

By: Schofield

H.J.R. No. 29

A JOINT RESOLUTION

1 proposing a constitutional amendment providing that a residence
2 homestead is not subject to seizure or sale for delinquent ad
3 valorem taxes.

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

5 SECTION 1. Sections 13(a), (c), and (d), Article VIII,
6 Texas Constitution, are amended to read as follows:

7 (a) Except as provided by Section 15(b) of this article,
8 provision [~~Provision~~] shall be made by the Legislature for the sale
9 of a sufficient portion of all lands and other property for the
10 taxes due thereon that have not been paid.

11 (c) The former owner of [~~a residence homestead,~~] land
12 designated for agricultural use[7] or a mineral interest sold for
13 unpaid taxes shall within two years from date of the filing for
14 record of the Purchaser's Deed have the right to redeem the property
15 on the following basis:

16 (1) Within the first year of the redemption period,
17 upon the payment of the amount of money paid for the property,
18 including the Tax Deed Recording Fee and all taxes, penalties,
19 interest, and costs paid plus an amount not exceeding 25 percent of
20 the aggregate total; and

21 (2) Within the last year of the redemption period,
22 upon the payment of the amount of money paid for the property,
23 including the Tax Deed Recording Fee and all taxes, penalties,
24 interest, and costs paid plus an amount not exceeding 50 percent of

1 the aggregate total.

2 (d) If the [~~residence homestead or~~] land designated for
3 agricultural use is sold pursuant to a suit to enforce the
4 collection of the unpaid taxes, the Legislature may limit the
5 application of Subsection (c) of this section to [~~property used as a~~
6 ~~residence homestead when the suit was filed and to~~] land designated
7 for agricultural use when the suit was filed.

8 SECTION 2. Section 15, Article VIII, Texas Constitution, is
9 amended to read as follows:

10 Sec. 15. (a) Except as provided by Subsection (b) of this
11 section, the [~~The~~] annual assessment made upon landed property
12 shall be a special lien thereon; and all property, both real and
13 personal, belonging to any delinquent tax payer shall be liable to
14 seizure and sale for the payment of all the taxes and penalties due
15 by such delinquent; and such property may be sold for the payment of
16 the taxes and penalties due by such delinquent, under such
17 regulations as the Legislature may provide.

18 (b) A residence homestead is not subject to seizure or sale
19 for the payment of delinquent taxes or penalties. The Legislature
20 by general law may define residence homestead for purposes of this
21 subsection.

22 SECTION 3. Sections 50(a), (e), (f), (f-1), (g), (h), (i),
23 (j), (k), (q), (r), (t), and (u), Article XVI, Texas Constitution,
24 are amended to read as follows:

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

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

3 (2) [~~the taxes due thereon,~~
4 ~~(3)~~] an owelty of partition imposed against the
5 entirety of the property by a court order or by a written agreement
6 of the parties to the partition, including a debt of one spouse in
7 favor of the other spouse resulting from a division or an award of a
8 family homestead in a divorce proceeding;

9 (3) [~~(4)~~] the refinance of a lien against a homestead,
10 including a federal tax lien resulting from the tax debt of both
11 spouses, if the homestead is a family homestead, or from the tax
12 debt of the owner;

13 (4) [~~(5)~~] work and material used in constructing new
14 improvements thereon, if contracted for in writing, or work and
15 material used to repair or renovate existing improvements thereon
16 if:

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

21 (B) the contract for the work and material is not
22 executed by the owner or the owner's spouse before the fifth day
23 after the owner makes written application for any extension of
24 credit for the work and material, unless the work and material are
25 necessary to complete immediate repairs to conditions on the
26 homestead property that materially affect the health or safety of
27 the owner or person residing in the homestead and the owner of the

1 homestead acknowledges such in writing;

2 (C) the contract for the work and material
3 expressly provides that the owner may rescind the contract without
4 penalty or charge within three days after the execution of the
5 contract by all parties, unless the work and material are necessary
6 to complete immediate repairs to conditions on the homestead
7 property that materially affect the health or safety of the owner or
8 person residing in the homestead and the owner of the homestead
9 acknowledges such in writing; and

