

1-1 By: Carona S.J.R. No. 18  
 1-2 (In the Senate - Filed January 15, 2013; January 29, 2013,  
 1-3 read first time and referred to Committee on Business and Commerce;  
 1-4 February 13, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0;  
 1-6 February 13, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.J.R. No. 18 By: Carona

1-19 SENATE JOINT RESOLUTION

1-20 proposing a constitutional amendment to authorize the making of a  
 1-21 reverse mortgage loan for the purchase of homestead property and to  
 1-22 amend certain requirements in connection with a reverse mortgage  
 1-23 loan.

1-24 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-25 SECTION 1. Subsection (k), Section 50, Article XVI, Texas  
 1-26 Constitution, is amended to read as follows:

1-27 (k) "Reverse mortgage" means an extension of credit:

1-28 (1) that is secured by a voluntary lien on homestead  
 1-29 property created by a written agreement with the consent of each  
 1-30 owner and each owner's spouse;

1-31 (2) that is made to a person who is or whose spouse is  
 1-32 62 years or older;

1-33 (3) that is made without recourse for personal  
 1-34 liability against each owner and the spouse of each owner;

1-35 (4) under which advances are provided to a borrower:  
 1-36 (A) based on the equity in a borrower's  
 1-37 homestead; or

1-38 (B) for the purchase of homestead property that  
 1-39 the borrower will occupy as a principal residence;

1-40 (5) that does not permit the lender to reduce the  
 1-41 amount or number of advances because of an adjustment in the  
 1-42 interest rate if periodic advances are to be made;

1-43 (6) that requires no payment of principal or interest  
 1-44 until:

1-45 (A) all borrowers have died;

1-46 (B) the homestead property securing the loan is  
 1-47 sold or otherwise transferred;

1-48 (C) all borrowers cease occupying the homestead  
 1-49 property for a period of longer than 12 consecutive months without  
 1-50 prior written approval from the lender;

1-51 (C-1) if the extension of credit is used for the  
 1-52 purchase of homestead property, the borrower fails to timely occupy  
 1-53 the homestead property as the borrower's principal residence within  
 1-54 a specified period after the date the extension of credit is made  
 1-55 that is stipulated in the written agreement creating the lien on the  
 1-56 property; or

1-57 (D) the borrower:

1-58 (i) defaults on an obligation specified in  
 1-59 the loan documents to repair and maintain, pay taxes and  
 1-60 assessments on, or insure the homestead property;

2-1 (ii) commits actual fraud in connection  
2-2 with the loan; or

2-3 (iii) fails to maintain the priority of the  
2-4 lender's lien on the homestead property, after the lender gives  
2-5 notice to the borrower, by promptly discharging any lien that has  
2-6 priority or may obtain priority over the lender's lien within 10  
2-7 days after the date the borrower receives the notice, unless the  
2-8 borrower:

2-9 (a) agrees in writing to the payment  
2-10 of the obligation secured by the lien in a manner acceptable to the  
2-11 lender;

2-12 (b) contests in good faith the lien  
2-13 by, or defends against enforcement of the lien in, legal  
2-14 proceedings so as to prevent the enforcement of the lien or  
2-15 forfeiture of any part of the homestead property; or

2-16 (c) secures from the holder of the  
2-17 lien an agreement satisfactory to the lender subordinating the lien  
2-18 to all amounts secured by the lender's lien on the homestead  
2-19 property;

2-20 (7) that provides that if the lender fails to make loan  
2-21 advances as required in the loan documents and if the lender fails  
2-22 to cure the default as required in the loan documents after notice  
2-23 from the borrower, the lender forfeits all principal and interest  
2-24 of the reverse mortgage, provided, however, that this subdivision  
2-25 does not apply when a governmental agency or instrumentality takes  
2-26 an assignment of the loan in order to cure the default;

2-27 (8) that is not made unless the prospective borrower  
2-28 and the spouse of the prospective borrower attest [~~owner of the~~  
2-29 ~~homestead attests~~] in writing that the prospective borrower and the  
2-30 prospective borrower's spouse [~~owner~~] received counseling  
2-31 regarding the advisability and availability of reverse mortgages  
2-32 and other financial alternatives that was completed not earlier  
2-33 than the 180th day nor later than the 5th day before the date the  
2-34 extension of credit is closed;

