



STATE OF TEXAS  
JOINT FINANCIAL  
REGULATORY AGENCIES

TEXAS DEPARTMENT OF BANKING  
TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING  
TEXAS OFFICE OF CONSUMER CREDIT COMMISSIONER  
TEXAS CREDIT UNION DEPARTMENT

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**NOTICE OF PRECOMMENT DRAFT & STAKEHOLDER MEETING**  
**Home Equity Interpretation Amendments Implementing SJR 60**  
**September 25, 2017 at 10:00 a.m.**

Please take notice that the Joint Financial Regulatory Agencies (Texas Department of Banking, Texas Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department) will hold a stakeholder meeting on September 25, 2017, at 10:00 a.m. in the Finance Commission Building, third floor hearing room, at 2601 North Lamar Blvd., Austin, Texas 78705.

The meeting will include a discussion of the September 13 precomment draft of home equity interpretation amendments implementing SJR 60 (2017), as well as the September 13 draft of Spanish disclosures. The agencies invite all persons interested in these amendments to participate in this meeting. The agencies will also accept informal written precomments on the drafts until 5:00 p.m. on September 28. The agencies intend to present the interpretation amendments at the Finance Commission's October 20 meeting and the Credit Union Commission's November 3 meeting.

### **Summary of Interpretation Amendments**

The September 13 precomment draft contains amendments to the home equity interpretations at 7 Tex. Admin. Code ch. 153. The amendments are intended to implement SJR 60, which amends the home equity lending provisions in Article XVI, Section 50 of the Texas Constitution. SJR 60 will be on the ballot in the statewide constitutional amendment election on November 7, 2017.

SJR 60's constitutional amendments relate primarily to six issues:

- SJR 60 amends Section 50(a)(6)(E) by replacing the current 3% fee limitation with a 2% limitation, and specifying that four types of fees are not included in the limitation: an appraisal fee, a property survey fee, a mortgagee title insurance premium, and a title report fee.
- SJR 60 amends Section 50(a)(6)(I) by removing the current prohibition on a home equity loan for agricultural property.
- SJR 60 amends Section 50(a)(6)(P) by adding certain subsidiaries of depository institutions to the list of lenders authorized to make home equity loans, and replacing a reference to a "mortgage broker" with "mortgage banker or mortgage company."
- SJR 60 amends Section 50(f) by allowing a home equity loan to be refinanced as a non-home-equity loan if four conditions are met: a one-year timing limitation, a limitation on advance of additional funds, an 80% limitation on the principal amount, and a required disclosure to the property owner.
- SJR 60 amends Section 50(g) to make conforming changes to the required 12-day consumer disclosure.
- SJR 60 amends Section 50(t)(6) by removing the 50% limitation on additional debits or advances for a home equity line of credit.

The September 13 precomment draft includes the following amendments to implement SJR 60:

- Amendments to Sections 153.1, 153.5, and 153.14 replace references to the 3% limitation with references to the 2% limitation, and identify fees that may be excluded under SJR 60.
- Amendments to Section 153.17 identify authorized lenders and specify that a person registered under Texas Finance Code, Chapter 157 is a mortgage banker.
- New Section 153.45 identifies requirements for refinancing a home equity loan as a non-home-equity loan.
- Amendments to Sections 153.84 and 153.86, in addition to a repeal of Section 153.87, remove references to the 50% limitation on additional debits or advances for a home equity line of credit.

### **Summary of Spanish Disclosures**

The September 13 draft of Spanish disclosures contains two translated disclosures:

- The draft includes an amended version of the Spanish translation of the 12-day consumer disclosure notice required by Section 50(g), as amended by SJR 60.
- The draft includes a new Spanish translation of the refinance disclosure required by Section 50(f)(2)(D), as added by SJR 60.

Although these Spanish disclosures are not part of the home equity interpretations, the agencies intend to make them available on the Finance Commission’s website. When the agencies post final versions of the Spanish disclosures, lenders will be able to use them to meet the requirements of Texas Finance Code, Section 341.502.

### **Questions for Stakeholders**

The agencies invite all stakeholders to provide input on the September 13 precomment draft of amendments and the draft Spanish disclosures. Stakeholders may provide input verbally at the stakeholder meeting, in writing through informal precomments, or both. In particular, the agencies invite responses to the following questions:

- 1) Currently, Section 153.5(7) contains the following sentence: “Examples of these charges include attorneys’ fees for document preparation and mortgage brokers’ fees to the extent authorized by applicable law.” Should this sentence be amended in light of SJR 60’s amendments relating to the term “mortgage broker”? If so, how should it be amended?
- 2) Section 50(a)(6)(E)(i) of SJR 60 allows a fee for “an appraisal performed by a third party appraiser” to be excluded from the 2% limitation. The precomment draft includes new Section 153.5(13), specifying that an appraisal must be performed by a person who is not an employee of the lender, and that the excludable appraisal fee is limited to the fee paid to the appraiser for completion of the appraisal (not the fee for appraisal management services). Do stakeholders believe that this amendment correctly reflects SJR 60? If not, what language do stakeholders recommend?
- 3) Section 50(a)(6)(E)(iii) of SJR 60 allows “a state base premium for a mortgagee policy of title insurance with endorsements established in accordance with state law” to be excluded from the 2% limitation. The precomment draft includes new Section 153.5(15),

specifying that an excludable premium for title insurance is limited to the applicable basic premium rate for title insurance published by the Texas Department of Insurance, plus authorized premiums for applicable endorsements, and that rules adopted by the Texas Department of Insurance govern the applicability of endorsements and the authorized amount for each premium. Do stakeholders believe that this amendment correctly reflects SJR 60? If not, what language do stakeholders recommend?