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

14 (5) [~~6~~] an extension of credit that:

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

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

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

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

1 (E) does not require the owner or the owner's
2 spouse to pay, in addition to any interest or any bona fide discount
3 points used to buy down the interest rate, any fees to any person
4 that are necessary to originate, evaluate, maintain, record,
5 insure, or service the extension of credit that exceed, in the
6 aggregate, two percent of the original principal amount of the
7 extension of credit, excluding fees for:

8 (i) an appraisal performed by a third party
9 appraiser;

10 (ii) a property survey performed by a state
11 registered or licensed surveyor;

12 (iii) a state base premium for a mortgagee
13 policy of title insurance with endorsements established in
14 accordance with state law; or

15 (iv) a title examination report if its cost
16 is less than the state base premium for a mortgagee policy of title
17 insurance without endorsements established in accordance with
18 state law;

19 (F) is not a form of open-end account that may be
20 debited from time to time or under which credit may be extended from
21 time to time unless the open-end account is a home equity line of
22 credit;

23 (G) is payable in advance without penalty or
24 other charge;

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

27 (I) (repealed);

1 (J) may not be accelerated because of a decrease
2 in the market value of the homestead or because of the owner's
3 default under other indebtedness not secured by a prior valid
4 encumbrance against the homestead;

5 (K) is the only debt secured by the homestead at
6 the time the extension of credit is made unless the other debt was
7 made for a purpose described by Subsections (a)(1)-(a)(4)
8 [~~(a)(1)-(a)(5)~~] or Subsection (a)(7) [~~(a)(8)~~] of this section;

9 (L) is scheduled to be repaid:

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

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

19 (M) is closed not before:

20 (i) the 12th day after the later of the date
21 that the owner of the homestead submits a loan application to the
22 lender for the extension of credit or the date that the lender
23 provides the owner a copy of the notice prescribed by Subsection (g)
24 of this section;

25 (ii) one business day after the date that
26 the owner of the homestead receives a copy of the loan application
27 if not previously provided and a final itemized disclosure of the

1 actual fees, points, interest, costs, and charges that will be
2 charged at closing. If a bona fide emergency or another good cause
3 exists and the lender obtains the written consent of the owner, the
4 lender may provide the documentation to the owner or the lender may
5 modify previously provided documentation on the date of closing;
6 and

7 (iii) the first anniversary of the closing
8 date of any other extension of credit described by Subsection
9 (a)(5) [~~(a)(6)~~] of this section secured by the same homestead
10 property, except a refinance described by Paragraph (Q)(x)(f) of
11 this subdivision, unless the owner on oath requests an earlier
12 closing due to a state of emergency that:

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

15 (b) applies to the area where the
16 homestead is located;

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

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

21 (P) is made by one of the following that has not
22 been found by a federal regulatory agency to have engaged in the
23 practice of refusing to make loans because the applicants for the
24 loans reside or the property proposed to secure the loans is located
25 in a certain area:

26 (i) a bank, savings and loan association,
27 savings bank, or credit union doing business under the laws of this

1 state or the United States, including a subsidiary of a bank,
2 savings and loan association, savings bank, or credit union
3 described by this subparagraph;

4 (ii) a federally chartered lending
5 instrumentality or a person approved as a mortgagee by the United
6 States government to make federally insured loans;

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

9 (iv) a person who sold the homestead
10 property to the current owner and who provided all or part of the
11 financing for the purchase;

12 (v) a person who is related to the homestead
13 property owner within the second degree of affinity or
14 consanguinity; or

15 (vi) a person regulated by this state as a
16 mortgage banker or mortgage company; and

17 (Q) is made on the condition that:

18 (i) the owner of the homestead is not
19 required to apply the proceeds of the extension of credit to repay
20 another debt except debt secured by the homestead or debt to another
21 lender;

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

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

27 (iv) the owner of the homestead not sign a

1 confession of judgment or power of attorney to the lender or to a
2 third person to confess judgment or to appear for the owner in a
3 judicial proceeding;

