

BILL ANALYSIS

Senate Research Center

H.J.R. 5
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Business & Commerce
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Engrossed

DIGEST AND PURPOSE

The Texas Constitution currently provides that homesteads are protected from forced sale for the payment of all debts, except in certain situations. One exception is for work and material used in constructing new improvements thereon, if contracted for in writing, or work and material used to repair or renovate existing improvements if the contract for the work and material is not executed within a specified time after the owner makes an application for any extension of credit for work and material. Current law provides that the specified time is 12 days. Many home improvement contractors contend that the waiting period is too long, since the extension of credit may be approved sooner, and current law also requires that the contract be signed in the office of a lawyer, title company, or lender. H.J.R. 5 requires the submission to the voters of a constitutional amendment to shorten the waiting period to five days.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 50(a), Article XVI, Texas Constitution, as follows:

(a) Requires the homestead of a family, or of a single adult person, to be, and is hereby protected from forced sale, for the payment of all debts except: for work and material used in constructing new improvements thereon, if contracted for in writing, or work and material used to repair or renovate existing improvements thereon if the contract for the work and material is not executed by the owner or the owner's spouse before the fifth, rather than 12th, day after the owner makes written application for any extension of credit for the work and material, unless the work and material are necessary to complete immediate repairs to conditions on the homestead property that materially affect the health or safety of the owner or person residing in the homestead and the owner of the homestead acknowledges such in writing; or the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property, including the refinance of the purchase price of the manufactured home, the cost of installing the manufactured home on the real property, and the refinance of the purchase price of the real property.

SECTION 2. Provides that the following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) Provides that this temporary provision applies to the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001:

(1) prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property; and

(2) including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property subject to a forced sale.

(b) Provides that the constitutional amendment takes effect January 1, 2002.

(c) Provides that this temporary provision expires January 2, 2002.

SECTION 3. Requires that this proposed constitutional amendment be submitted to the voters at an election to be held November 6, 2001. Requires the ballot to be printed to permit voting for or against the proposition: "The constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property subject to a forced sale."