

# Changes to Home Equity Lending 2017

---

Thomas F. Vettters II  
*Attorney*

## Topics of Discussion

- Brief Home Equity History
- S.J.R. 60
  1. Amends ~~3%~~ Fee Cap to 2%
  2. Adds: Rate-term refinance of home equity option
    - ✓ New disclosure required.
    - ✓ New Affidavit available to confirm compliance.
  3. Eliminates the 50% LTV cap on HELOC advances
  4. Eliminates the Agricultural homestead restriction
- Revises 12-Day Disclosure
- Adds: Certain subsidiaries as authorized lenders

## Topics of Discussion (cont.)

- Appraisals vs. Evaluations
- Living Trusts
- Modifications
- Statutes of Limitation
- Cures
- Powers of Attorney
- Go Vote!

## Brief Home Equity History

- **1997** – Constitutional amendments authorize Home Equity lending in Texas.
- **2003** – Constitutional amendments authorize state agencies to issue Home equity interpretations.
- **2004** – Interpretations issued & Lawsuit Filed
- **2013** - Texas Supreme Court issues opinion in *Norwood*
- **2014** - Texas Supreme Court issues opinion in *Sims*
- **2016** – Texas Supreme Court issues opinions in *Wood* and *Garofolo*.
- **2017** – Proposition 2 before voters November 7, 2017.



# Senate Joint Resolution 60

## Two Percent Fee Cap

- ~~3%~~ to 2%
- Excludes certain fees included in the 2% fee cap:
  - Appraisals (prepared by 3<sup>rd</sup> parties)
  - Surveys (must be state licensed or registered)
  - Title Insurance & Endorsements
  - Title Examination Report (if less than Title Insurance)

Loan Amount \$35,000

Current 3% Fee Cap: \$1,050

• Lender's Title Policy:	\$415.00
• Amend Tax Exception:	\$20.00
• Not yet due & payable:	\$5.00
• T-17 PUD	\$25.00
• T-19 Restrictions	\$50.00
• T-36 (Environmental:	\$25.00
• T-42 (Home Equity):	\$41.50
• T-42.1 (Home Equity):	\$62.25
• Survey	\$500
• Appraisal:	\$400
• Settlement Fee:	\$250
• Document Preparation:	\$225
• Recording:	+ \$100
• Total Fees:	\$2,118.75 > \$1,050.00

Loan **violates** Constitutional Fee Cap!!

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Changes to Home Equity Lending 2017

Also available as part of the eCourse

[2017 William W. Gibson, Jr. Mortgage Lending eConference](#)

First appeared as part of the conference materials for the  
51<sup>st</sup> Annual William W. Gibson, Jr. Mortgage Lending Institute session  
"Changes to Home Equity Lending 2017"