- 4) Section 50(a)(6)(E)(iv) of SJR 60 allows a fee for “a title examination report if its cost is less than the state base premium for a mortgagee policy of title insurance without endorsements established in accordance with state law” to be excluded from the 2% limitation. The precomment draft includes new Section 153.5(16), specifying that an excludable fee for a title report must be less than the applicable basic premium rate for title insurance, and that the title report fee may not be excluded if the equity loan is covered by a mortgagee policy of title insurance. Do stakeholders believe that this amendment correctly reflects SJR 60? If not, what language do stakeholders recommend?
- 5) Section 50(f)(2)(B) of SJR 60 provides that in order to refinance a home equity loan to a non-home-equity loan, the advance of additional funds is limited to the funds to refinance the debt, and “actual costs and reserves required by the lender to refinance the debt.” The September 13 precomment draft includes new Section 153.45(2)(A), stating that actual costs must be identifiable, must be actually incurred, and must comply with applicable law. Do stakeholders believe that this interpretation correctly reflects SJR 60? If not, what language do stakeholders recommend?
- 6) Section 50(f)(2)(D) of SJR 60 requires a new refinance disclosure for refinances of home equity loans. Unlike the 12-day consumer disclosure at Section 50(g), the refinance disclosure does not include a title in the disclosure itself. Do stakeholders believe that it is appropriate for the refinance disclosure and its corresponding Spanish translation to include a title? If so, what title and Spanish translation do stakeholders recommend?
- 7) Section 50(f-1) of SJR 60 states: “An affidavit executed by the owner or the owner's spouse acknowledging that the requirements of Subsection (f)(2) of this section have been met conclusively establishes that the requirements of Subsection (a)(4) of this section have been met.” Is an interpretation needed regarding the content of the affidavit and the manner of its execution? If so, what should the interpretation state, and why?
- 8) If voters approve SJR 60, then it will go into effect on January 1, 2018. The agencies anticipate that any amendments to the home equity interpretations would go into effect in March 2018 at the earliest, assuming that the amendments are approved by the Finance Commission and Credit Union Commission. Some stakeholders have requested interim guidance for the period between January 1 and the effective date of the amendments. Any interim guidance from the agencies would be informal in nature, and would not be an interpretation approved by the commissions. Do stakeholders believe that this interim guidance is necessary? If so, what issues should be addressed, and how should the agencies address these issues?

**Participating in Meeting**

Stakeholders are invited to attend the meeting in person at the Finance Commission Building. Stakeholders will also be able to listen to and participate in the meeting through an online webinar. If you are interested in listening or participating online, please follow the instructions available at the following link: <https://attendee.gotowebinar.com/register/7569242939984150787>

**Submission of Informal Precomments**

Informal precomments on the September 13 precomment draft of amendments, as well as the September 13 draft of Spanish disclosures, may be submitted in writing to Laurie Hobbs, Assistant General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207 or by e-mail to [laurie.hobbs@occc.texas.gov](mailto:laurie.hobbs@occc.texas.gov).

***Informal precomments must be received by 5:00 p.m. on September 28, 2017.***

**Joint Financial Regulatory Agencies**  
**Home Equity Interpretation Amendments Implementing SJR 60**  
**9/13/2017 Precomment Draft**

*Title 7, Texas Administrative Code*

*Chapter 153. Home Equity Lending*

*§153.1. Definitions.*

Any reference to Section 50 in this interpretation refers to Article XVI, Texas Constitution, unless otherwise noted. These words and terms have the following meanings when used in this chapter, unless the context indicates otherwise:

(1) - (14) (No change.)

(15) Two [~~Three~~] percent limitation--the limitation on fees in Section 50(a)(6)(E).

*§153.5. Two [~~Three~~] percent fee limitation: Section 50(a)(6)(E).*

An equity loan must not require the owner or the owner's spouse to pay, in addition to any interest or any bona fide discount points used to buy down the interest rate, any fees to any person that are necessary to originate, evaluate, maintain, record, insure, or service the extension of credit that exceed, in the aggregate, two [~~three~~] percent of the original principal amount of the extension of credit, excluding fees for an appraisal performed by a third party appraiser, a property survey performed by a state registered or licensed surveyor, a state base premium for a mortgagee policy of title insurance with endorsements established in accordance with state law, or a title examination report if its cost is less than the state base premium for a mortgagee policy of title insurance without endorsements established in accordance with state law.

(1) Optional Charges. Charges paid by an owner or an owner's spouse at their sole discretion are not fees subject to the two [~~three~~] percent [~~fee~~] limitation. Charges that are not imposed or required by the lender, but that are optional, are not fees subject to the two [~~three~~] percent limitation. The use of the word "require" in Section 50(a)(6)(E) means that optional charges are not fees subject to the two [~~three~~] percent limitation.

(2) Optional Insurance. Insurance coverage premiums paid by an owner or an owner's spouse that are at their sole discretion are not fees subject to the two [~~three~~] percent limitation. Examples of these charges may include credit life and credit accident and health insurance that are voluntarily purchased by the owner or the owner's spouse.

(3) Charges that are Interest. Charges an owner or an owner's spouse is required to pay that constitute interest under §153.1(11) of this title (relating to Definitions) are not fees subject to the two [~~three~~] percent limitation.

