

Welcome!
Reverse Mortgages & Home Equity Loan Update
by Brandon Linscomb and Adam Robertson

House Keeping

Please do not place the conference on hold!
Background/hold music makes it difficult to hear the speaker

Please mute your phones! We are voice recording the conference. If you don't have a mute button on your phone try *6 to mute and un-mute your phone.

Note: PowerPoints and audios for the April Endorsements webinar, and the New Forms and Rules webinar are now available at www.stewarttexas.com

For Escrow Officer Credit please email password and attendees names to ken.wrider@stewart.com for certificate (Please do this as soon as possible. Certificates will not be produced after the start of our next webinar)

Attorneys email bar card number to Ken for CLE credit (Send to your training administrator if applicable)

We are recording!

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Reverse Mortgages & Home Equity Loan Update

Brandon Linscomb & Adam Robertson



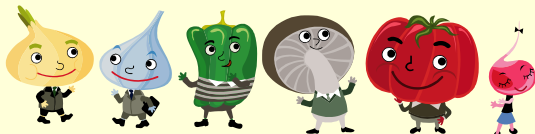
Home Equity Loan Changes

2007 Texas Constitutional Amendment (HJR 72)



Change # 1: Agricultural Use

Insured Property must not have
Agricultural Designation as of the --
DATE OF CLOSING!



Change # 1: Agricultural Use

- LaSalle Bank N.A., et al v. White and Geistweidt (2006)
- Despite application to have it removed, Ag Designation was still on property at time of closing



Change # 1: Agricultural Use

- Marketic v. U.S. Bank N.A. (2006)
- No Ag Designation at closing – reapplied after closing, yet court still sided with owner



Change # 1: Agricultural Use



What should I do????

Obtain written confirmation, preferably a tax certificate from the taxing entity, evidencing that the land has no agricultural designation on the date of closing

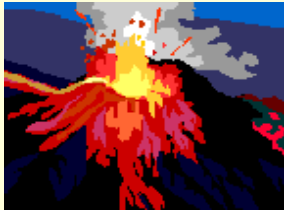
Change # 1: Agricultural Use



What will the tax assessor do?

Tax Assessors should not give an Agricultural Designation to any property with an existing Home Equity Loan (this is new for them)

Change #2: State of Emergency



Change #2: State of Emergency

HEL must not be closed prior to the first anniversary of the closing date of the prior home equity loan, BUT....

the Constitutional amendment provides for an exception due to a "state of emergency" declared by the President or governor in the area where the property is located

Change #2: State of Emergency

- Obtain a sworn, written request from the borrower and confirmation the president/governor has declared a state of emergency that applies where the homestead is located
- Your knowledge of your area is key!



Change #3: Blanks



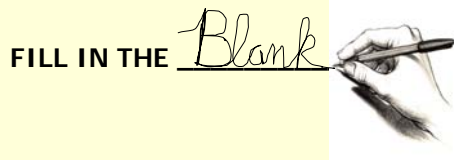
Change #3: Blanks

The Constitutional requirement that no blanks should be left in instruments executed by the borrower(s) now states that...

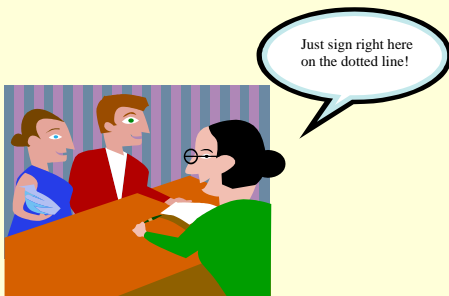
No blanks "relating to substantive terms" of the loan agreement may be left blank, however...

Change #3: Blanks

Make sure that no blanks are left in any instrument signed by the borrower anyway – it is a good business practice!



Change #4: Loan Applications



Change #4: Loan Applications

Borrowers must be given a copy of the final loan application at closing as well as all documents executed at closing relating to the extension of credit

This should be standard business practice for most offices

Change #4: Loan Applications

However, you should make sure to provide a copy of the loan application, if not previously provided, along with the HUD **the day before closing**

Otherwise, you might have to wait until the following business day to close

Change #5: HELOC Distributions



(Not to be confused with "Morlocks")



Change #5: HELOC Distributions

Amendment adds the following language pertaining to Home Equity Line Of Credit loans: "You may not use a credit card, debit card or similar device, or a preprinted check that you did not solicit, to obtain advances under the line of credit;"

HUH??????

