

SUBJECT: Allowing use of a reverse mortgage to refinance a home equity loan

COMMITTEE: Financial Institutions — favorable, without amendment

VOTE: 5 ayes — Solomons, Christian, Flynn, Hopson, Paxton

0 nays

2 absent — Gutierrez, Wise

WITNESSES: For — Scott Norman, Texas Reverse Mortgage Lenders; Bill Stinson, Texas Association of Realtors; *(Registered, but did not testify:)* Mindy Carr, Texas Land Title Association; Dan Donohoe, Bank One Corp.; Karen Neeley, Independent Bankers Association of Texas; Kelly Rodgers, Texas Conference for Homeowners Rights

Against — None

On — Leslie Pettijohn, Consumer Credit Commissioner's Office

BACKGROUND: In 1997, Texas voters approved Proposition 8 (HJR 31 by Patterson), amending Texas Constitution, Art. 16, sec. 50 to allow homeowners to obtain loans and other extensions of credit based on the equity of a residence homestead. Equity is the difference between a home's market value and what is owed on the home.

Most home equity loans are paid in a lump sum, and loan repayments begin immediately. If a homeowner fails to make a monthly installment, the lender may foreclose.

Reverse mortgage loans, authorized by Art. 16, sec. 50, are fundamentally different from other home equity loans. Only homeowners who are or whose spouses are at least 62 years old may obtain reverse mortgages. The borrower receives loan advances based on the equity in the borrower's homestead. However, repayments do not begin until the homeowner no longer occupies the property or transfers it to another owner. At that time, the home often is sold and the proceeds are used to pay off the loan. Any money remaining after

the reverse mortgage is paid goes to the borrowers or their heirs. If the home is transferred to heirs, the loan balance is due at the time of transfer, regardless of whether the borrower still lives there. If the loan balance exceeds the value of the house, the estate or heirs are responsible only for the value of the home. The Federal Housing Administration insures the lender for any additional amounts.

In 1999, voters approved Proposition 2 (SJR 12 by Carona), specifying additional requirements for reverse mortgages. The first federally backed reverse mortgages were offered in Texas in early 2001.

Under Art. 16, sec. 50(f), a home equity loan may be refinanced only with another home equity loan.

DIGEST: HJR 23 would amend Art. 16, sec. 50(f) to allow the refinancing of a home equity loan with a reverse mortgage loan.

The proposed constitutional amendment would be presented to voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: "The constitutional amendment permitting refinancing of a home equity loan with a reverse mortgage. "

SUPPORTERS SAY: HJR 23 would enable consumers to refinance home equity loans with reverse mortgages, a practice that the Constitution prohibits only as an unintended consequence of previous amendments. Between 1997 and 2001, many of the homeowners who took out home equity loans would have preferred to use reverse mortgages. Now that reverse mortgages are available, some of these homeowners would like to refinance their home equity loans as reverse mortgages.

Adding this refinancing option would benefit senior homeowners in particular. Volatile financial markets have caused the investment income of many retirees to shrink, making it difficult for them to continue monthly payments on home equity loans. Paying off a home equity loan with a reverse mortgage would decrease their monthly financial obligations and would enable them to receive a monthly income from the lender.

Reverse mortgages require as many if not more consumer protections as home equity loans, so this policy change would not make consumers more vulnerable. HJR 23 would not require the use of reverse mortgages to finance home equity loans but would give consumers the choice to do so.

Current law puts no restrictions on how homeowners may use the proceeds from a reverse mortgage, except that they cannot refinance a home equity loan. They can pay off credit card debt or other loans, but not home equity loans. There is no real justification for this distinction, and HJR 23 would end it, allowing older homeowners more freedom to use what in most cases is their most valuable asset.

**OPPONENTS
SAY:**

Reverse mortgage fees are high relative to their benefit. To the extent that HJR 23 would increase the issuance of reverse mortgages, more Texans may be getting less for their equity.

NOTES:

The companion resolution, SJR 7 by Carona, has been referred to the Senate Business and Commerce Committee.

The Legislative Budget Board anticipates no fiscal implication to the state from HJR 61 other than an estimated cost of \$85,275 for the required publication of the resolution before the election.

The two joint resolutions adopted by the House thus far this session — HJR 4 by Nixon, authorizing caps on non-economic damages, and HJR 12 by Chisum, repealing the ad valorem tax exemption for travel trailers — would be submitted to the voters on September 13, 2003. The only joint resolution adopted by the Senate thus far this session — SJR 22 by Harris, allowing the Legislature to allow certain commercial loans above the interest rate cap — would be submitted to the voters on November 4, 2003.