(A) Per diem interest is interest and is not subject to the two [~~three~~] percent limitation.

(B) Bona fide [~~Legitimate~~] discount points are interest and are not subject to the two [~~three~~] percent limitation. Discount points are bona fide [~~legitimate~~] if the discount points truly correspond to a reduced interest rate and are not necessary to originate, evaluate, maintain, record, insure, or service the equity loan. A lender may rely on an established system of verifiable procedures to evidence that the discount points it offers are bona fide [~~legitimate~~]. This system may include documentation of options that the owner is offered in the course of negotiation, including a contract rate without discount points and a lower contract rate based on discount points.

(4) Charges that are not Interest. Charges an owner or an owner's spouse is required to pay that are not interest under §153.1(11) of this title are fees subject to the two [~~three~~] percent limitation.

(5) Charges Absorbed by Lender. Charges a lender absorbs, and does not charge an owner or an owner's spouse that the owner or owner's spouse might otherwise be required to pay are unrestricted and not fees subject to the two [~~three~~] percent limitation.

(6) Charges to Originate. Charges an owner or an owner's spouse is required to pay to originate an equity loan that are not interest under §153.1(11) of this title are fees subject to the two [~~three~~] percent limitation.

(7) Charges Paid to Third Parties. Charges an owner or an owner's spouse is required to pay to third parties for separate and additional consideration for activities relating to originating an equity loan are fees subject to the two [~~three~~] percent limitation. Charges those third parties absorb, and do not charge an owner or an owner's spouse that the owner or owner's spouse might otherwise be required to pay are unrestricted and not fees subject to the two [~~three~~] percent limitation. Examples of these charges include attorneys' fees for document preparation and mortgage brokers' fees to the extent authorized by applicable law.

(8) Charges to Evaluate. Charges an owner or an owner's spouse is required to pay to evaluate the credit decision for an equity loan, that are not interest under §153.1(11) of this title, are fees subject to the two [~~three~~] percent limitation. Examples of these charges include fees collected to cover the expenses of a credit report, [~~survey,~~] flood zone determination, tax certificate, [~~title report,~~] inspection, or appraisal management services.

(9) Charges to Maintain. Charges paid by an owner or an owner's spouse to maintain an equity loan that are not interest under §153.1(11) of this title are fees subject to the two [~~three~~] percent limitation if the charges are paid at the inception of the loan, or if the charges are customarily paid at the inception of an equity loan but are deferred for later payment after closing.

(10) Charges to Record. Charges an owner or an owner's spouse is required to pay for the purpose of recording equity loan documents in the official public record by public officials are fees subject to the two [~~three~~] percent limitation.

(11) Charges to Insure an Equity Loan. Premiums an owner or an owner's spouse is required to pay to insure an equity loan are fees subject to the two [~~three~~] percent limitation.

Examples of these charges include title insurance and mortgage insurance protection, unless the premiums are otherwise excluded under paragraph (15) of this section.

(12) Charges to Service. Charges paid by an owner or an owner's spouse for a party to service an equity loan that are not interest under §153.1(11) of this title are fees subject to the two [three] percent limitation if the charges are paid at the inception of the loan, or if the charges are customarily paid at the inception of an equity loan but are deferred for later payment after closing.

(13) Exclusion for Appraisal Fee. A fee for an appraisal performed by a third party appraiser is not a fee subject to the two percent limitation. The appraisal must be performed by a person who is not an employee of the lender, and must comply with applicable law. The excludable appraisal fee is limited to the amount paid to the appraiser for the completion of the appraisal, and does not include a fee for appraisal management services under Texas Occupations Code, §1104.158(a)(2).

(14) Exclusion for Property Survey Fee. A fee for a property survey performed by a state registered or licensed surveyor is not a fee subject to the two percent limitation. The property survey must be performed by a person who is licensed or registered under Texas Occupations Code, Chapter 1071, and must comply with applicable law.

(15) Exclusion for Title Insurance Premium. A state base premium for a mortgagee policy of title insurance with endorsements established in accordance with state law is not a fee subject to the two percent limitation.

(A) The excludable premium is limited to the applicable basic premium rate for title insurance published by the Texas Department of Insurance, plus authorized premiums for applicable endorsements.

(B) Any mortgagee policy for the equity loan must be provided by a company authorized to do business in this state. Any premium or endorsement must comply with applicable law.

(C) If additional premiums for endorsements are charged, the endorsements must be applicable to the mortgagee policy for the equity loan. Rules adopted by the Texas Department of Insurance govern the applicability of endorsements and the authorized amount of the premium for each endorsement.

(16) Exclusion for Title Examination Report Fee. A fee for a title examination report is not a fee subject to the two percent limitation if its cost is less than the state base premium for a mortgagee policy of title insurance without endorsements established in accordance with state law.

(A) The excludable fee must be less than the applicable basic premium rate for title insurance published by the Texas Department of Insurance, not including any additional premiums for endorsements.

(B) The fee for a title examination report may not be excluded from the two percent limitation if the equity loan is covered by a mortgagee policy of title insurance.

(C) The fee must comply with applicable law. If the equity loan is a secondary mortgage loan under Texas Finance Code, Chapter 342, then the fee is limited to a reasonable fee for a title examination and preparation of an abstract of title by an attorney who is not an employee of the lender, or a title company or property search company authorized to do business in this state, as provided by Texas Finance Code, §342.308(a)(1).