Change #5: HELOC Distributions

Practically speaking...

You do not have the responsibility of determining how disbursements will be made, and you may refuse to make any post-closing disbursements.



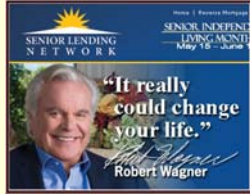
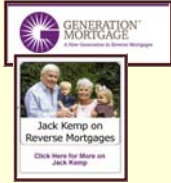
How do these recent changes affect title insurance?



And now....it's time for.....



REVERSE MORTGAGES



Did you know?

- May 2008 – Older Texans Month
- April 22nd Proclamation by Gov. Rick Perry

"To highlight the irreplaceable role that senior citizens have played in our state's development and progress and to highlight the importance of planning for their futures, the month of May has been designated for an awareness campaign."

Demographics

- Texas 60-plus population around 3,000,000
- Texas 60-plus population projected to grow to around 8,000,000 in the next 30 years
- Oldest Baby Boomers hit 62 in 2008

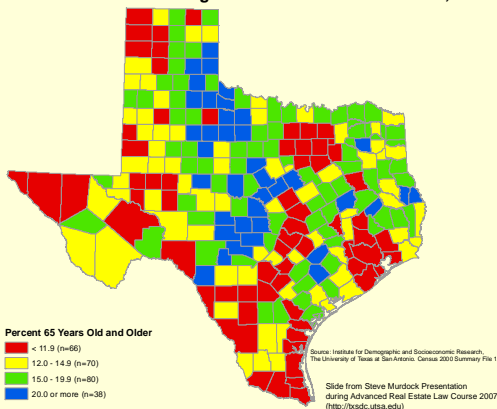
Texas Demographics: Older Adults in Texas
Texas Department of Aging

Demographics

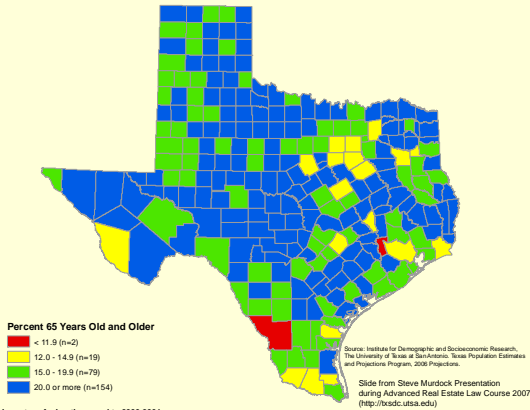
- The population living in rural counties is generally older and the percentage of the population that is over 65 is increasing

Texas State Data Center (<http://txsdc.utsa.edu>)

Percent of Persons 65 Years of Age and Older in Texas Counties, 2000



Percent of Persons 65 Years of Age and Older in Texas Counties, 2040*



Demographics

- While rural counties have higher percentages of older adults, the bulk of the 60-plus Texans are located in the MSAs
- About 77 percent in 2000

Texas Demographics: Older Adults in Texas
Texas Department of Aging

What's "reverse" about a Reverse Mortgage?

- Rising Debt, Falling Equity
- Monthly payments flow from lender to borrower

Reverse Mortgage Basics

- Loan amount based on age of borrower and value of the property
- Cash to borrower in lump sum, monthly payments over time or a combination of the two
- No repayment until death of owner or owner transfers property
- Mortgage Insurance Premium
- Generally lower loan amounts available
- No income requirements for borrower

Reverse Mortgage Basics

- Property must be homestead
- Non-recourse debt
- Counseling required
- Less restrictions than a traditional home equity loan
 - No ag use restriction, but ag may still be a problem if lender requires tax deletion



ConsumerReports.org



Where are the rules?

- Texas Constitution Art. 16, Sect. 50(a)(7)
 - Reverse Mortgages Authorized
- Texas Constitution Art. 16, Sect. 50(k)-(r), (s), (u) and (v)
 - Reverse Mortgage Details
- No additional rules or guidance

Secondary Market

- Home Equity Conversion Mortgage (HECM)



- Home Keeper



HECM Volume

- Home Equity Conversion Mortgages (HECMs) account for approximately 90% of Reverse Mortgages
- HUD Statistics
 - FY 2008 55,218 (through March)
 - FY 2007 107,558
 - FY 2006 76,351
 - FY 2005 43,131
 - FY 2004 37,829
 - FY 2003 18,097
 - FY 2002 13,049

