

TEXAS 50(a)(6) LEGAL AND COMPLIANCE CHECKLIST AND STATEMENT OF OPINION CLOSED END LOANS REGULATED UNDER ARTICLE XVI, SECTION 50(a)(6) OF THE TEXAS CONSTITUTION

Instructions for Use: This form must be used for all loans secured by Texas homestead property, which

- a. constitute cash-out refinance loans;
- b. otherwise draw on the borrower's equity in the home; or
- c. refinance any loan described in (a) or (b), even if no new equity is drawn upon by the borrower, and even if other refinances have intervened.

This review form must be executed by a licensed Texas attorney. For each item, check the box marked "Yes" or "No". The completion of this review and execution of the statement of opinion at the end of this checklist constitutes a legal opinion upon which Gateway is entitled to rely.

Lender/Client: _____ Gateway Loan #: _____

Borrowers: _____

LEGAL AND COMPLIANCE CHECKLIST

Issue Number	Requirement	Yes	No
1	Voluntary Lien: The Lender has certified that each person consenting to the lien on the homestead did so voluntarily.		
2	Written Agreement: The lien was created by written agreement.		
3	Consent to Lien: The written agreement creating the lien was consented to by each owner, and each owner's spouse.		
4	CLTV Limit: Including the loan being reviewed, the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead did not exceed 80% of the fair market value of the homestead on the date the extension of credit was made.		
5	No Recourse: The loan is without recourse for personal liability against each owner and each owner's spouse (unless the owner or spouse obtained the extension of credit by actual fraud).		
6	Judicial Foreclosure: The lien may be foreclosed upon only by court order.		
7	Fee Limitation: The loan documents do not require the owner or the owner's spouse to pay, in addition to any interest, fees to any person that are necessary to originate, evaluate, maintain, record, insure, or service the extension of credit that exceed, in the aggregate, 3% of the original principal amount of the extension of credit.		
8	No Open-End Credit: The loan is not a form of open-end account that may be debited from time to time or under which credit may be extended from time to time.		
9	No Prepayment Penalty: The loan is payable in advance without penalty or other charge.		
10	No Other Collateral: The documents indicate that the loan is not secured by any additional real or personal property other than the homestead, and the lender has certified that no such other collateral exists.		

LEGAL AND COMPLIANCE CHECKLIST (cont.)

Issue Number	Requirement	Yes	No
11	No Agricultural Property: On the date the loan is closed, it is not secured by any homestead property designated for agricultural use, as provided by statutes governing property tax, unless such homestead property is used primarily for the production of milk.		
12	Limits on Acceleration: The loan may not be accelerated because of a decrease in the market value of the homestead, or because of the owner's default under other indebtedness not secured by a prior valid encumbrance on the homestead.		
13	Only Home Equity Loan: At the time the extension of credit was made, it was the only debt secured by the homestead (other than debts authorized by Article XVI, §§ 50(a)(1)-(5) or (a)(8)).		
14	Repayment Schedule: The loan is scheduled to be repaid in substantially equal successive periodic installments, not more often than every 14 days and not less often than monthly.		
15	No Negative Amortization: Each payment equals or exceeds the amount of accrued interest as of the date of the scheduled installment.		
16	12 Day Notice Period: It appears from the documents, and the lender has certified, that the loan was not closed before the 12th day after the later of (a) the date the owner submitted an application to the lender for the loan; or (b) the date that the lender provided the owner with a copy of the notice required by Article XVI, Section 50(g) of the Texas Constitution.		
17	One Day Disclosure: It appears from the documents, and the lender has certified that the loan was not closed before the 1st business day after the owner received a copy of the application, as well as a final, itemized disclosure of the actual fees, points, interest, costs, and charges that would be charged at closing (unless a bona fide emergency existed, and the lender obtained the written consent of the owner to (a) provide the document to the owner on the date of closing, or (b) modify the previously disclosed information on the date of closing.		
18	No Prior Home Equity Loan for one Year: The loan was not closed before the first anniversary of the closing date of any other extension of credit subject to Article XVI, Section 50(a)(6) of the Texas Constitution (other than a refinance described in Article XVI, Section 50(a)(6)(Q)(x)(f) of the Texas Constitution), except where the homestead property is located in an area declared by the President of the United States to be under a state of emergency, and the borrower has waived this requirement under oath.		
19	Closed at Proper Location: The loan was closed at the office of the lender, an attorney at law, or a title company.		
20	Authorized Interest: The loan provides for a fixed or variable rate of interest that is authorized under statute.		
21	No Redlining: The lender has certified that it has not been found by a federal regulatory agency to have engaged in the practice of refusing to make loans because the applicants reside, or the property proposed to secure the loans is located, in a certain area.		
22	Proper Lender: The lender named above is one of the following: <ul style="list-style-type: none"> ■ A bank, savings and loan association, savings bank, or credit union doing business under the laws of the state of Texas or the United States; ■ A federally chartered lending instrumentality or a person approved as a mortgagee by the United States government to make federally insured loans; ■ A person licensed to make regulated loans, as provided by Texas state statute; ■ A person who sold the homestead property to the current owner and who provided all or part of the financing for the purchase; ■ A person who is related to the homestead property owner within the 2nd degree of affinity or consanguinity; or ■ A person regulated by the state of Texas a mortgage broker. 		
23	No Improper Required Payoffs: The lender has certified that it has not required the owner of the homestead to apply the loan proceeds to repay another debt (except debt secured by the homestead or debt to another lender).		