(17) [(13)] Secondary Mortgage Loans. A lender making an equity loan that is a secondary mortgage loan under Texas Finance Code, Chapter 342 [~~of the Texas Finance Code~~] may charge only those fees permitted in Texas Finance Code, [TEX. FIN. CODE,] §§342.307, 342.308, and 342.502. A lender must comply with the provisions of Texas Finance Code, Chapter 342 [~~of the Texas Finance Code~~] and the constitutional restrictions on fees in connection with a secondary mortgage loan made under Texas Finance Code, Chapter 342 [~~of the Texas Finance Code~~].

(18) [(14)] Escrow Funds. A lender may provide escrow services for an equity loan. Because funds tendered by an owner or an owner's spouse into an escrow account remain the property of the owner or the owner's spouse those funds are not fees subject to the two [~~three~~] percent limitation. Examples of escrow funds include account funds collected to pay taxes, insurance premiums, maintenance fees, or homeowner's association assessments. A lender must not contract for a right of offset against escrow funds pursuant to Section 50(a)(6)(H).

(19) [(15)] Subsequent Events. The two [~~three~~] percent limitation pertains to fees paid or contracted for by an owner or owner's spouse at the inception or at the closing of an equity loan. On the date the equity loan is closed an owner or an owner's spouse may agree to perform certain promises during the term of the equity loan. Failure to perform an obligation of an equity loan may trigger the assessment of costs to the owner or owner's spouse. The assessment of costs is a subsequent event triggered by the failure of the owner's or owner's spouse to perform under the equity loan agreement and is not a fee subject to the two [~~three~~] percent limitation. Examples of subsequent event costs include contractually permitted charges for force-placed homeowner's insurance costs, returned check fees, debt collection costs, late fees, and costs associated with foreclosure.

(20) [(16)] Property Insurance Premiums. Premiums an owner or an owner's spouse is required to pay to purchase homeowner's insurance coverage are not fees subject to the two [~~three~~] percent limitation. Examples of property insurance premiums include fire and extended coverage insurance and flood insurance. Failure to maintain this insurance is generally a default provision of the equity loan agreement and not a condition of the extension of credit. The lender may collect and escrow premiums for this insurance and include the premium in the periodic payment amount or principal amount. If the lender sells insurance to the owner, the lender must comply with applicable law concerning the sale of insurance in connection with a mortgage loan.



*§153.14. One Year Prohibition: Section 50(a)(6)(M)(iii).*

An equity loan may not be closed before the first anniversary of the closing date of any other equity loan secured by the same homestead property.

(1) (No change.)

(2) Section 50(a)(6)(M)(iii) does not prohibit modification of an equity loan before one year has elapsed since the loan's closing date. A modification of a home equity loan occurs when one or more terms of an existing equity loan is modified, but the note is not satisfied and replaced. A home equity loan and a subsequent modification will be considered a single transaction. The home equity requirements of Section 50(a)(6) will be applied to the original loan and the subsequent modification as a single transaction.

(A) - (C) (No change.)

(D) The two percent limitation [~~3% fee cap~~] required by Section 50(a)(6)(E) applies to the original home equity loan and any subsequent modification as a single transaction.

*§153.17. Authorized Lenders: Section 50(a)(6)(P).*

An equity loan must be made by one of the following that has not been found by a federal regulatory agency to have engaged in the practice of refusing to make loans because the applicants for the loans reside or the property proposed to secure the loans is located in a certain area: a bank, savings and loan association, savings bank, or credit union doing business under the laws of this state or the United States, including a subsidiary of a bank, savings and loan association, savings bank, or credit union; a federally chartered lending instrumentality or a person approved as a mortgagee by the United States government to make federally insured loans; a person licensed to make regulated loans, as provided by statute of this state; a person who sold the homestead property to the current owner and who provided all or part of the financing for the purchase; a person who is related to the homestead owner within the second degree of affinity and consanguinity; or a person regulated by this state as a mortgage banker or mortgage company [~~broker~~].

(1) - (2) (No change.)

(3) A person who is licensed under Texas Finance Code, Chapter 156 is a person regulated by this state as a mortgage company [~~broker~~] for purposes of Section 50(a)(6)(P)(vi). A person who is registered under Texas Finance Code, Chapter 157 is a person regulated by this state as a mortgage banker for purposes of Section 50(a)(6)(P)(vi).

(4) (No change.)

*§153.45. Refinance of an Equity Loan: Section 50(f).*

A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of Section 50, may not be secured by a valid lien against

the homestead unless either the refinance of the debt is an extension of credit described by Subsection (a)(6) or (a)(7) of Section 50, or all of the conditions in Section 50(f)(2) are met.

(1) One Year Prohibition. To meet the condition in Section 50(f)(2)(A), the refinance may not be closed before the first anniversary of the closing date of the equity loan. For purposes of this section, the closing date of the refinance is the date on which the owner signs the loan agreement for the refinance.

(2) Advance of Additional Funds. To meet the condition in Section 50(f)(2)(B), the refinanced extension of credit may not include the advance of any additional funds other than funds advanced to refinance a debt described by Subsections (a)(1) through (a)(7) of Section 50, or actual costs and reserves required by the lender to refinance the debt.

(A) Actual costs must be identifiable, must be actually incurred, and must comply with applicable law.

(B) Reserves (e.g., an escrow account for taxes and insurance) must be actually required by the lender to refinance the debt, and must comply with applicable law.