4 (v) at the time the extension of credit is
5 made, the owner of the homestead shall receive a copy of the final
6 loan application and all executed documents signed by the owner at
7 closing related to the extension of credit;

8 (vi) the security instruments securing the
9 extension of credit contain a disclosure that the extension of
10 credit is the type of credit defined by Subsection (a)(5) [~~(a)(6)~~]
11 of this section;

12 (vii) within a reasonable time after
13 termination and full payment of the extension of credit, the lender
14 cancel and return the promissory note to the owner of the homestead
15 and give the owner, in recordable form, a release of the lien
16 securing the extension of credit or a copy of an endorsement and
17 assignment of the lien to a lender that is refinancing the extension
18 of credit;

19 (viii) the owner of the homestead and any
20 spouse of the owner may, within three days after the extension of
21 credit is made, rescind the extension of credit without penalty or
22 charge;

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

26 (x) except as provided by Subparagraph (xi)
27 of this paragraph, the lender or any holder of the note for the

1 extension of credit shall forfeit all principal and interest of the
2 extension of credit if the lender or holder fails to comply with the
3 lender's or holder's obligations under the extension of credit and
4 fails to correct the failure to comply not later than the 60th day
5 after the date the lender or holder is notified by the borrower of
6 the lender's failure to comply by:

7 (a) paying to the owner an amount
8 equal to any overcharge paid by the owner under or related to the
9 extension of credit if the owner has paid an amount that exceeds an
10 amount stated in the applicable Paragraph (E), (G), or (O) of this
11 subdivision;

12 (b) sending the owner a written
13 acknowledgement that the lien is valid only in the amount that the
14 extension of credit does not exceed the percentage described by
15 Paragraph (B) of this subdivision, if applicable, or is not secured
16 by property described under Paragraph (H) of this subdivision, if
17 applicable;

18 (c) sending the owner a written notice
19 modifying any other amount, percentage, term, or other provision
20 prohibited by this section to a permitted amount, percentage, term,
21 or other provision and adjusting the account of the borrower to
22 ensure that the borrower is not required to pay more than an amount
23 permitted by this section and is not subject to any other term or
24 provision prohibited by this section;

25 (d) delivering the required documents
26 to the borrower if the lender fails to comply with Subparagraph (v)
27 of this paragraph or obtaining the appropriate signatures if the

1 lender fails to comply with Subparagraph (ix) of this paragraph;

2 (e) sending the owner a written
3 acknowledgement, if the failure to comply is prohibited by
4 Paragraph (K) of this subdivision, that the accrual of interest and
5 all of the owner's obligations under the extension of credit are
6 abated while any prior lien prohibited under Paragraph (K) remains
7 secured by the homestead; or

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

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

25 (6) [~~(7)~~] a reverse mortgage; or

26 (7) [~~(8)~~] the conversion and refinance of a personal
27 property lien secured by a manufactured home to a lien on real

1 property, including the refinance of the purchase price of the
2 manufactured home, the cost of installing the manufactured home on
3 the real property, and the refinance of the purchase price of the
4 real property.

5 (e) A refinance of debt secured by a homestead and described
6 by any subsection under Subsections (a)(1)-(a)(4) of this section
7 [~~(a)(1)-(a)(5)~~] that includes the advance of additional funds may
8 not be secured by a valid lien against the homestead unless:

9 (1) the refinance of the debt is an extension of credit
10 described by Subsection (a)(5) [~~(a)(6)~~] of this section; or

11 (2) the advance of all the additional funds is for
12 reasonable costs necessary to refinance such debt or for a purpose
13 described by Subsection (a)(2) or (a)(4) [~~, (a)(3), or (a)(5)~~] of
14 this section.