LEGAL AND COMPLIANCE CHECKLIST (cont.)

Issue Number	Requirement	Yes	No
24	No Assignment of Wages: The documents do not require, and the lender has certified that it has not, via any other means, required the owner of the homestead to assign wages as security for the loan.		
25	No Blanks: The lender has certified that the owner of the homestead was not required to sign any instrument in which blanks, relating to substantive loan terms, are left to be filled in.		
26	No Confession of Judgment: The documents do not contain, and the lender has certified that it has not taken, via any other means, a confession of judgment, or power of attorney to the lender or to a third person to confess judgment, or to appear for the owner in a judicial proceeding.		
27	Copies to Owner: The lender has certified that, at the time of the loan, it provided the owner of the homestead with copies of all documents signed by the owner related to the extension of credit, including a copy of the final application.		
28	Disclosure of 50(a)(6) Loan: The security instruments securing the extension of credit contain a disclosure that the extension of credit is the type of credit defined by Section 50(a)(6), Article XVI, Texas Constitution.		
29	Rescission Period: It appears from the documents that the owner of the homestead and any owner's spouse was provided with the opportunity to rescind the loan without penalty or charge within the three day period following the loan closing, and did not do so.		
30	Acknowledgment of Fair Market Value: The owner of the homestead and the lender signed a written acknowledgment as to the fair market value of the homestead property on the date the loan was made. The value stated in such acknowledgment is the value estimate in an appraisal or evaluation prepared in accordance with a state or federal requirement applicable to the extension of credit, and the lender has certified that, at the time of the payment of value or advancement of funds, the lender had no knowledge that the fair market value stated therein was incorrect.		
31	Constitutional Notice: The notice required by Section 50(g), Article XVI, Texas Constitution has been provided to the owner, via a separate instrument. If the discussions with the borrower were conducted primarily in a language other than English, an additional copy of the notice translated into the written language in which the discussions were conducted has been provided.		

STATEMENT OF OPINION

By signing below, I certify that I have personally completed or overseen the review set forth above. I understand that this document constitutes an opinion of counsel on the matters set forth herein, and that my lender/client, including their successors and/or assigns, is entitled to rely upon it as such.

My review has been based solely on documentation contained in the loan file, and Client understands that in preparing this opinion, I have not made any independent inquiry or investigation beyond such documents.

Signature: _____

Printed Name: _____

Title: _____

Firm Name: _____

Date: _____