(3) 80 Percent Limitation on Loan Amount. To meet the condition in Section 50(f)(2)(C), the refinance of the extension of credit must be of a principal amount that when added to the aggregate total of the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead does not exceed 80 percent of the fair market value of the homestead on the date the refinance of the extension of credit is made.

(A) The principal amount of the refinance is the sum of the amount advanced and any charges at the inception of the refinance, to the extent these charges are financed in the principal amount of the refinance.

(B) The principal balance of all outstanding debt secured by the homestead on the date the refinance is made determines the maximum principal amount of the refinance.

(C) The principal amount of the refinance does not include interest accrued after the date the refinance is made (other than any interest capitalized and added to the principal balance on the date the refinance is made), or other amounts advanced by the lender after closing as a result of default, including for example, ad valorem taxes, hazard insurance premiums, and authorized collection costs, including reasonable attorney's fees.

(4) Refinance Disclosure. To meet the condition in Section 50(f)(2)(D), the lender must provide the refinance disclosure described in Section 50(f)(2)(D) to the owner on a separate document not later than the third business day after the date the owner submits the loan application to the lender and at least 12 days before the date the refinance of the extension of credit is closed.

(A) Submission of a loan application to an agent acting on behalf of the lender is submission to the lender. A loan application may be given orally or electronically.

(B) For purposes of determining the earliest permitted closing date, the next succeeding calendar day after the date that the lender provides the owner a copy of the required refinance disclosure is the first day of the 12-day waiting period. The refinance may be closed at any time on or after the 12th calendar day after the lender provides the owner a copy of the required refinance disclosure.

(C) If a lender mails the refinance disclosure to the owner, the lender must allow a reasonable period of time for delivery. A period of three calendar days, not including Sundays and federal legal public holidays, constitutes a rebuttable presumption for sufficient mailing and delivery.

(D) The refinance disclosure is only a summary of the owner's rights, which are governed by the substantive terms of the constitution. The substantive requirements prevail regarding a lender's responsibilities in an equity loan or refinance. A lender may supplement the refinance disclosure to clarify any discrepancies or inconsistencies.

(E) A lender may rely on an established system of verifiable procedures to evidence compliance with this paragraph.

(F) A lender whose discussions with the borrower are conducted primarily in Spanish for a closed-end loan may rely on the translation of the refinance disclosure developed under the requirements of Texas Finance Code, §341.502. Such notice shall be made available to the public through publication on the Finance Commission's webpage.

*§153.84. Restrictions on Devices and Methods to Obtain a HELOC Advance: Section 50(t)(3).*

A HELOC is a form of an open-end account that may be debited from time to time, under which credit may be extended from time to time and under which an owner is prohibited from using a credit card, debit card, or similar device, or preprinted check unsolicited by the borrower to obtain a HELOC advance.

(1) A lender may offer one or more non-prohibited devices or methods for use by the owner to request an advance. Permissible methods include contacting the lender directly for an advance, telephonic fund transfers, and electronic fund transfers. Examples of devices that are not prohibited include prearranged drafts, preprinted checks requested by the borrower, or written transfer instructions. Regardless of the permissible method or device used to obtain a HELOC advance, the amount of the advance must comply with:

(A) the advance requirements in Section 50(t)(2); and

(B) the loan to value limits in Section 50(t)(5). ~~[-and]~~

~~[(C) the debit or advance limits in Section 50(t)(6).]~~

(2) - (3) (No change.)

*§153.86. Maximum Principal Amount Extended under a HELOC: Section 50(t)(5).*

A HELOC is a form of an open-end account that may be debited from time to time, under which credit may be extended from time to time and under which the maximum principal amount that may be extended under the account, when added to the aggregated total of the outstanding principal balances of all indebtedness secured by the homestead on the date the extension of credit is established, cannot exceed 80 percent of the fair market value of the homestead on the date the extension of credit is made.

(1) - (3) (No change.)

(4) For purposes of calculating the maximum principal balance [~~limits and thresholds~~] under Section 50(t)(5) [~~and (6)~~], the outstanding principal balance of all other debts secured by the homestead is the principal balance outstanding of all other debts secured by the homestead on the date of the closing of the HELOC.

*§153.87. Maximum Principal Amount of Additional Advances under a HELOC: Section 50(t)(6).*  
**{Section 153.87 will be repealed.}**

**Joint Financial Regulatory Agencies**  
**Spanish Translations of SJR 60 Home Equity Lending Disclosures**  
**9/13/2017 Draft to Stakeholders**

The Joint Financial Regulatory Agencies invite stakeholders to provide public comments on the following draft Spanish translations of home equity lending disclosures, based on SJR 60's amendments to Article XVI, Section 50 of the Texas Constitution. The following translations are drafts and may differ from final versions. Any final versions of the translations will be posted to the Finance Commission's website.

