

Reverse Mortgages Should Have Uniform Consumer Protections

MBA RECOMMENDS

MBA recommends nationwide adoption of the reverse mortgage model state bill. We believe that if reverse mortgages uniformly incorporate the aforementioned principles, both the borrower and the lender will be safeguarded from undue hardships. MBA recommends that all state and federal reverse mortgage laws and legislation adhere to these principles.

BACKGROUND

Reverse mortgages are nonrecourse loans secured by real property that provide lump sum, periodic cash advances, and lines of credit to a borrower based on the equity or the value in a borrower's owner-occupied principal residence; and requires no payment of principal or interest until the entire loan becomes due and payable. Reverse mortgages that are approved by the U.S. Department of Housing and Urban Development (HUD) for participation in the Federal Housing Administration (FHA) Home Equity Conversion Mortgage (HECM) program grew 6.4 percent to 115,176 loans in 2008 and now account for at least 90 percent of the reverse mortgage market. Lenders can also offer reverse mortgage proprietary products that are not approved by HUD.

Reverse mortgages are most often utilized by seniors to reduce economic hardships stemming from the increasing costs of healthcare, housing and subsistence during a time of reduced income. The popularity of reverse mortgages is expected to increase because of a growing aging population and the negative impact the economic downturn has had on retirement savings. More seniors are expected to consider reverse mortgages as a practical and prudent way of supplementing their incomes during their retirement years. Recently, HUD has increased the HECM loan limit to a single national ceiling of \$417,000 (an increase from the prior limit, set on a county-by-county basis, ranging from \$200,160 to \$362,790). Also, the Housing and Economic Recovery Act (HERA) enacted protections around cross-

selling reverse mortgages with other financial services products. The increase in loan limit and added protections have contributed to the consumer's heightened interest in reverse mortgages.

As a result of the growth in the reverse mortgage market, lenders are becoming increasingly interested in making reverse loans. While MBA supports the entry of lenders in the market, we also understand reverse mortgages are marketed to a potentially vulnerable population. MBA whole heartedly supports protections for these consumers. The consumer protections should include adequate counseling standards and a clear plan for the payment of taxes and fees of the mortgaged property. MBA's reverse mortgage model state bill is intended to be a proactive instrument which will provide safeguards for consumers, as well as lenders.

PROPOSED COUNSELING PRINCIPLES

MBA proposes HECM and reverse mortgages should adhere to the following counseling provisions:

- Prior to making a reverse mortgage loan, a lender shall refer the prospective borrower to a HUD-approved housing counseling agency that provides face-to-face and telephone counseling.
- A lender shall not accept a final and complete application for a reverse mortgage loan from a prospective applicant or assess any fees upon a

prospective applicant without first receiving a certification from the applicant or the applicant's authorized representative that the applicant has received counseling from an agency.

- The information covered in the counseling session shall include:
 - » Options other than a reverse mortgage that are available to the homeowner, including other housing, social service, health and financial options;
 - » Other reverse mortgage options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans and property tax deferral;
 - » The financial implications of entering into a reverse mortgage; and
 - » A disclosure that a reverse mortgage may have tax consequences, affect eligibility for assistance under federal and state programs, and have an impact on the estate and heirs of the homeowner;
- Upon the request of the borrower, other parties shall be permitted to attend the counseling sessions with the borrower. Nothing in this provision creates an obligation or duty on the lender to inform, notice or advise any other party of the opportunity to attend the counseling.

PROPOSED CROSS-SELLING PRINCIPLES

In order to prevent any undue pressure on the borrower to purchase other financial instruments, excluding title

insurance, hazard, flood or other peril insurance, with the proceeds of their reverse mortgage, lenders should refrain from the following:

- Requiring an applicant for a reverse mortgage to purchase an annuity or any other financial product as a condition of obtaining a reverse mortgage loan;
- Offering an annuity to the borrower prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement; and
- Referring the borrower to anyone for the purchase of an annuity, excluding homeowner's insurance, prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement.

PROPOSED TAXES AND INSURANCE PRINCIPLES

As a protection to the borrower and the lender, MBA advocates that lenders, upon issuing a reverse mortgage, form a set-aside account of the estimated costs of three years of both taxes and insurance payments from the borrower's payout. Should the borrower fail to pay taxes and insurance on the mortgaged property, lenders would be permitted to use the set-aside funds to pay the mortgaged property's taxes and insurance. If the borrower pays the taxes and insurance on the mortgaged property without incident, the value of the set-aside account would be used to offset the amount of cash, interest and fees the borrower or the borrower's estate must repay to the lender.



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