

BILL ANALYSIS

Senate Research Center
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C.S.H.J.R. 72
By: Solomons (Carona)
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Due to a recent lawsuit, *ACORN et al. v. Finance Commission of Texas et al.*, the Texas Finance Commission and the Credit Union Department asked the legislature to clarify the home equity loan provisions in the Texas Constitution. Also, in response to the financial ramifications of hurricanes Rita and Katrina, homeowners need access to the equity in their property in the event of a natural disaster.

C.S.H.J.R. 72 proposes a constitutional amendment regarding the home equity provisions in Section 50, Article XVI of the Texas Constitution to address these issues.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 50(a), (g), and (t), Article XVI, Texas Constitution, as follows:

(a) Provides that the homestead of a family, or of a single adult person, is required to be, and is hereby protected from forced sale, for the payment of all debts except for an extension of credit that is not secured by homestead property that on the date of closing is designated for agricultural use as provided by statutes governing property tax, unless such homestead property is used primarily for the production of milk; is closed not before the 12th day after the later of the date that the owner of the homestead submits a loan application, rather than 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, one business day after the date that the owner of the homestead receives a copy of the loan application if not previously provided and a final itemized disclosure of the actual fees, points, interest, costs, and charges that will be charged at closing, and 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, except a refinance described by Paragraph (Q)(x)(f) of this subdivision, unless the owner on oath requests an earlier closing due to a state of emergency that has been declared by the president of the United States or the governor as provided by law, and applies to the area where the homestead is located; it is made on the condition that the owner of the homestead not sign any instrument in which blanks relating to substantive terms of agreement are left to be filled in; it is made on the condition that, at the time the extension of credit is made, the owner of the homestead is required to receive a copy of the final loan application and all executed documents signed by the owner at closing related to the extension of credit.

(g) Makes conforming changes to the notice required to be supplied to a homeowner by a lender.

(t) Provides that a home equity line of credit 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 owner does not use a preprinted check unsolicited by the borrower, to obtain an advance. Deletes existing text providing that a home equity line of credit 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 owner does not use a preprinted solicitation check to obtain an advance.

SECTION 2. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 6, 2007. Sets forth the required language for the ballot.