15 (f) A refinance of debt secured by the homestead, any
16 portion of which is an extension of credit described by Subsection
17 (a)(5) [~~(a)(6)~~] of this section, may not be secured by a valid lien
18 against the homestead unless either:

19 (1) the refinance of the debt is an extension of credit
20 described by Subsection (a)(5) or (a)(6) [~~or (a)(7)~~] of this
21 section; or

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

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

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

27 (i) funds advanced to refinance a debt

1 described by Subsections (a)(1) through (a)(6) [~~(a)(7)~~] of this
2 section; or

3 (ii) actual costs and reserves required by
4 the lender to refinance the debt;

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

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

16 "YOUR EXISTING LOAN THAT YOU DESIRE TO REFINANCE IS A HOME
17 EQUITY LOAN. YOU MAY HAVE THE OPTION TO REFINANCE YOUR HOME EQUITY
18 LOAN AS EITHER A HOME EQUITY LOAN OR AS A NON-HOME EQUITY LOAN, IF
19 OFFERED BY YOUR LENDER.

20 "HOME EQUITY LOANS HAVE IMPORTANT CONSUMER PROTECTIONS. A
21 LENDER MAY ONLY FORECLOSE A HOME EQUITY LOAN BASED ON A COURT ORDER.
22 A HOME EQUITY LOAN MUST BE WITHOUT RECOURSE FOR PERSONAL LIABILITY
23 AGAINST YOU AND YOUR SPOUSE.

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

27 "(1) WILL PERMIT THE LENDER TO FORECLOSE WITHOUT A

1 COURT ORDER;

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

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

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

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

14 (f-1) A lien securing a refinance of debt under Subsection
15 (f)(2) of this section is deemed to be a lien described by
16 Subsection (a)(3) [~~(a)(4)~~] of this section. An affidavit executed
17 by the owner or the owner's spouse acknowledging that the
18 requirements of Subsection (f)(2) of this section have been met
19 conclusively establishes that the requirements of Subsection
20 (a)(3) [~~(a)(4)~~] of this section have been met.

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

26 "NOTICE CONCERNING EXTENSIONS OF CREDIT DEFINED BY SECTION
27 50(a)(5) [~~50(a)(6)~~], ARTICLE XVI, TEXAS CONSTITUTION:

1 "SECTION 50(a)(5) [~~50(a)(6)~~], ARTICLE XVI, OF THE TEXAS
2 CONSTITUTION ALLOWS CERTAIN LOANS TO BE SECURED AGAINST THE EQUITY
3 IN YOUR HOME. SUCH LOANS ARE COMMONLY KNOWN AS EQUITY LOANS. IF YOU
4 DO NOT REPAY THE LOAN OR IF YOU FAIL TO MEET THE TERMS OF THE LOAN,
5 THE LENDER MAY FORECLOSE AND SELL YOUR HOME. THE CONSTITUTION
6 PROVIDES THAT:

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

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

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

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

18 "(E) FEES AND CHARGES TO MAKE THE LOAN MAY NOT EXCEED 2
19 PERCENT OF THE LOAN AMOUNT, EXCEPT FOR A FEE OR CHARGE FOR AN
20 APPRAISAL PERFORMED BY A THIRD PARTY APPRAISER, A PROPERTY SURVEY
21 PERFORMED BY A STATE REGISTERED OR LICENSED SURVEYOR, A STATE BASE
22 PREMIUM FOR A MORTGAGEE POLICY OF TITLE INSURANCE WITH
23 ENDORSEMENTS, OR A TITLE EXAMINATION REPORT;

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

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

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

2 "(I) (repealed);

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

7 "(K) ONLY ONE LOAN DESCRIBED BY SECTION 50(a)(5) [~~50(a)(6)~~],
8 ARTICLE XVI, OF THE TEXAS CONSTITUTION MAY BE SECURED WITH YOUR HOME
9 AT ANY GIVEN TIME;

