials for the
51st Annual William W. Gibson, Jr. Mortgage Lending Institute session
"Changes to Home Equity Lending 2017"