

Texas Section 50 (a)(6) Cash out

GENERAL OVERVIEW

Article XVI Section 50(a)(6) of the Texas Constitution permits homeowners to borrow against the equity on their primary residences. The Texas Constitution, however, imposes substantial restrictions under which (a)(6) loans may be originated and closed. If any of the requirements or guidelines are not followed, then the lien may be invalid.

The following are considered as Texas Section 50(a)(6) loans:

- **Loans using proceeds to pay off an existing 50 (a)(6) loan.**
- **Loans using proceeds to pay off federal tax debt liens.**
- **Loans using proceeds to pay property tax lien and non-mortgage debts.**
- **Loans with any cash back to the borrowers**

PRIMARY RESIDENCE		
Property Type	LTV/CLTV	FICO
1 unit	Max 80%	Minimum 620

FIXED RATE PROGRAM DESCRIPTION

Product provides a fixed interest rate and level payments for the life of the loan.
Loans may only be originated in first lien position.

PRODUCT TERM
10 Year Fixed Rate
15 Year Fixed Rate
20 Year Fixed Rate
25 Year Fixed Rate
30 Year Fixed Rate



PROPERTY ELIGIBILITY

Eligible Property types:

Texas section 50 (a) (6) is allowed only on 1 Unit Primary Residence

- SFR, PUD, Condo & a manufactured home. (A manufactured home is eligible only if it is classified as real property under Texas law and satisfies all special Fannie Mae eligibility criteria for manufactured homes.)

Ineligible Property types:

- 2 to 4 units
- All other properties

Note: Second home and Investment properties are not allowed.

BORROWER ELIGIBILITY

Eligible Borrowers:

- US Citizens
- Permanent Resident Alien
- Non- Permanent Resident Alien
- Inter- Vivos Revocable Trusts

Ineligible Borrowers:

- Non-occupant co-borrowers
- Co-signors and guarantors
- Foreign nationals
- Corporations and partnerships, including family partnerships
- Non-titled borrowers



PROGRAM REQUIREMENTS

1. To refinance an existing Texas Section 50(a)(6) loan, at least 12 months must have elapsed since previous Texas Section 50(a)(6) mortgage secured by the homestead property was closed.
2. For Texas section 50(a)(6) cash out refinance, one borrower must have held title to the subject property at least 6 months, measured from the previous note date to the new application date.
3. Even if no cash is being taken out from the transaction, a refinance of an existing 50 (a)(6) loan may be identified as a 50 (a)(6). Any refinance of a 50 (a)(6) loan must be classified as a distinct and new origination of a 50 (a)(6) loan.
4. There can be only one 50 (a)(6) loan secured by the property at one time.
5. HELOC subordinate financing is not permitted.
6. **Appraisal:**
 - a. A new full appraisal with interior/exterior inspection is required, regardless of the appraisal format recommended by DU.
 - b. Appraisal Waivers are not permitted regardless of the AUS recommendation.
7. **Title:**
 - a. A title insurance policy written on Texas Land Title Association forms is required
 - b. Endorsements form T-42 and T-42.1 are required.
 - i. *Form T-42 is Equity Loan Mortgage Endorsement.*
 - ii. *Form T- 42.1 is Supplemental Coverage Equity Loan Mortgage Endorsement.*
 - c. There may be no exceptions or deletions to the coverage provided by Paragraphs 2(a) through (e) of the T-42 endorsement. The endorsement must include the optional coverage provided by Paragraph 2(f), as well as the additional coverage provided by Endorsement T-42.1.
8. **Fee Restrictions:**
 - a. There is a 2% fee restriction on closing costs that can be charged to a borrower in order to obtain a Texas Section 50(a)(6) loan. Included in this calculation are all closing costs, paid directly or indirectly by the borrower
 - b. Following fees are excluded from 2% limitation.
 - i. Appraisal Costs
 - ii. Survey Costs
 - iii. Title Insurance Premiums
 - iv. Title Examination Report
 - v. Bona fide discount points used to buy down the interest rate



9. Texas 50(a)(6) specific loan Documentations:

There is a special security instrument, notes, and riders that must be used in connection with Texas Section 50(a)(6) loans and a special affidavit that must be prepared and recorded in connection with each Texas Section 50(a)(6) loan transaction.

- a. Texas Home Equity Security Instrument (First Lien) (Form 3044.1)
- b. Texas Home Equity Affidavit and Agreement (First Lien) (Form 3185)
- c. Texas Section 50(a)(6) specific loan notes and riders

10. Cooling period for closing:

- a. Each loan requires a “cooling-off” period of at least 12 business days prior to closing. The cooling-off period begins from the application date or the date that all borrowers sign the Notice Concerning Extensions of Credit for Texas 50(a)(6) loans. If the borrower(s) is married, a copy of the notice must be provided to the non-borrowing spouse to sign and the 12-day waiting period applies.
- b. To close loan, 24 Hours must pass after the borrower(s) have signed their final CD and final 1003 loan application.

11. Loan must be closed at Closing Agents Office, cannot close at borrower’s home.

12. Special Feature Code (SFC):

- a. All Texas 50(a)(6) loans must be identified with SFC 304.
- b. In addition, SFC 003 required for cash out refinance classified under Fannie Mae’s policy.

13. LTV/CLTV: Max 80%

14. AUS Recommendation: Approve/ Eligible.

15. DTI: As per DU findings.

16. FICO: Minimum 620

17. Not allowed on MAX

Provision for Rate and Term Refinance:

A new provision has been added to allow a home equity loan Texas 50(a)(6) to be refinanced into limited cash out refinance transaction Texas 50(a)(4).

The following criteria must be met:

- a. The loan being refinanced Texas (a)(6) must be seasoned at least 12 months.
- b. There should not be any cash out from the transaction.
- c. The LTV/CLTV cannot exceed 80% at the time of closing.
- d. The borrower(s) affirmatively states that they are aware that they are refinancing their loan from a home equity loan Texas (a)(6) to a no cash-out refinance loan Texas (a)(4) and acknowledges such on an affidavit. The affidavit must be provided to the borrower(s) no later than 3 business days after the date the application is received AND at least 12 days before loan closing.