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

13 "(M) THE LOAN MAY NOT CLOSE BEFORE 12 DAYS AFTER YOU SUBMIT A
14 LOAN APPLICATION TO THE LENDER OR BEFORE 12 DAYS AFTER YOU RECEIVE
15 THIS NOTICE, WHICHEVER DATE IS LATER; AND MAY NOT WITHOUT YOUR
16 CONSENT CLOSE BEFORE ONE BUSINESS DAY AFTER THE DATE ON WHICH YOU
17 RECEIVE A COPY OF YOUR LOAN APPLICATION IF NOT PREVIOUSLY PROVIDED
18 AND A FINAL ITEMIZED DISCLOSURE OF THE ACTUAL FEES, POINTS,
19 INTEREST, COSTS, AND CHARGES THAT WILL BE CHARGED AT CLOSING; AND IF
20 YOUR HOME WAS SECURITY FOR THE SAME TYPE OF LOAN WITHIN THE PAST
21 YEAR, A NEW LOAN SECURED BY THE SAME PROPERTY MAY NOT CLOSE BEFORE
22 ONE YEAR HAS PASSED FROM THE CLOSING DATE OF THE OTHER LOAN, UNLESS
23 ON OATH YOU REQUEST AN EARLIER CLOSING DUE TO A DECLARED STATE OF
24 EMERGENCY;

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

27 "(O) THE LENDER MAY CHARGE ANY FIXED OR VARIABLE RATE OF

1 INTEREST AUTHORIZED BY STATUTE ;

2 "(P) ONLY A LAWFULLY AUTHORIZED LENDER MAY MAKE LOANS
3 DESCRIBED BY SECTION 50(a)(5) [~~50(a)(6)~~], ARTICLE XVI, OF THE TEXAS
4 CONSTITUTION ;

5 "(Q) LOANS DESCRIBED BY SECTION 50(a)(5) [~~50(a)(6)~~], ARTICLE
6 XVI, OF THE TEXAS CONSTITUTION MUST :

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

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

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

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

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

18 "(6) PROVIDE THAT THE SECURITY INSTRUMENTS CONTAIN A
19 DISCLOSURE THAT THIS LOAN IS A LOAN DEFINED BY SECTION 50(a)(5)
20 [~~50(a)(6)~~], ARTICLE XVI, OF THE TEXAS CONSTITUTION ;

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

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

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

1 "(10) PROVIDE THAT THE LENDER WILL FORFEIT ALL PRINCIPAL AND
2 INTEREST IF THE LENDER FAILS TO COMPLY WITH THE LENDER'S
3 OBLIGATIONS UNLESS THE LENDER CURES THE FAILURE TO COMPLY AS
4 PROVIDED BY SECTION 50(a)(5)(Q)(x) [~~50(a)(6)(Q)(x)~~], ARTICLE XVI,
5 OF THE TEXAS CONSTITUTION; AND

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

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

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

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

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

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

21 "(6) IF THE PRINCIPAL BALANCE UNDER THE LINE OF CREDIT AT ANY
22 TIME EXCEEDS 80 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME, AS
23 DETERMINED ON THE DATE THE LINE OF CREDIT IS ESTABLISHED, YOU MAY
24 NOT CONTINUE TO REQUEST ADVANCES UNDER THE LINE OF CREDIT UNTIL THE
25 BALANCE IS LESS THAN 80 PERCENT OF THE FAIR MARKET VALUE; AND

26 "(7) THE LENDER MAY NOT UNILATERALLY AMEND THE TERMS OF THE
27 LINE OF CREDIT.

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

4 If the discussions with the borrower are conducted primarily
5 in a language other than English, the lender shall, before closing,
6 provide an additional copy of the notice translated into the
7 written language in which the discussions were conducted.

8 (h) A lender or assignee for value may conclusively rely on
9 the written acknowledgment as to the fair market value of the
10 homestead property made in accordance with Subsection
11 (a)(5)(Q)(ix) [~~(a)(6)(Q)(ix)~~] of this section if:

12 (1) the value acknowledged to is the value estimate in
13 an appraisal or evaluation prepared in accordance with a state or
14 federal requirement applicable to an extension of credit under
15 Subsection (a)(5) of this section [~~(a)(6)~~]; and

16 (2) the lender or assignee does not have actual
17 knowledge at the time of the payment of value or advance of funds by
18 the lender or assignee that the fair market value stated in the
19 written acknowledgment was incorrect.

