

STATE OF NEW YORK

4408

2019-2020 Regular Sessions

IN SENATE

March 11, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the real property law, in relation to the regulation of default and foreclosure of reverse mortgages issued under the federal home equity conversion mortgage for seniors program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The real property law is amended by adding a new section
2 280-d to read as follows:

3 § 280-d. Federal home equity conversion mortgage default and foreclo-
4 sure regulation. 1. For the purposes of this section, the following
5 terms shall have the following meanings:

6 (a) Reverse mortgage loan. A reverse mortgage loan as defined in
7 section two hundred eighty of this article, which is issued in this
8 state pursuant to the home equity conversion mortgage for seniors
9 program operated by the federal Department of Housing and Urban Develop-
10 ment.

11 (b) Authorized lender. An authorized lender as defined in section two
12 hundred eighty of this article authorized to make reverse mortgage
13 loans, as defined in this section.

14 (c) Department. The department of financial services established
15 pursuant to section one hundred two of the financial services law.

16 2. In the event of a default or foreclosure upon a reverse mortgage
17 loan, the authorized lender, upon the commencement of the foreclosure
18 proceeding, shall transmit to the department proof that the federal
19 Department of Housing and Urban Development has granted prior approval
20 to accelerate the loan, proof of the default notice to the mortgagor and
21 any such information relating to the loans and the mortgagor as the
22 department shall determine to be necessary. Upon receipt of such infor-
23 mation, the department shall provide notice of and information relating
24 to the foreclosure to the mortgagor. Such notice shall include a notice

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 of the mortgagor's rights in the foreclosure process and contact infor-
2 mation for legal service organizations which may be able to assist the
3 mortgagor with the mortgage default and/or foreclosure.

4 3. No reverse mortgage loan commitment shall be issued by an author-
5 ized lender unless such commitment provides in writing notice that the
6 department will be provided notice of any default or foreclosure upon
7 the loan so as to provide assistance to the mortgagor.

8 4. No authorized lender shall make an advance payment for any obli-
9 gation arising from mortgaged real property. Furthermore, in the event a
10 mortgagor defaults upon the payment of mortgage insurance premium, home-
11 owners insurance premium or real property tax related to the mortgaged
12 property, the authorized lender may only pay those premiums and/or taxes
13 which are in arrears.

14 5. The department shall issue regulations which shall require mortga-
15 gees to engage in mandatory loss mitigation procedures to be specified
16 by the department. These loss mitigation procedures shall comply with
17 any restrictions on loss mitigation issued by the federal Department of
18 Housing and Urban Development for reverse mortgages and shall be updated
19 when necessary to ensure compliance with federal rules. The mortgagee
20 shall provide information to the department about loans receiving such
21 loss mitigation assistance. This includes maintaining loan level, loss
22 mitigation data and providing the department with the following informa-
23 tion for loans associated with a repayment plan:

- 24 (a) monthly surplus income;
- 25 (b) term of repayment plan;
- 26 (c) amount of monthly repayment plan payment;
- 27 (d) due date of next monthly payment;
- 28 (e) when a mortgagor experiences a hardship; and
- 29 (f) reason for hardship.

30 6. Any person who has been injured by reason of any violation of this
31 section may bring an action in his or her own name to recover treble his
32 or her actual damages, plus the prevailing plaintiff's reasonable attor-
33 ney's fees.

34 7. The requirements of this section shall be conditions precedent to
35 commencing an action to foreclose upon a home equity conversion mortgage
36 which is subject to the provisions of this section, and failure to
37 comply therewith shall be a complete defense to a foreclosure action.

38 § 2. This act shall take effect on the one hundred twentieth day after
39 it shall have become a law; provided, however, that effective immediate-
40 ly, any actions necessary for the implementation of this act on its
41 effective date are authorized and directed to be completed on or before
42 such date.