2-35 (9) that is not closed before the 12th day after the  
2-36 date the lender provides to the prospective borrower the following  
2-37 written notice on a separate instrument, which the lender or  
2-38 originator and the borrower must sign for the notice to take effect:

2-39 "IMPORTANT NOTICE TO BORROWERS  
2-40 RELATED TO YOUR REVERSE MORTGAGE

2-41 "UNDER THE TEXAS TAX CODE, CERTAIN ELDERLY PERSONS MAY DEFER THE  
2-42 COLLECTION OF PROPERTY TAXES ON THEIR RESIDENCE HOMESTEAD. BY  
2-43 RECEIVING THIS REVERSE MORTGAGE YOU MAY BE REQUIRED TO FORGO ANY  
2-44 PREVIOUSLY APPROVED DEFERRAL OF PROPERTY TAX COLLECTION AND YOU MAY  
2-45 BE REQUIRED TO PAY PROPERTY TAXES ON AN ANNUAL BASIS ON THIS  
2-46 PROPERTY.

2-47 "THE LENDER MAY FORECLOSE THE REVERSE MORTGAGE AND YOU MAY LOSE  
2-48 YOUR HOME IF:

2-49 "(A) YOU DO NOT PAY THE TAXES OR OTHER ASSESSMENTS ON THE  
2-50 HOME EVEN IF YOU ARE ELIGIBLE TO DEFER PAYMENT OF PROPERTY TAXES;

2-51 "(B) YOU DO NOT MAINTAIN AND PAY FOR PROPERTY INSURANCE ON  
2-52 THE HOME AS REQUIRED BY THE LOAN DOCUMENTS;

2-53 "(C) YOU FAIL TO MAINTAIN THE HOME IN A STATE OF GOOD  
2-54 CONDITION AND REPAIR;

2-55 "(D) YOU CEASE OCCUPYING THE HOME FOR A PERIOD LONGER THAN  
2-56 12 CONSECUTIVE MONTHS WITHOUT THE PRIOR WRITTEN APPROVAL FROM THE  
2-57 LENDER OR, IF THE EXTENSION OF CREDIT IS USED FOR THE PURCHASE OF  
2-58 THE HOME, YOU FAIL TO TIMELY OCCUPY THE HOME AS YOUR PRINCIPAL  
2-59 RESIDENCE WITHIN A PERIOD OF TIME AFTER THE EXTENSION OF CREDIT IS  
2-60 MADE THAT IS STIPULATED IN THE WRITTEN AGREEMENT CREATING THE LIEN  
2-61 ON THE HOME;

2-62 "(E) YOU SELL THE HOME OR OTHERWISE TRANSFER THE HOME  
2-63 WITHOUT PAYING OFF THE LOAN;

2-64 "(F) ALL BORROWERS HAVE DIED AND THE LOAN IS NOT REPAYED;

2-65 "(G) YOU COMMIT ACTUAL FRAUD IN CONNECTION WITH THE LOAN; OR

2-66 "(H) YOU FAIL TO MAINTAIN THE PRIORITY OF THE LENDER'S LIEN  
2-67 ON THE HOME, AFTER THE LENDER GIVES NOTICE TO YOU, BY PROMPTLY  
2-68 DISCHARGING ANY LIEN THAT HAS PRIORITY OR MAY OBTAIN PRIORITY OVER  
2-69 THE LENDER'S LIEN WITHIN 10 DAYS AFTER THE DATE YOU RECEIVE THE

3-1 NOTICE, UNLESS YOU:  
3-2 "(1) AGREE IN WRITING TO THE PAYMENT OF THE OBLIGATION  
3-3 SECURED BY THE LIEN IN A MANNER ACCEPTABLE TO THE LENDER;

3-4 "(2) CONTEST IN GOOD FAITH THE LIEN BY, OR DEFEND  
3-5 AGAINST ENFORCEMENT OF THE LIEN IN, LEGAL PROCEEDINGS SO AS TO  
3-6 PREVENT THE ENFORCEMENT OF THE LIEN OR FORFEITURE OF ANY PART OF THE  
3-7 HOME; OR

3-8 "(3) SECURE FROM THE HOLDER OF THE LIEN AN AGREEMENT  
3-9 SATISFACTORY TO THE LENDER SUBORDINATING THE LIEN TO ALL AMOUNTS  
3-10 SECURED BY THE LENDER'S LIEN ON THE HOME.