20 (i) This subsection shall not affect or impair any right of
21 the borrower to recover damages from the lender or assignee under
22 applicable law for wrongful foreclosure. A purchaser for value
23 without actual knowledge may conclusively presume that a lien
24 securing an extension of credit described by Subsection (a)(5)
25 [~~(a)(6)~~] of this section was a valid lien securing the extension of
26 credit with homestead property if:

27 (1) the security instruments securing the extension of

1 credit contain a disclosure that the extension of credit secured by
2 the lien was the type of credit defined by Subsection (a)(5) of this
3 section [~~Section 50(a)(6), Article XVI, Texas Constitution~~];

4 (2) the purchaser acquires the title to the property
5 pursuant to or after the foreclosure of the voluntary lien; and

6 (3) the purchaser is not the lender or assignee under
7 the extension of credit.

8 (j) Subsection (a)(5) [~~(a)(6)~~] and Subsections (e)-(i) of
9 this section are not severable, and none of those provisions would
10 have been enacted without the others. If any of those provisions
11 are held to be preempted by the laws of the United States, all of
12 those provisions are invalid. This subsection shall not apply to
13 any lien or extension of credit made after January 1, 1998, and
14 before the date any provision under Subsection (a)(5) [~~(a)(6)~~] or
15 Subsections (e)-(i) of this section is held to be preempted.

16 (k) "Reverse mortgage" means an extension of credit:

17 (1) that is secured by a voluntary lien on homestead
18 property created by a written agreement with the consent of each
19 owner and each owner's spouse;

20 (2) that is made to a person who is or whose spouse is
21 62 years or older;

22 (3) that is made without recourse for personal
23 liability against each owner and the spouse of each owner;

24 (4) under which advances are provided to a borrower:

25 (A) based on the equity in a borrower's
26 homestead; or

27 (B) for the purchase of homestead property that

1 the borrower will occupy as a principal residence;

2 (5) that does not permit the lender to reduce the
3 amount or number of advances because of an adjustment in the
4 interest rate if periodic advances are to be made;

5 (6) that requires no payment of principal or interest
6 until:

7 (A) all borrowers have died;

8 (B) the homestead property securing the loan is
9 sold or otherwise transferred;

10 (C) all borrowers cease occupying the homestead
11 property for a period of longer than 12 consecutive months without
12 prior written approval from the lender;

13 (C-1) if the extension of credit is used for the
14 purchase of homestead property, the borrower fails to timely occupy
15 the homestead property as the borrower's principal residence within
16 a specified period after the date the extension of credit is made
17 that is stipulated in the written agreement creating the lien on the
18 property; or

19 (D) the borrower:

20 (i) defaults on an obligation specified in
21 the loan documents to repair and maintain, pay taxes and
22 assessments on, or insure the homestead property;

23 (ii) commits actual fraud in connection
24 with the loan; or

25 (iii) fails to maintain the priority of the
26 lender's lien on the homestead property, after the lender gives
27 notice to the borrower, by promptly discharging any lien that has

1 priority or may obtain priority over the lender's lien within 10
2 days after the date the borrower receives the notice, unless the
3 borrower:

4 (a) agrees in writing to the payment
5 of the obligation secured by the lien in a manner acceptable to the
6 lender;

7 (b) contests in good faith the lien
8 by, or defends against enforcement of the lien in, legal
9 proceedings so as to prevent the enforcement of the lien or
10 forfeiture of any part of the homestead property; or

11 (c) secures from the holder of the
12 lien an agreement satisfactory to the lender subordinating the lien
13 to all amounts secured by the lender's lien on the homestead
14 property;

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

22 (8) that is not made unless the prospective borrower
23 and the spouse of the prospective borrower attest in writing that
24 the prospective borrower and the prospective borrower's spouse
25 received counseling regarding the advisability and availability of
26 reverse mortgages and other financial alternatives that was
27 completed not earlier than the 180th day nor later than the 5th day

1 before the date the extension of credit is closed;

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

6 "IMPORTANT NOTICE TO BORROWERS

7 RELATED TO YOUR REVERSE MORTGAGE

8 "UNDER THE TEXAS TAX CODE, CERTAIN ELDERLY PERSONS MAY DEFER THE
9 COLLECTION OF PROPERTY TAXES ON THEIR RESIDENCE HOMESTEAD. BY
10 RECEIVING THIS REVERSE MORTGAGE YOU MAY BE REQUIRED TO FORGO ANY
11 PREVIOUSLY APPROVED DEFERRAL OF PROPERTY TAX COLLECTION AND YOU MAY
12 BE REQUIRED TO PAY PROPERTY TAXES ON AN ANNUAL BASIS ON THIS
13 PROPERTY.

