

BILL ANALYSIS

Senate Research Center

S.J.R. 13
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DIGEST

Currently, Texas law protects a homestead from forced sale for the payment of debts, with exceptions. S.J.R. 13 proposes a constitutional amendment authorizing a voluntary, consensual encumbrance on homestead property for the purpose of an equity loan.

PURPOSE

As proposed, S.J.R. 13 requires the submission to the voters of a constitutional amendment to authorize a voluntary consensual encumbrance on homestead property for the purpose of an equity loan.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 50, Article XVI, Texas Constitution, as follows:

Sec. 50. (a) Requires the homestead of a family or of a single adult to be protected from forced sale, for the payment of all debts, with exceptions. Makes conforming and nonsubstantive changes.

(b) Prohibits an owner of the property from selling or abandoning the homestead without consent of each owner and the spouse of each owner. Makes nonsubstantive changes.

(c) Provides that a mortgage, trust deed, or other lien on the homestead is invalid unless it secures a debt described by this section. Makes a nonsubstantive change.

(d) Makes no changes.

(e) Provides that at the time the borrower first requests a lender to make an equity loan, the lender of an equity loan is required to provide a written notice to the borrower. Sets forth the required format and content of the notice.

(f) Sets forth the requirements of a lender or any holder of an equity loan.

(g) Prohibits a lender or any holder of an equity loan from performing certain actions.

(h) Authorizes any owner and the spouse of any owner of the homestead property securing an equity loan, within five days after the lender closes the equity loan, to rescind the equity loan without penalty.

(i) Authorizes an equity loan to close only at an office of the lender, a title company, or an attorney licensed to practice law in this state.

(j) Sets forth the instances in which the lender or holder of an equity loan is required to forfeit all principal and interest of the equity loan and pay attorney fees set by the court.

(k) Defines "equity loan."

(l) Defines "reverse mortgage."

(m) Defines "family."

(n) Defines "closing."

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

TEMPORARY PROVISION. (a) Provides that this temporary provision applies to the constitutional amendment proposed by the 75th Legislature, Regular Session, 1997, authorizing a voluntary, consensual encumbrance on homestead property.

(b) Provides that the constitutional amendment takes effect May 1, 1998.

(c) Provides that this temporary provision takes effect on the adoption of the amendment by the voters and expires May 2, 1998.

SECTION 3. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 4, 1997. Sets forth the required language for the ballot.