

Figure: 7 TAC §90.404(a)(7)

# TEXAS HOME EQUITY NOTE (Fixed Rate – Second Lien)

**THIS SECURITY DOCUMENT SECURES AN EXTENSION OF CREDIT AS DEFINED BY SECTION 50(a)(6),  
ARTICLE XVI OF THE TEXAS CONSTITUTION.**

ACCOUNT/CONTRACT NO. \_\_\_\_\_  
CREDITOR/LENDER \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
\_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
BORROWER \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
\_\_\_\_\_

A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder."

The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.
%	\$	\$	\$

**My Payment Schedule will be:**

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Security:** You will have a security interest in my homestead.  
**Late Charge: (Scheduled Installment Earnings Method):** If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.  
**Prepayment:(Scheduled Installment Earnings Method):** If I pay off early, I may be entitled to a refund of part of the Finance Charge. I will not have to pay a penalty. (**True Daily Earnings Method**): If I pay off early, I will not have to pay a penalty.  
**Additional Information:** See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

### 1. BORROWER'S PROMISE TO PAY

This loan is an Extension of Credit defined by Section 50(a)(6), Article XVI of the Texas Constitution. Scheduled Installment Earnings Method: I promise to pay the Total of Payments to the order of you. The "principal" or "cash advance" is \$\_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule. True Daily Earnings Method: I promise to pay the cash advance plus the accrued interest to the order of you. The "principal" or "cash advance" is \$\_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule.

### 2. LATE CHARGE

Scheduled Installment Earnings Method: If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment.

### 3. AFTER MATURITY INTEREST

If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.

### 4. PREPAYMENT

Scheduled Installment Earnings Method: I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. True Daily Earnings Method: I can make any payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled.

**5. FINANCE CHARGE AND REFUND METHOD**

For contracts using Scheduled Installment Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may be different from the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using Scheduled Installment Earnings Method with prepayments option - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. I may make a full or partial payment early without paying a penalty. My early payments will reduce the principal that I owe. If I make an early partial payment, the due date and amount of my next payment will not change unless you agree in writing.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my scheduled payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using True Daily Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any charges I owe other than principal and interest.

**6. FEE FOR DISHONORED CHECK**

I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately.

**7. DEFAULT**

I will be in default if:

- a. I do not timely make a payment to the person or place you direct;
- b. I break any promise I made in the Loan Agreement;
- c. I allow a lien to be entered against the homestead unless you agree in writing;
- d. I sell, lease, or dispose of the homestead;
- e. I use the homestead for an illegal purpose; or
- f. you believe in good faith I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the Loan Agreement.

If I am in default, you will send me a written notice telling me how to cure the default. You must give me at least 21 days after the date on which the notice is mailed or delivered to cure the default. You may not demand that I pay the loan in full solely because the market value of the homestead decreases or because I default under any indebtedness not secured by the homestead.

**8. PROPERTY INSURANCE**

**PROPERTY INSURANCE: I must keep my homestead insured against damage or loss in at least the amount I owe. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas.**

**If this box is checked, the premium is not fixed or approved by the Texas Department of Insurance.**

I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss. If I obtain the insurance through you, I will pay the premium shown below. However, I have 5 days from the date of this loan to furnish like (equivalent) coverage from another source. If I fail to meet any of these requirements, you may obtain collateral protection insurance at my expense. We will insure the homestead for the lesser amount of the value of the property or the amount of the debt. If you obtain collateral protection insurance, you will mail notice to my last known address.

Credit property insurance is not required to obtain credit.

Property Insurance                      \$ \_\_\_\_\_                      Term \_\_\_\_\_

**9. CREDIT INSURANCE**

Credit insurance is optional. Credit life insurance and credit disability insurance are not required to obtain credit. This insurance will not be provided unless I sign and agree to pay the extra cost. I will look to the insurance policy or certificate for the terms and description of benefits, exclusions, and premium rates.

Single Premium

Credit Life, one borrower                      \$ \_\_\_\_\_                      Credit Life, both borrowers                      \$ \_\_\_\_\_                      Term \_\_\_\_\_  
 Credit Disability, one borrower                      \$ \_\_\_\_\_                      Credit Disability, both borrowers                      \$ \_\_\_\_\_                      Term \_\_\_\_\_

**If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.**

I want the insurance above.

Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Monthly Premium

If I want credit life or credit disability insurance, I must sign below and pay the monthly premium. The monthly premium will be added to the monthly loan payment. If I do not pay the monthly premium, I will not have the insurance coverage.

I request the following insurance:

\_\_\_\_\_

\_\_\_\_\_ Borrower's Signature                      Date

Premium Due with the First Month's <u>Loan Payment</u>	First Year <u>Premium</u>	Insurance <u>Type:</u>
\$ _____	\$ _____	
\$ _____	\$ _____	
\$ _____	\$ _____	

\_\_\_\_\_ Co-Borrower's Signature                      Date

The first year's premiums are based on an assumption that monthly loan payments are timely made. All unpaid premiums are due at the time of the final payment. The insurance may be canceled if I do not pay the premiums.\*\* I may cancel any of the optional insurance products offered at any time. The optional insurance will be canceled upon the earliest of the following occurrences:

- (1) your receipt of my written request for cancellation;
- (2) cancellation under the insurance certificate or policy;
- (3) payment in full of my loan; or
- (4) my death.

\*\*Optional language: The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium.

**10. MAILING OF NOTICES TO BORROWER**

You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it by first class mail.

**11. DUE ON SALE CLAUSE, NOTICE OF INTENT TO ACCELERATE, AND NOTICE OF ACCELERATION**

If all or any interest in the homestead is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this Loan Agreement. You will not exercise this option if prohibited by law.

If you exercise this option, you will give me notice of acceleration (i.e., payment of all I owe at once). This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the Loan Agreement.

**12. NO WAIVER OF LENDER'S RIGHTS**

If you don't enforce your rights every time, you can still enforce them later.

**13. COLLECTION EXPENSES**

If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this Loan Agreement to the extent not prohibited by law, including Section 50(a)(6), Article XVI of the Texas Constitution. These expenses include, for example, reasonable attorneys' fees. I understand that these fees are not for maintaining or servicing this Loan Agreement.

**14. JOINT LIABILITY**

I understand that you may seek payment from only me without first looking to any other Borrower. You can enforce your rights under this Loan Agreement solely against the homestead. This Loan Agreement is made without personal liability against each owner of the homestead and the spouse of each owner unless the owner or spouse obtained this loan by actual fraud.

If this loan is obtained by actual fraud, I will be personally liable for the debt, including a judgment for any deficiency that results from your sale of the homestead for an amount less than is owed under this Loan Agreement.

**15. USURY SAVINGS CLAUSE**

I do not have to pay interest or other amounts that are more than the law allows.

**16. SAVINGS CLAUSE**

If any part of this Loan Agreement is declared invalid, the rest of the Loan Agreement remains valid. If any part of this Loan Agreement conflicts with any law, that law will control. The part of the Loan Agreement that conflicts with any law will be modified to comply with the law. The rest of the Loan Agreement remains valid.

**17. PRIOR AGREEMENTS**

**This written Loan Agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this Loan Agreement. Any change to this Loan Agreement must be in writing. Both you and I have to sign written agreements.**

**18. HOMESTEAD IS SUBJECT TO THE LIEN OF THE SECURITY DOCUMENT**

The homestead described above by the property address is subject to the lien of the Security Document. I will see the separate Security Document for more information about my rights and responsibilities.

**19. APPLICATION OF LAW**

Federal law and Texas law apply to this Loan Agreement. The Texas Constitution will be applied to resolve any conflict between the Texas Constitution and any other law.

**20. COMPLAINTS AND INQUIRIES NOTICE**

This lender is licensed and examined by the State of Texas – Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems.

Office of Consumer Credit Commissioner  
2601 North Lamar Boulevard, Austin, Texas 78705-4207  
[www.occc.state.tx.us](http://www.occc.state.tx.us)  
(800) 538-1579

**21. COLLATERAL**

The homestead described above by the property address is subject to the lien of the Security Document.

Do not sign if there are blanks left to be completed in this document. This document must be signed at the office of the Lender, an attorney at law, or a title company.

I must receive a copy of this document after I have signed it . I agree to the terms of this loan agreement.

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

(Sign Original Only )

(Option for witness signatures)