



# ★ TEXAS SUPREME COURT ★ **DOLLAR DOCKET**

*In Texas, 48% of judges and 79% of lawyers say contributions significantly influence judicial decisions. - Texas Supreme Court poll*

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## Court Delivers Home Inequity

Faced with conflicting constitutional provisions on home-equity loans, the Supreme Court recently backed one provision favoring bankers over one preferred by legislators, voters and consumers.

Wary of banks foreclosing on people's property, the Texas Constitution prohibited home-equity loans until 1997. That's when the legislature and voters yielded to bank pressure by passing a home-equity amendment.

A consumer-protection provision that helped secure passage of this amendment prohibits home-equity lenders from forcing borrowers to use these loans to repay other debts; it also requires lenders to notify borrowers of this protection. On June 8, however, the Texas Supreme Court upheld the notification requirement, while stripping away the underlying protection.

In *Stringer v. Cendant Mortgage*, the justices ruled that lenders are legally obligated to notify borrowers that they cannot be forced to use their loan to repay other debts. The court then ruled that this legally required disclosure is meaningless. Lenders, the court held, have every legal right to utterly ignore this virtual protection. Lenders that force borrowers to apply a home-equity loan to old debt will face no penalty whatsoever.

From its passage to its dizzying new court interpretation, the new home-equity provision of the Texas Constitution has been a triumph of special-interest lobbying.

Watching on the sidelines are banking and mortgage interests that have deposited \$223,581 into the most recent campaign war chests of the sitting justices. Big court contributors that helped lead the home-equity charge in Texas include Compass Bank (\$16,550 to the

### June Dollar Docket

The top three cases delivered by the Texas Supreme Court in June and the corresponding contributions to justices from the parties and/or attorneys.

#### June 15, 2000

<i>FM Properties v.</i>	\$420,155
<i>City of Austin</i>	\$80,766

#### June 29, 2000

<i>Ken Petroleum v.</i>	\$2,550
<i>Questor Drilling</i>	\$251,813
<i>In re Southwestern Bell</i>	\$28,600

### Open Up the Chambers

*Stringer v. Cendant Mortgage* came to the Texas Supreme Court as a certified question from the U.S. Court of Appeals for the Fifth Circuit. The Supreme Court does not review certified-questions unless at least four justices vote to do so. Did banking industry contributions affect how individual justices voted on this issue? The public has no way of knowing because the court keeps such voting records secret. Full disclosure of these and other discretionary court votes would open the court's dark chambers to a flood of disinfecting sunlight.

justices), NationsBank (\$11,100) and the Texas Bankers Association (\$10,362), which filed a brief urging the justices to do what they did.

The author of the 1997 home-equity legislation, ex-Senator and current HMO lobbyist Jerry Patterson, told *Texas Lawyer* that the justices gutted the legislature's intent. You can bank on it. •