records of an office of constable declared dormant are transferred to the county clerk of the county. The commissioners court may reinstate an office of constable declared dormant by vote of the commissioners court or by calling an election in the precinct to reinstate the office. The commissioners court shall call an election to reinstate the office if the commissioners court receives a petition signed by at least 10 percent of the qualified voters of the precinct. If an election is called under this subsection, the commissioners court shall order the ballot for the election to be printed to permit voting for or against the proposition: "Reinstating the office of Constable of Precinct No. ____ that was previously declared dormant." The office of constable is reinstated if a majority of the voters of the precinct voting on the question at the election approve the reinstatement.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2002. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the commissioners court of a county to declare the office of constable in a precinct to be dormant if the office has not been filled by election or appointment for a lengthy period and providing a procedure for the reinstatement of the office."

Passed by the House on April 30, 2001, by the following vote: Yeas 135, Nays 9, 2 present, not voting; passed by the Senate on May 18, 2001, by the following vote: Yeas 30, Nays 0, 1 present, not voting.

Filed with the Secretary of State May 21, 2001.

H.J.R. No. 5

A JOINT RESOLUTION
proposing a constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property protected from a forced sale.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Section 50(a), Article XVI, Texas Constitution, is amended to read as follows:

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

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

(2) the taxes due thereon;

(3) an owelty of partition imposed against the entirety of the property by a court order or by a written agreement of the parties to the partition, including a debt of one spouse in favor of the other spouse resulting from a division or an award of a family homestead in a divorce proceeding;

(4) the refinance of a lien against a homestead, including a federal tax lien resulting from the tax debt of both spouses, if the homestead is a family homestead, or from the tax debt of the owner;
(5) work and material used in constructing new improvements thereon, if contracted for in writing, or work and material used to repair or renovate existing improvements thereon if:

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

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

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

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

(6) an extension of credit that:

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

(B) is 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 extension of credit is made;

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

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

(E) does not require the owner or the owner's spouse to pay, in addition to any interest, fees to any person that are necessary to originate, evaluate, maintain, record, insure, or service the extension of credit that exceed, in the aggregate, three percent of the original principal amount of the extension of credit;

(F) is not a form of open-end account that may be debited from time to time or under which credit may be extended from time to time;

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

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

(I) is not secured by homestead property designated for agricultural use as provided by statutes governing property tax, unless such homestead property is used primarily for the production of milk;
PROPOSED CONSTITUTIONAL AMENDMENTS

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

(K) is the only debt secured by the homestead at the time the extension of credit is made unless the other debt was made for a purpose described by Subsections (a)(1)-(a)(5) of this section;

(L) is scheduled to be repaid in substantially equal successive monthly installments beginning no later than two months from the date the extension of credit is made, each of which equals or exceeds the amount of accrued interest as of the date of the scheduled installment;

(M) is closed not before:

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

(ii) the first anniversary of the closing date of any other extension of credit described by Subsection (a)(6) of this section secured by the same homestead property;

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

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

(P) is 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:

(i) a bank, savings and loan association, savings bank, or credit union doing business under the laws of this state or the United States;

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

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

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

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

(Q) is made on the condition that:

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

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

(iii) the owner of the homestead not sign any instrument in which blanks are left to be filled in;

(iv) the owner of the homestead not sign a confession of judgment or power of attorney to the lender or to a third person to confess judgment or to appear for the owner in a judicial proceeding;
(v) the lender, at the time the extension of credit is made, provide the owner of the homestead a copy of all documents signed by the owner related to the extension of credit;

(vi) the security instruments securing the extension of credit contain a disclosure that the extension of credit is the type of credit defined by Section 50(a)(6), Article XVI, Texas Constitution;

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

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

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

(x) the lender or any holder of the note for the extension of credit shall forfeit all principal and interest of the extension of credit if the lender or holder fails to comply with the lender's or holder's obligations under the extension of credit within a reasonable time after the lender or holder is notified by the borrower of the lender's failure to comply; [or]

(7) a reverse mortgage; or

(8) the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property, including the refinance of the purchase price of the manufactured home, the cost of installing the manufactured home on the real property, and the refinance of the purchase price of the real property.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001:

(1) prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property; and

(2) including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property subject to a forced sale.

(b) The constitutional amendment takes effect January 1, 2002.

(c) This temporary provision expires January 2, 2002.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2001. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property protected from a forced sale."

Passed by the House on April 23, 2001, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.J.R. No. 5 on May 25, 2001, by the following vote: Yeas 112, Nays 0, 1 present,
A JOINT RESOLUTION
proposing a constitutional amendment authorizing the legislature to authorize taxing units other than school districts to exempt certain travel trailers from ad valorem taxation.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Section 1, Article VIII, Texas Constitution, is amended by amending Subsection (d) and adding Subsections (j) and (j-l) to read as follows:

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. The Legislature by general law may exempt from ad valorem taxation:

(1) all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt;

(2) subject to Subsections (e), [and] (g), and (j) of this section, all other tangible personal property, except structures which are personal property and are used or occupied as residential dwellings and except property held or used for the production of income; and

(3) subject to Subsection (e) of this section, a leased motor vehicle that is not held primarily for the production of income by the lessee and that otherwise qualifies under general law for exemption.

(j) The Legislature by general law may authorize a taxing unit, other than a school district, to exempt from ad valorem taxation by the taxing unit, a travel trailer, as defined by the Legislature, regardless of whether the travel trailer is real or personal property, that:

(1) on January 1 of the applicable tax year is registered in this state in compliance with the laws of this state relating to the registration of vehicles; and

(2) is not held or used for the production of income.

(j-l) Subsection (j) of this section and this subsection take effect January 1, 2002. This subsection expires January 1, 2004.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2001. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to authorize the legislature to authorize taxing units other than school districts to exempt from ad valorem taxation travel trailers that are not held or used for the production of income."

Passed by the House on May 9, 2001, by the following vote: Yeas 135, Nays 7, 2 present, not voting; passed by the Senate on May 22, 2001, by the following vote: Yeas 26, Nays 4, 1 present, not voting.

Filed with the Secretary of State May 24, 2001.