Home Equity Amendments: Servicing Perspective

Presented at the 52nd Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute

Texas Proposition 2

- The Home Equity Loan Amendment was on the ballot in Texas as a legislatively referred constitutional amendment on November 7, 2017
- Overwhelmingly passed by Texas Voters with 68.65% voting yes

Text of Proposition 2

- "The constitutional amendment to establish a lower amount for expenses that can be charged to a borrower and removing certain financing expense limitations for a home equity loan, establishing certain authorized lenders to make a home equity loan, changing certain options for the refinancing of home equity loans, changing the threshold for an advance of a home equity line of credit, and allowing home equity loans on agricultural homesteads."

Fee Cap

- Proposition 2 lowered the cap on fees to receive a home equity loan from 3 percent to 2 percent of the original principal amount of the loan. However, the measure excludes from the cap fees related to appraisal, property survey, title insurance premiums, and title examination
- Prior to Proposition 2, the Texas Constitution was silent on what constitutes fees at origination of the loan

Section 50(a)(6)(E), Article XVI, Texas Constitution

- Does not require the owner or the owner's spouse to pay, in addition to any interest or any bona fide discount points used to buy down the interest rate, any fees to any person that are necessary to originate, evaluate, maintain, record, insure, or service the extension of credit that exceed, in the aggregate, two percent of the original principal amount of the extension of credit, excluding fees:

Section 50(a)(6)(E), Article XVI, Texas Constitution (cont.)

- (i) an appraisal performed by a third party appraiser;
- (ii) a property survey performed by a state registered or licensed surveyor;
- (iii) a state base premium for a mortgagee policy for title insurance with endorsements established in accordance with state law; or
- (iv) a title examination report if its costs is less than the state base premium for a mortgagee policy of title insurance without endorsements established in accordance with state law

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