**Draft of amended translation for 12-day consumer disclosure under Section 50(g):**

**“AVISO SOBRE EL CRÉDITO QUE SE CONCEDE”**

DEFINIDO POR LA SECCIÓN 50(A) (6), ARTICULO XVI, CONSTITUCIÓN DE TEXAS:

“SECCIÓN 50(A) (6), ARTÍCULO XVI, DE LA CONSTITUCIÓN DE TEXAS PERMITE QUE CIERTOS PRÉSTAMOS SE PUEDAN GARANTIZAR POR EL VALOR LIQUIDO DE SU HOGAR. TALES PRÉSTAMOS GENERALMENTE SE CONOCEN COMO PRÉSTAMOS SOBRE VALOR LÍQUIDO. SI USTED NO PAGA EL PRÉSTAMO O SI USTED NO CUMPLE CON LAS CONDICIONES DEL PRÉSTAMO, EL PRESTAMISTA PUEDE EJECUTAR UN JUICIO HIPOTECARIO Y VENDER SU HOGAR. LA CONSTITUCIÓN DISPONE QUE:

“(A) EL PRÉSTAMO DEBE SER INICIADO VOLUNTARIAMENTE CON EL CONSENTIMIENTO DE CADA PROPIETARIO DE SU HOGAR, Y DE CADA CÓNYUGE DE CADA PROPIETARIO:

“(B) LA CANTIDAD DEL PRINCIPAL DEL PRÉSTAMO AL HACERSE EL PRÉSTAMO NO DEBE EXCEDER UNA CANTIDAD QUE, AGREGÁNDOSE AL BALANCE DEL PRINCIPAL DE TODOS LOS OTROS EMBARGOS SOBRE SU HOGAR, SEA MÁS DEL 80 POR CIENTO DEL VALOR JUSTO DE VENTA DE SU HOGAR;

“(C) EL PRÉSTAMO DEBE SER SIN REMEDIO DE RESPONSABILIDAD PERSONAL CONTRA USTED Y SU CÓNYUGE A NO SER QUE USTED O SU CÓNYUGE CONSIGUIÓ QUE SE LE CONCEDIERA EL CRÉDITO POR FRAUDE;

“(D) EL DERECHO PRENDARIO (LIEN) QUE GARANTIZA EL PRÉSTAMO SE PUEDE EJECUTAR SOLO CON ORDEN JUDICIAL;

“(E) LOS HONORARIOS Y EL COSTO DE HACER EL PRÉSTAMO NO DEBEN EXCEDER EL 2 [3] POR CIENTO DE LA CANTIDAD DEL PRÉSTAMO, EXCEPTO CUANDO SEA UN CARGO O COSTO POR UNA TASACIÓN EFECTUADA POR UN TASADOR DE TERCEROS, UNA ENCUESTA DE PROPIEDAD REALIZADA POR UN TOPÓGRAFO REGISTRADO O LICENCIADO POR EL ESTADO, UNA PRIMA DE BASE ESTATAL PARA UNA POLIZA HIPOTECARIA DEL SEGURO DE TÍTULO CON

ENDOSOS A BENEFICIO DEL ACREEDOR HIPOTECARIO, O UN INFORME DE EXAMEN DE TÍTULO;

“(F) EL PRÉSTAMO NO DEBE SER CUENTA ABIERTA EN LA CUAL SE PUEDE CARGAR DE VEZ EN CUANDO O EN LA CUAL SE PUEDE EXTENDER CRÉDITO DE VEZ EN CUANDO; A MENOS QUE SEA UNA LÍNEA DE CRÉDITO SOBRE EL VALOR LÍQUIDO.

“(G) PUEDE USTED PAGAR EL PRÉSTAMO ANTES DE SU VENCIMIENTO SIN CARGOS (MULTAS) NI COSTO;

“(H) NO DEBE HABER SEGURIDAD COLATERAL ADICIONAL PARA EL PRÉSTAMO;

“(I) ~~(revocado) [EL PRÉSTAMO NO DEBE GARANTIZARSE CON EL HOGAR SEGURO EN PROPIEDAD DESIGNADO POR EL USO AGRÍCOLA EN LA FECHA DE CIERRE, A NO SER QUE EL HOGAR SEGURO EN PROPIEDAD AGRÍCOLA, SE USA PRINCIPALMENTE EN LA PRODUCCIÓN DE LECHE];~~

“(J) NO ES REQUISIDO QUE USTED PAGUE EL PRÉSTAMO ANTES DE LA FECHA DE VENCIMIENTO ACORDADA, SIMPLEMENTE PORQUE EL VALOR JUSTO DE MERCADO DE SU HOGAR HA DECAÍDO O PORQUE USTED ESTÁ EN INCUMPLIMIENTO DE OTRO PRÉSTAMO QUE NO ESTÁ GARANTIZADO POR SU HOGAR;

“(K) DE ACUERDO CON LA SECCIÓN 50(A)(6), ARTÍCULO XVI DE LA CONSTITUCIÓN DE TEXAS SU HOGAR SE PUEDE USAR COMO GARANTÍA SOLO EN UN PRÉSTAMO A LA VEZ;

“(L) EL PRÉSTAMO DEBE ESTAR PREVISTO PARA PAGARSE EN PAGOS QUE EQUIVALEN AL INTERÉS O QUE EXCEDEN LA CANTIDAD DE INTERÉS ACUMULADO EN CADA PERÍODO DE PAGO;