14 "THE LENDER MAY FORECLOSE THE REVERSE MORTGAGE AND YOU MAY LOSE YOUR
15 HOME IF:

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

18 "(B) YOU DO NOT MAINTAIN AND PAY FOR PROPERTY INSURANCE ON
19 THE HOME AS REQUIRED BY THE LOAN DOCUMENTS;

20 "(C) YOU FAIL TO MAINTAIN THE HOME IN A STATE OF GOOD
21 CONDITION AND REPAIR;

22 "(D) YOU CEASE OCCUPYING THE HOME FOR A PERIOD LONGER THAN
23 12 CONSECUTIVE MONTHS WITHOUT THE PRIOR WRITTEN APPROVAL FROM THE
24 LENDER OR, IF THE EXTENSION OF CREDIT IS USED FOR THE PURCHASE OF
25 THE HOME, YOU FAIL TO TIMELY OCCUPY THE HOME AS YOUR PRINCIPAL
26 RESIDENCE WITHIN A PERIOD OF TIME AFTER THE EXTENSION OF CREDIT IS
27 MADE THAT IS STIPULATED IN THE WRITTEN AGREEMENT CREATING THE LIEN

1 ON THE HOME ;

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

4 "(F) ALL BORROWERS HAVE DIED AND THE LOAN IS NOT REPAID ;

5 "(G) YOU COMMIT ACTUAL FRAUD IN CONNECTION WITH THE LOAN ; OR

6 "(H) YOU FAIL TO MAINTAIN THE PRIORITY OF THE LENDER'S LIEN
7 ON THE HOME , AFTER THE LENDER GIVES NOTICE TO YOU , BY PROMPTLY
8 DISCHARGING ANY LIEN THAT HAS PRIORITY OR MAY OBTAIN PRIORITY OVER
9 THE LENDER'S LIEN WITHIN 10 DAYS AFTER THE DATE YOU RECEIVE THE
10 NOTICE , UNLESS YOU :

11 "(1) AGREE IN WRITING TO THE PAYMENT OF THE OBLIGATION
12 SECURED BY THE LIEN IN A MANNER ACCEPTABLE TO THE LENDER ;

13 "(2) CONTEST IN GOOD FAITH THE LIEN BY , OR DEFEND
14 AGAINST ENFORCEMENT OF THE LIEN IN , LEGAL PROCEEDINGS SO AS TO
15 PREVENT THE ENFORCEMENT OF THE LIEN OR FORFEITURE OF ANY PART OF THE
16 HOME ; OR

17 "(3) SECURE FROM THE HOLDER OF THE LIEN AN AGREEMENT
18 SATISFACTORY TO THE LENDER SUBORDINATING THE LIEN TO ALL AMOUNTS
19 SECURED BY THE LENDER'S LIEN ON THE HOME .

20 "IF A GROUND FOR FORECLOSURE EXISTS , THE LENDER MAY NOT COMMENCE
21 FORECLOSURE UNTIL THE LENDER GIVES YOU WRITTEN NOTICE BY MAIL THAT A
22 GROUND FOR FORECLOSURE EXISTS AND GIVES YOU AN OPPORTUNITY TO
23 REMEDY THE CONDITION CREATING THE GROUND FOR FORECLOSURE OR TO PAY
24 THE REVERSE MORTGAGE DEBT WITHIN THE TIME PERMITTED BY SECTION
25 50(k)(10) , ARTICLE XVI , OF THE TEXAS CONSTITUTION . THE LENDER MUST
26 OBTAIN A COURT ORDER FOR FORECLOSURE EXCEPT THAT A COURT ORDER IS
27 NOT REQUIRED IF THE FORECLOSURE OCCURS BECAUSE :

