

Texans May End 150-Year Ban On Home Equity Loans

A bill passed in this session of the Texas Legislature could end this state's 150-year-old constitutional ban on home equity loans.

In fact, voters in Texas will have the opportunity to vote this November on whether they wish to have the ability to acquire a loan using the value of their homesteads as collateral. Currently, Texas is the only state that still does not allow these loans.

The Legislation that passed, HJR 31, filed by Rep. Pete Patterson (D-Brookston), is still considered to be conservative by many in the banking community in that it contains many safeguards for homeowners. For example, a homeowner would only be able to borrow up to 80 percent of the fair market value of the home. Should a foreclosure become necessary, the case would be reviewed by a state judge and a court order issued before the actual foreclosure could take place, protecting homeowners from non-judicial foreclosure, currently available to the lender with 21 days written notice.

Another safeguard in favor of the borrower is that, if a deficiency exists between the amount of the loan and the sale price of the homestead at foreclosure, the lender may not hold the borrower personally liable for the balance. Home equity loans would not be extended to agricultural homesteads, except for dairy farms.

However, the loans could be used for any purpose except securing credit card debt. Prior to this legislation, home equity loans could not only be extended to borrowers for home improvement and payment of taxes. (Reverse mortgages also could become available for homeowners over 55 years of age.)

A home equity loan can be paid off in advance without penalty. Repayment may not be accelerated because of a decrease in the market value of the home, nor can the repayment be accelerated because of the borrower's default against other debt not secured by the homestead.

This legislation is a boon for the banking community, as well as for citizens of Texas who have wanted the option of home equity loans for such purposes as financing a college education or payment of medical bills.