“(M) LA CONCLUSIÓN DEL TRÁMITE DEL PRÉSTAMO NO PUEDE SER ANTES DE HABERSE CUMPLIDO 12 DÍAS DE CUANDO USTED SOMETE LA SOLICITUD PRESTAMISTA O ANTES DE HABERSE CUMPLIDO 12 DÍAS DESPUÉS DE HABER RECIBIDO USTED ESTE AVISO, DEPENDIENDO DE CUAL FECHA SEA DESPUÉS; Y NO SE PUEDE CONCLUIR TRÁMITES DEL PRÉSTAMO SIN SU PERMISO ANTES DE HABERSE CUMPLIDO UN DÍA DE NEGOCIO DEPUÉS DE LA FECHA CUANDO SE RECIBE UNA COPIA DE LA SOLICITUD DE PRÉSTAMO, SI NO ERA RECIBIDO ANTES Y UNA DIVULGACIÓN DETALLADA Y FINAL DE LAS CUOTAS ACTUALES, PUNTOS DE DESCUENTO, INTERÉS, COSTOS, Y CARGAS DE CIERRE; Y SI SU HOGAR SE USA PARA GARANTIZAR EL MISMO TIPO DE PRÉSTAMO EN EL ÚLTIMO AÑO, NO SE PUEDE CONCLUIR TRÁMITES DE UN PRÉSTAMO NUEVO GARANTIZADO POR LA MISMA PROPIEDAD ANTES DE HABER PASADO UN AÑO DE LA FECHA DE CONCLUSIÓN DE TRÁMITES DEL OTRO PRÉSTAMO, A AUNQUE SE PIDE BAJO JURAMENTO UN CONCLUSIÓN DEL TRÁMITE TEMPRANO DEBIDO DE UN ESTADO DE EMERGENCIA DECLARADO;

“(N) LA CONCLUSIÓN DE TRÁMITES DEL PRÉSTAMO SOLO DEBE HACERSE EN EL DESPACHO DEL PRESTAMISTA, EN LA COMPAÑÍA DE TÍTULOS, O EN EL DESPACHO DE ALGÚN ABOGADO;

“(O) EL PRESTAMISTA PUEDE COBRAR CUALQUIER ÍNDICE DE INTERÉS FIJO O VARIABLE AUTORIZADO POR LOS ESTATUTOS;

“(P) SOLO UN PRESTAMISTA LEGALMENTE AUTORIZADO PUEDE HACER PRESTAMOS DE ACUERDO CON LA SECCIÓN 50(A) (6), ARTÍCULO XVI, DE LA CONSTITUCIÓN DE TEXAS;

“(Q) PRÉSTAMOS INDICADOS EN LA SECCIÓN 50(A) (6), ARTÍCULO XVI, DE LA CONSTITUCIÓN DE TEXAS DEBEN:

“(1) NO REQUERIR QUE USTED USE EL DINERO DEL PRÉSTAMO PARA OTRA DEUDA EXCEPTO UNA DEUDA QUE ESTÉ GARANTIZADA POR SU HOGAR O QUE LE DEBA A OTRO PRESTAMISTA;

“(2) NO REQUERIR QUE USTED CEDA SU SALARIO COMO GARANTÍA;

“(3) NO REQUERIR QUE USTED EJECUTE DOCUMENTOS QUE TENGAN ESPACIOS EN BLANCO PARA LOS TÉRMINOS DE ACUERDO SUBSTANTIVOS PARA QUE OTROS LOS LLENEN;

“(4) NO REQUERIR QUE USTED FIRME UNA ADMISIÓN DE SENTENCIA O PODER A OTRA PERSONA PARA QUE ESA PERSONA HAGA LA ADMISIÓN DE SENTENCIA O PARA QUE SE PRESENTE EN ALGÚN PROCESO LEGAL EN SU NOMBRE;

“(5) DISPONER QUE USTED RECIBA COPIA DE LA SOLICITUD FINAL Y TODOS LOS DOCUMENTOS EJECUTIDOS QUE FIRME AL CONCLUIR EL TRÁMITE;

“(6) DISPONER QUE LOS DOCUMENTOS DE GARANTÍA INCLUYAN LA DECLARACIÓN QUE ESTE PRÉSTAMO ES PRÉSTAMO DEFINIDO POR LA SECCIÓN 50(A) (6), ARTÍCULO XVI, DE LA CONSTITUCIÓN DE TEXAS;

“(7) DISPONER QUE CUANDO EL PRÉSTAMO SE PAGUE TOTALMENTE, EL PRESTAMISTA FIRMARÁ Y LE DARÁ LA LIBERACIÓN DEL DERECHO PRENDARIO O LA CESIÓN DEL DERECHO PRENDARIO, CUALQUIERA DE LOS DOS QUE SEA APROPIADO AL CASO;

“(8) DISPONER QUE USTED PUEDA, DURANTE EL PLAZO DE 3 DÍAS DESPUÉS DE CONCLUIR EL TRÁMITE, DESHACER EL PRÉSTAMO SIN PAGAR CARGOS (MULTAS) NI COSTO ALGUNO;

“(9) DISPONER QUE USTED Y EL PRESTAMISTA RECONOCEN EL VALOR JUSTO DE MERCADO DE SU HOGAR EN LA FECHA DE CONCLUIR EL TRÁMITE DEL PRÉSTAMO;

“(10) DISPONER QUE EL PRESTAMISTA PERDERÁ TODO PRINCIPAL E INTERÉS SI EL PRESTAMISTA NO CUMPLE CON SUS OBLICACIONES SALVO QUE EL PRESTAMISTA CORRIJE SU INCUMPLIMIENTO SEGÚN LO DISPUESTO EN LA SECCIÓN 50(A) (6) (Q) (X), ARTÍCULO XVI, DE LA CONSTITUCIÓN DE TEXAS; Y

“(R) SI EL PRÉSTAMO ES UNA LÍNEA DE CRÉDITO SOBRE EL VALOR LIQUIDO:

“(1) PODRÁ SOLICITAR ADELANTOS, LIQUIDAR DEUDA O VOLVER A PEDIR CRÉDITO DE CONFORMIDAD CON LA LÍNEA DE CRÉDITO;

“(2) CADA ADELANTO DE ACUERDO CON LA LÍNEA DE CRÉDITO NO PODRÁ SER INFERIOR A UN MONTO DE \$4,000;

“(3) NO PODRÁ UTILIZAR UNA TARJETA DE CRÉDITO, TARJETA DE DÉBITO NI NINGÚN OTRO MÉTODO SIMILAR, O UN CHEQUE PREGRABADO QUE NO SE SOLÍCITA, PARA OBTENER ADELANTOS EN VIRTUD DE LA LÍNEA DE CRÉDITO;

“(4) EL PRESTAMISTA SÓLO PODRÁ CARGAR Y COBRAR CUOTAS EN EL MOMENTO EN QUE SE CONCEDA LA LÍNEA DE CRÉDITO Y NO PODRÁ IMPONER CUOTA ALGUNA EN RELACIÓN CON NINGÚN ADELANTO;

“(5) EL PRINCIPAL MÁXIMO QUE PUEDE CONCEDERSE, UNA VEZ SUMADO AL RESTO DE DEUDAS AVALADAS POR SU HOGAR, NO PODRÁ SOBREPASAR EL 80 POR CIENTO DEL VALOR EN EL MERCADO DE SU HOGAR EN LA FECHA DE CONCESIÓN DE LA LÍNEA DE CRÉDITO;

“(6) SI EL MONTO DEL PRINCIPAL DE LA LÍNEA DE CRÉDITO SOBREPASA, EN CUALQUIER MOMENTO, EL 80 [~~50~~] POR CIENTO DEL VALOR EN EL MERCADO DE SU HOGAR EN LA FECHA DE LA CONCESIÓN DE LA LÍNEA DE CRÉDITO, NO PODRÁ CONTINUAR SOLICITANDO ADELANTOS DE LA LÍNEA DE CRÉDITO HASTA QUE DICHO MONTO SEA INFERIOR AL 80 [~~50~~] POR CIENTO DEL VALOR DE MERCADO DE SU HOGAR; Y

“(7) EL PRESTAMISTA NO PODRÁ MODIFICAR DE UNILATERALMENTE LAS CONDICIONES DE LA LÍNEA DE CRÉDITO.

“ESTE ES SÓLO UN RESUMEN DE LOS DERECHOS QUE LE ASISTEN SEGÚN LA CONSTITUCIÓN DEL ESTADO DE TEXAS. SUS DERECHOS SE RIGEN POR LA SECCIÓN 50, ARTÍCULO XVI, DE LA CONSTITUCIÓN DEL ESTADO DE TEXAS Y NO POR ESTE AVISO.”



**Draft of new translation for refinance disclosure under Section 50(f)(2)(D):**

“SU PRÉSTAMO EXISTENTE QUE USTED DESEA REFINANCIAR ES UN PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA. USTED QUIZAS TENGA LA OPCIÓN DE REFINANCIAR SU PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA COMO UN PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA O UN PRÉSTAMO QUE NO-SEA SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA, SI ES OFRECIDO POR SU PRESTAMISTA.

“PRÉSTAMOS SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA TIENEN PROTECCIONES IMPORTANTES PARA EL CONSUMIDOR. UN PRESTAMISTA QUIZAS PUEDA HACER UNA EJECUCION HIPOTECARIA DE SU PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA BASADO SOBRE UNA ORDEN DE LA CORTE. UN PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA DEBE SER SIN REMEDIO DE RESPONSABILIDAD PERSONAL CONTRA USTED Y SU CÓNYUGE.

“SI USTED APLICO PARA REFINANCIAR SU PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA A UN PRÉSTAMO QUE NO-SEA SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA, USTED PERDERÁ CIERTAS PROTECCIONES AL CONSUMIDOR. UN PRÉSTAMO QUE NO-SEA SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA:

“(1) LE PERMITIRÁ AL PRESTAMISTA HACER LA EJECUCIÓN DE HIPOTECA SIN UNA ORDEN DE LA CORTE;

“(2) SERA CON REMEDIO DE RESPONSABILIDAD PERSONAL CONTRA USTED Y SU CÓNYUGE; Y

“(3) PUEDE TAMBIÉN INCLUIR OTROS TÉRMINOS Y CONDICIONES QUE QUIZAS NO SEAN PERMITIDOS EN UN PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA.

“ANTES DE REFINANCIAR SU PRÉSTAMO EXISTENTE SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA PARA HACERLO UN PRÉSTAMO QUE NO-SEA SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA, USTED DEBE ASEGURARSE DE QUE ENTIENDE QUE USTED ESTA RENUNCIANDO A LAS PROTECCIONES IMPORTANTES PROPORCIONADAS BAJO LA LEY A PRÉSTAMOS SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA Y DEBA CONSIDERAR CONSULTAR CON UN ABOGADO DE SU ELECCIÓN REFERENTE A ESTAS PROTECCIONES.

“USTED QUIZAS QUIERA PEDIRLE AL PRESTAMISTA QUE REFINANCIE SU PRÉSTAMO COMO UN PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA. PERO, UN PRÉSTAMO SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA QUIZAS TENGA UNA TASA DE INTERÉS MAYOR Y COSTOS DE CIERRE QUE UN PRÉSTAMO QUE NO-SEA SOBRE EL VALOR LÍQUIDO DE LA VIVIENDA.”