National Reverse Mortgage Lenders Association
<http://www.nrmlaonline.org>

Title Insurance Issues

- P-45
- T-43 is mandatory
 - No express insurance pursuant to P-39
 - May delete any subdivision of Paragraph 3
 - Must delete (ii) - (iv) of Paragraph 3 if deed of trust and note not signed at office of title company – office of title company is defined

- P-45
- Must delete (ii) of Paragraph 3 if no government issued photographic ID
 - Must delete (iii) of Paragraph 3 if acknowledgment of counseling not executed at title company on date that deed of trust and note are executed
 - Must delete (iv) of Paragraph 3 if disclosure discussing Sect. 50 (k)(6) provisions not executed at title company on date that deed of trust and note are executed

Policy Amount - P-66(B)(6)

- ...Loan Policy may be issued in an amount not exceeding:
 1. 150% of the total advances to be made according to a plan established by the original loan agreement; or
 2. the maximum amount that may be secured by the lien of the insured mortgage, as estimated by the lender according to the written lender instructions; or,
 3. in the case of an FHA-insured loan, the Maximum Claim Amount as established by FHA.

Commitment Wording

- "Any Mortgagee Policy issued by the Company insuring a Reverse Mortgage (made pursuant to Subsection (a)(7), Section 50, Article XVI, Texas Constitution) will be subject to the terms of and insurance provided by the Texas Reverse Mortgage Endorsement (T-43). The Reverse Mortgage must be executed at the office of the Company or its title insurance agent by the owners of the land and any spouse and must disclose that it is a Reverse Mortgage made in accordance with Subsection (a)(7), Section 50, Article XVI, Texas Constitution. The owners and any spouse must execute the Reverse Mortgage Affidavit and other documents required by the Company or the lender."

Premium Calculation

- Charge for T-43 Endorsement is \$0
- Calculate total premium as you would for any Loan Policy
- Credits and other endorsement charges do apply

T-43 Endorsement

- Rate = \$0
- T-43 is mandatory when insuring a Reverse Mortgage
- Paragraph 1
 - Liability increased as funds disbursed
- Paragraph 2
 - Priority of future advances insured

T-43 Endorsement

- Paragraph 3
 - No written agreement consented to by owner and owner's spouse – Sect. 50 (k)(1)
 - Owner or owner's spouse not 62 – Sect. 50 (k)(2)
 - Counseling acknowledgment not signed by owner – Sect. 50 (k)(8)
 - No written disclosure to borrower, on date that the insured mortgage is signed, explaining Sect. 50 (k)(6) repayment provisions – Sect. 50 (k)(9)

T-43 Endorsement

- Paragraph 4
 - Violation consumer protection laws, truth-in-lending laws and other constitutional provisions relating to Reverse Mortgages and not expressly insured are definitely not covered

T-43 Endorsement Guidelines

- See detailed guidelines on vuwriter.com
- 1) Make sure that there is a written loan agreement in addition to the deed of trust
 - 2) Confirm borrower's age is 62 by reviewing government-issued photo ID
 - 3) Make sure that the lender provides a form in which the borrower acknowledges that they have been counseled
 - 4) Make sure that the owner is furnished a notice purporting to be pursuant to Sect. 50 (k)(9) on the date the deed of trust and note
 - 5) Deed of Trust should state clearly Reverse Mortgage

T-43 Endorsement Guidelines

- 6) Must be insuring borrowers homestead
- 7) Make sure that the owner and owner's spouse sign the deed of trust (Call Underwriting if there are owners in addition to a spouse)
- 8) Require execution of the Texas Reverse Mortgage Affidavit (available at vuwriter.com)
- 9) HECMs will have two deeds of trust. The second will be to HUD. You may issue one Loan Policy that describes both lender and HUD. You may note priority.
- 10) Policy amount cannot exceed 150% of the total advances to be made. The deed of trust should state a maximum amount of advances. You may rely upon lender instructions for the policy amount. The Maximum Claim amount is the lesser of the appraised value or the maximum mortgage amount that HUD will insure.

STG Bulletin Reference – Reverse Mortgages

- TX 2008004
- TX 000080
- TX 000076
- TX 000057
- TX 000052
- TX 000039

These bulletins can be found on the Virtual Underwriter website www.vuwriter.com

Thank you!

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- Attorneys email bar card number to Ken for CLE credit
- Next Texas TIPS Online June 19, 2008, "Privacy Issues" by John Rothermel
- Questions/Comments? Email Allison.James@stewart.com
- www.stewarttexas.com for presentation materials
