

HOME EQUITY TIMELINE

An Overview of Texas and Federal Requirements for Closed-End Home Equity Loans

I. Application

Homeowner makes application with lender

I. TEXAS LAW

- A. Constitution-Art.16 Sec . 50(a)(6)
 - 1. 31 Constitutional requirements for a Texas Home Equity Loan
 - 2. Home Equity Notice
 - 3. Loan cannot close for at least 12 days from loan application and Home Equity Notice.
- B. Property Code-Sec.41.002
 - Is the property rural or urban homestead?
- C. Home Equity Regulatory Commentary
- D. Texas Credit Union Department Rules

II. FEDERAL

A. RESPA/Reg.X

- 1. W/in 3 business days of application, lender must provide GFE
- 2. For 1st liens, Lender must provide Servicing Disclosure
- 3. Affiliated Business Disclosure

B. Equal Credit Opportunity Act (ECOA/Reg. B)

- 1. Lender collects government monitoring info
- 2. Lender must document applicant's intention to apply for joint credit

C. Truth-in-Lending (TIL)/Reg.Z

- 1. Early TIL disclosure is required for closed-end loans w/in 3 business days of application
- 2. Early ARM disclosures and CHARM booklet

D. E-Sign Act

Electronic disclosures allowed with applicant's consent

E. Fair Credit Reporting Act and FACTA/Reg.V

- 1. Consumer may obtain credit report
- 2. Risk Based Pricing Notice and Notice to Home Loan Applicant
- 3. Applicant should give written permission to obtain credit report

F. SAFE Mortgage Licensing Act

- 1. Is Credit Union loan officer registered with NMLS

H. Interagency Appraisal and Evaluation Guidelines Use Tax Appraisal?

I. Consumer Financial Protection Bureau (CFPB)

II. Processing Stage/Underwriting

After Home Equity loan application but before closing

I. TEXAS LAW

Texas Constitution

- 1. Loan cannot close for at least 12 days following loan application and Home Equity Notice.
- 2. Owner must receive "Final Itemized Disclosure" of closing costs at least 1 business day before closing except for bona fide emergency or good cause.

II. FEDERAL LAW

A. ECOA/Reg.B

- 1. Within 30 days of receiving completed application, creditor must give applicant Notice of Action Taken.
- 2. Appraisals -NEW CFPB Rule eff. 1/18/14

B. National Flood Insurance Program

C. Fair Credit Reporting Act (FCRA)

Creditor must give Adverse Action Notice if adverse action is based on credit report

D. Truth-in-Lending (Reg.Z)

- 1. Ability-to-Repay and Qualified Mortgage Standards (QM) NEW CFPB Rule eff. 1/10/14
- 2. Appraisals for Non-QM Higher-Priced Mortgage Loans - NEW CFPB Rule eff. 1/18/14
- 3. High-Cost Mortgage and Homeownership Counseling-NEW CFPB Rule eff. 1/10/14

E. RESPA-List of Homeownership Counseling Organizations w/in 3 business days after application

IV. Post Closing/Servicing

Home Equity loan has funded

I. TEXAS LAW

- A. No Personal Liability
- B. Judicial Foreclosure

II. FEDERAL LAW

A. RESPA/Reg. X

Mortgage Servicing Rules NEW CFPB Rule eff. 1/10/14

B. TIL/Reg. Z

Mortgage Servicing Rules NEW CFPB Rule eff. 1/10/14

III. Closing

Homeowner closes Home Equity loan

TEXAS LAW

A. Texas Constitution

- 1. At least 12 days have passed since application and Home Equity Notice.
- 2. Total loans against property cannot exceed 80% of fair market value.
- 3. Fees charged owner (excluding interest) do not exceed 3% of principal loan amount.
- 4. There has been no other home equity loan on the property w/in the past 12 months
- 5. The loan may close "only" at office of Lender, attorney or title co.
- 6. Owners/spouses have 3 days to rescind loan without penalty or charge
- 7. Owner and lender sign Acknowledgement of Fair Market Value.
- 8. Loan is scheduled to be repaid in substantially equal successive periodic payments beginning within 2 months

B. Texas Supreme Court Decision - 6/21/13 Finance Comm. Vs. Norwood

II. FEDERAL LAW

A. RESPA/Reg.X

- 1. HUD-1 Settlement Statement
- 2. Initial Escrow Account Disclosure

B. TIL/Reg.Z

- 1. Final TIL Disclosure
- 2. Right of Rescission
- 3. Escrow Requirements for Higher Priced Loans secured by 1st Lien on home NEW CFPB Rule eff. 6/1/13
- 4. Loan Originator Compensation NEW CFPB Rule eff. 1/10/14