

Compliance Focus Areas – Texas

Refinance Transactions

Cash-out on a primary residence designated as homestead is not allowed unless Section 50(a)(6) of the TX Constitution is adhered to. 50(a)(6) requirements apply if the borrower has ever taken cash out on their homestead property, even if not taking it out on their current loan – once a cash out, always a cash out. Texas' 50(a)(6) guidelines are specific to transactions involving designated homestead properties, and do not apply to second home and investment properties.

50(a)(6) Requirements:

- Verify 12-day Disclosure was signed 12 days prior to close.
- Verify at least one year has passed since the last refinance by that borrower of that property (noted on Schedule C of the title commitment).
- Verify CLTV is less than 80%.
- Verify broker / correspondent is licensed (this is checked on all loans).
- No agricultural exemption (noted on the tax cert).
- The borrower is given one-day notice to review the fees to be charged (CD). This is customarily managed by the settlement agent.
- There is a three percent cap on points and fees. The points and fees definition under this law is broad and includes compensation paid to both the lender (excluding interest and bona fide discount points) and the broker in addition to many other third party fees such as appraisal, certification of HOA maintenance fees, credit report, flood certification, mortgage insurance, property tax cert, recording fees, survey, title insurance premium, HOA transfer fees.
- These requirements are specific to transactions involving primary residences designated as homestead properties.

Application Disclosures

12-day Disclosure

- Applies only to 50(a)(6) loans – this will be noted in the product name of the loan.
- Spouse must sign the disclosure even if they are not on the loan.
- Verify signed by borrower and spouse (if applicable) at least 12 days prior to closing.
- These requirements are specific to transactions involving primary residences designated as homestead properties

Mortgage Banker Disclosure (Calyx TX Mortgage Banker Disclosure)

- Must be dated within three days of 1003 for retail/correspondent loans.
- Verify date is on or before submission to U/W for wholesale loans.

Marital Rights

- Texas is a community property state.
- Non-borrowing spouses are required to sign the Mortgage, CD and Right of Rescission (if applicable).
- The exception to this rule is where it can be determined with certainty that the property is non-homestead and non-community property, then the non-borrowing, non-titled spouse does not need to sign these documents
 - If the non-borrowing non-titled spouse is not executing the above referenced documents, a Non-Homestead Affidavit must be executed at closing by both spouses. The Black Mann and Graham (“BMG”) Non-Homestead Affidavit has been approved for this purpose. If using a law firm other than BMG to prepare closing documents then a similar Non-Homestead Affidavit may be used, but use of such document will require confirmation from the title insurer that it will provide coverage over any potential community property rights or homestead rights of non-Borrowing spouse.

Predatory Lending

UWM does not purchase high-cost loans. A high-cost loan in Texas has the same definition as the HOEPA Section 32 test except that the principal amount is less than or equal one-half of the maximum conventional loan amount.

Closing Practices

- Texas is a wet funds state and requires money to be at closing.
- A CPL is not required for TX HUD REO properties. Instead of a CPL an E&O policy is required.