



## **2018 TEXAS 50(a)(6) AMENDMENTS**

On January 1, 2018, the new Texas Home Equity laws take effect. The new laws under Tex. Const. art. 16 §50 provide significant changes to the existing 50(a)(6) restrictions for cash-out refinance loans on homestead properties in the state of Texas.

### **NOT ALWAYS A 50(a)(6) ONCE DEEMED A 50(a)(6)**

Under the current rules, a non-cash out refinance of a pre-existing 50(a)(6) is still subject to 50(a)(6) restrictions, regardless of seasoning. When a loan is considered a 50(a)(6) transaction, it is subject to certain rules, including but not limited to: fee restrictions, lower LTV requirements, and additional disclosure requirements.

For loans that close after January 1<sup>st</sup>, 2018, the new rules will apply, which means you can refinance an existing 50(a)(6) loan without necessarily having to classify it as a 50(a)(6) transaction as long as the following conditions are met:

- (1) The refinance will be closed no less than one year from the closing date of the previously funded home equity loan;
- (2) The loan proceeds do not exceed any existing liens on the property being refinanced plus any closing costs associated with the refinance (i.e. no cash back to the borrower);
- (3) The loan proceeds cannot be used to pay off other debts (i.e. credit cards, student loans, car loans, personal loans, etc.);
- (4) The refinanced loan cannot exceed 80% loan-to-value;
- (5) The lender/broker must provide a new disclosure about refinancing out of a home equity loan within three days of the application date and at no less than 12 days prior closing.

For HELOC loans where the borrower has taken his/her last advance in under a year, in calculating the seasoning requirements, PRMG will look to the original advance of credit/HELOC Agreement Date.

### **MORE ELIGIBLE PROPERTIES FOR 50(a)(6) TRANSACTIONS**

Under the new rules, PRMG is permitting 50(a)(6) cash out transactions on homestead properties in agricultural zones.

### **NEW FEE RESTRICTIONS**

While the current rules prohibit fees from exceeding 3%, **the new rules reduce the cap to 2%**, but excludes additional fees from having to be included in the cap. The new rules now exclude the following fees: (1) appraisal fees; (2) property survey fees; (3) title policy fees and endorsements (state-based premium), (4) title examination report fees, and (5) bona-fide discount points.

**Note:** For wholesale transactions, Lender Paid Compensation is not counted towards the cap.



## **UPDATED TEXAS NOTICE CONCERNING EXTENSIONS OF CREDIT DISCLOSURE**

Texas Amends the 12 Day notice commonly referred to as the **TEXAS NOTICE CONCERNING EXTENSIONS OF CREDIT (Sample)**. This updated version of the disclosure will be required on all loans that close on or after January 1<sup>st</sup>, 2018 with a new 12 day wait period, regardless of whether the applications was taken PRIOR to January 1<sup>st</sup>, 2018. This means the soonest PRMG could close a Texas Home Equity loan that does not close prior to the end of the year is January 13<sup>th</sup>, 2018, assuming the new disclosure was provided to the applicant on January 1<sup>st</sup>, 2018. Since the updated form cannot be provided before the end of the year, it is imperative that you send the updated disclosure as close to January 1<sup>st</sup>, 2018 as possible to prevent closing delays on any active loans in your pipeline that are scheduled to close soon after the end of the year.

**FOR CLARIFICATION, PRMG WILL NOT CLOSE ANY 50(a)(6) LOAN FOR THE FIRST 13 DAYS OF JANUARY OR ANY LOAN THAT THE BORROWER HAS NOT BEEN PROVIDED THE UPDATED DISCLOSURE AT LEAST 12 DAYS PRIOR TO CLOSING.**

## **NEW DISCLOSURE FOR REFINANCING OUT OF A 50(a)(6)**

PRMG it is now required to provide applicants a new disclosure called the **IMPORTANT NOTICE REGARDING REFINANCING A HOME EQUITY LOAN (Sample)** for non-cash out refinances of pre-existing 50(a)(6) loans. This disclosure must be provided within 3 days of the application date and no later than 12 days prior to closing. **As such, PRMG will require that if you are attempting to refinance out of a 50(a)(6), the loan application must be dated on or after January 1<sup>st</sup>, 2018.** Since this new disclosure is required with a 12 day waiting period, the soonest you could close a non-50(a)(6) conversion is January 13<sup>th</sup> or no sooner than 12 days after the new disclosure is provided to the consumer.

Product Profiles will be updated to reflect these changes and posted on 1/2/18. If you have any questions please feel free to contact your Legal and Compliance Department.