3-11 "IF A GROUND FOR FORECLOSURE EXISTS, THE LENDER MAY NOT COMMENCE  
3-12 FORECLOSURE UNTIL THE LENDER GIVES YOU WRITTEN NOTICE BY MAIL THAT A  
3-13 GROUND FOR FORECLOSURE EXISTS AND GIVES YOU AN OPPORTUNITY TO  
3-14 REMEDY THE CONDITION CREATING THE GROUND FOR FORECLOSURE OR TO PAY  
3-15 THE REVERSE MORTGAGE DEBT WITHIN THE TIME PERMITTED BY SECTION  
3-16 50(k)(10), ARTICLE XVI, OF THE TEXAS CONSTITUTION. THE LENDER MUST  
3-17 OBTAIN A COURT ORDER FOR FORECLOSURE EXCEPT THAT A COURT ORDER IS  
3-18 NOT REQUIRED IF THE FORECLOSURE OCCURS BECAUSE:

3-19 "(1) ALL BORROWERS HAVE DIED; OR

3-20 "(2) THE HOMESTEAD PROPERTY SECURING THE LOAN IS SOLD  
3-21 OR OTHERWISE TRANSFERRED."

3-22  
3-23 "YOU SHOULD CONSULT WITH YOUR HOME COUNSELOR OR AN ATTORNEY IF YOU  
3-24 HAVE ANY CONCERNS ABOUT THESE OBLIGATIONS BEFORE YOU CLOSE YOUR  
3-25 REVERSE MORTGAGE LOAN. TO LOCATE AN ATTORNEY IN YOUR AREA, YOU MAY  
3-26 WISH TO CONTACT THE STATE BAR OF TEXAS."

3-27  
3-28 "THIS NOTICE IS ONLY A SUMMARY OF YOUR RIGHTS UNDER THE TEXAS  
3-29 CONSTITUTION. YOUR RIGHTS ARE GOVERNED IN PART BY SECTION 50,  
3-30 ARTICLE XVI, OF THE TEXAS CONSTITUTION, AND NOT BY THIS NOTICE."

3-31 ~~[that requires the lender, at the time the loan is made, to disclose~~  
3-32 ~~to the borrower by written notice the specific provisions contained~~  
3-33 ~~in Subdivision (6) of this subsection under which the borrower is~~  
3-34 ~~required to repay the loan];~~

3-35 (10) that does not permit the lender to commence  
3-36 foreclosure until the lender gives notice to the borrower, in the  
3-37 manner provided for a notice by mail related to the foreclosure of  
3-38 liens under Subsection (a)(6) of this section, that a ground for  
3-39 foreclosure exists and gives the borrower at least 30 days, or at  
3-40 least 20 days in the event of a default under Subdivision  
3-41 (6)(D)(iii) of this subsection, to:

3-42 (A) remedy the condition creating the ground for  
3-43 foreclosure;

3-44 (B) pay the debt secured by the homestead  
3-45 property from proceeds of the sale of the homestead property by the  
3-46 borrower or from any other sources; or

3-47 (C) convey the homestead property to the lender  
3-48 by a deed in lieu of foreclosure; and

3-49 (11) that is secured by a lien that may be foreclosed  
3-50 upon only by a court order, if the foreclosure is for a ground other  
3-51 than a ground stated by Subdivision (6)(A) or (B) of this  
3-52 subsection.

3-53 SECTION 2. This proposed constitutional amendment shall be  
3-54 submitted to the voters at an election to be held November 5, 2013.  
3-55 The ballot shall be printed to permit voting for or against the  
3-56 proposition: "The constitutional amendment to authorize the making  
3-57 of a reverse mortgage loan for the purchase of homestead property  
3-58 and to amend lender disclosures and other requirements in  
3-59 connection with a reverse mortgage loan."

3-60 \* \* \* \* \*