1 "(1) ALL BORROWERS HAVE DIED; OR

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

4 "YOU SHOULD CONSULT WITH YOUR HOME COUNSELOR OR AN ATTORNEY IF YOU
5 HAVE ANY CONCERNS ABOUT THESE OBLIGATIONS BEFORE YOU CLOSE YOUR
6 REVERSE MORTGAGE LOAN. TO LOCATE AN ATTORNEY IN YOUR AREA, YOU MAY
7 WISH TO CONTACT THE STATE BAR OF TEXAS."

8 "THIS NOTICE IS ONLY A SUMMARY OF YOUR RIGHTS UNDER THE TEXAS
9 CONSTITUTION. YOUR RIGHTS ARE GOVERNED IN PART BY SECTION 50,
10 ARTICLE XVI, OF THE TEXAS CONSTITUTION, AND NOT BY THIS NOTICE.";

11 (10) that does not permit the lender to commence
12 foreclosure until the lender gives notice to the borrower, in the
13 manner provided for a notice by mail related to the foreclosure of
14 liens under Subsection (a)(5) [~~(a)(6)~~] of this section, that a
15 ground for foreclosure exists and gives the borrower at least 30
16 days, or at least 20 days in the event of a default under
17 Subdivision (6)(D)(iii) of this subsection, to:

18 (A) remedy the condition creating the ground for
19 foreclosure;

20 (B) pay the debt secured by the homestead
21 property from proceeds of the sale of the homestead property by the
22 borrower or from any other sources; or

23 (C) convey the homestead property to the lender
24 by a deed in lieu of foreclosure; and

25 (11) that is secured by a lien that may be foreclosed
26 upon only by a court order, if the foreclosure is for a ground other
27 than a ground stated by Subdivision (6)(A) or (B) of this

1 subsection.

2 (q) To the extent that any statutes of this state, including
3 without limitation, Section 41.001 of the Texas Property Code,
4 purport to limit encumbrances that may properly be fixed on
5 homestead property in a manner that does not permit encumbrances
6 for extensions of credit described in Subsection (a)(5) or (a)(6)
7 [~~or (a)(7)~~] of this section, the same shall be superseded to the
8 extent that such encumbrances shall be permitted to be fixed upon
9 homestead property in the manner provided for by this amendment.

10 (r) The supreme court shall promulgate rules of civil
11 procedure for expedited foreclosure proceedings related to the
12 foreclosure of liens under Subsection (a)(5) [~~(a)(6)~~] of this
13 section and to foreclosure of a reverse mortgage lien that requires
14 a court order.

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

18 (1) the owner requests advances, repays money, and
19 reborrows money;

20 (2) any single debit or advance is not less than
21 \$4,000;

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

25 (4) any fees described by Subsection (a)(5)(E)
26 [~~(a)(6)(E)~~] of this section are charged and collected only at the
27 time the extension of credit is established and no fee is charged or

1 collected in connection with any debit or advance;

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

8 (6) (repealed);

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

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

15 (A) during the period during which the owner may
16 request advances, each installment equals or exceeds the amount of
17 accrued interest; and

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

20 (u) The legislature may by statute delegate one or more
21 state agencies the power to interpret Subsections (a)(4)-(a)(6)
22 [~~(a)(5)-(a)(7)~~], (e)-(p), and (t), of this section. An act or
23 omission does not violate a provision included in those subsections
24 if the act or omission conforms to an interpretation of the
25 provision that is:

26 (1) in effect at the time of the act or omission; and

27 (2) made by a state agency to which the power of

1 interpretation is delegated as provided by this subsection or by an
2 appellate court of this state or the United States.

3 SECTION 4. This proposed constitutional amendment shall be
4 submitted to the voters at an election to be held November 7, 2023.
5 The ballot shall be printed to permit voting for or against the
6 proposition: "The constitutional amendment providing that a
7 residence homestead is not subject to seizure or sale for
8 delinquent ad valorem taxes."