

2276

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. WEPRIN -- Multi-Sponsored by -- M. of A. BRENNAN, COLTON, COOK, CROUCH, FARRELL, GALEF, GIBSON, HIKIND, JAFFEE, MAISEL, McKEVITT, MONTESANO, RIVERA, ROBERTS, SALADINO -- read once and referred to the Committee on Housing

AN ACT to amend the real property law, the banking law, the insurance law, the public authorities law, the tax law, and the social services law, in relation to reverse mortgage loans; and to repeal section 280-a of the real property law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 280 of the real property law, as added by chapter
2 613 of the laws of 1993, paragraph (f) of subdivision 1 as amended by
3 chapter 155 of the laws of 2012, subdivision 5 as amended by chapter 33
4 of the laws of 1996, and paragraph (d) of subdivision 1, paragraphs (a),
5 (b), and (i), and the opening paragraph and subparagraph (v) of para-
6 graph (e) of subdivision 2, paragraph (b) of subdivision 3, and subdivi-
7 sions 4, 8, and 9 as further amended by section 104 of part A of chapter
8 62 of the laws of 2011, is amended to read as follows:
9 S 280. Reverse mortgage loans for persons [sixty] SIXTY-TWO years of
10 age or older. 1. For purposes of this section the following terms shall
11 have the following meanings:
12 (a) Reverse mortgage loans. A loan which is secured by a first mort-
13 gage on real property improved by a one- to four-family residence, COOP-
14 ERATIVE APARTMENT, LIFE ESTATE, TRUST, LEASEHOLD or condominium that is
15 the residence of the [mortgagor(s)] BORROWER OR BORROWERS the proceeds
16 of which are advanced to the [mortgagor(s)] BORROWER OR BORROWERS during
17 the term of the loan USING ANY ONE OR MORE METHOD OF PAYMENTS in equal
18 MONTHLY installments USING TENURE OR TERM PAYMENTS, in advances through
19 a line of credit or otherwise, in lump sums, or through a combination
20 thereof USING A MODIFIED TENURE OR MODIFIED TERM PAYMENTS. A REVERSE

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

LBD04890-01-3

1 MORTGAGE LOAN MAY BE FHA INSURED (HECM) PURSUANT TO SUBDIVISION FOUR OF
2 THIS SECTION OR A NON FHA INSURED LOAN (PROPRIETARY).

3 (b) [Term reverse mortgage loan. Any reverse mortgage loan that has a
4 fixed term to maturity.

5 (c) Tenure reverse mortgage loan. Any reverse mortgage loan that does
6 not have a fixed term to maturity, but rather] REVERSE MORTGAGE MATURI-
7 TY. A REVERSE MORTGAGE matures solely upon contingent events, such as
8 events including but not limited to death [or] OF THE SURVIVING BORROW-
9 ER, the real property securing the loan no longer being the [mortga-
10 gors'] BORROWERS' principal residence OR THE SUBJECT PROPERTY BEING
11 SOLD.

12 [(d)] (C) Authorized lender. Any bank, trust company, national banking
13 association, savings bank, savings and loan association, federal savings
14 bank, federal savings and loan association, credit union, or federal
15 credit union or any licensed mortgage banker approved for the making of
16 reverse mortgage loans by the superintendent of financial services or
17 any entity exempted from licensing pursuant to section five hundred
18 ninety of the banking law and approved for the making of reverse mort-
19 gage loans by the superintendent of financial services.

20 [(e) Mortgagor.] (D) BORROWER. A tenant in severalty who is [sixty]
21 SIXTY-TWO years of age or older, or if the real property is held by
22 tenants by the entirety or by joint tenancy, the youngest of which is
23 [sixty] SIXTY-TWO years of age or older AND SIGNS THE LOAN APPLICATION.
24 HOWEVER, A PARTY WITH A REMAINDER INTEREST WHO HAS NOT SIGNED THE APPLI-
25 CATION BUT SIGNS THE MORTGAGE, SIGNS THE MORTGAGE AS AN ACCOMMODATION
26 AND NOT AS A BORROWER AS DEFINED IN THIS SECTION.

27 [(f)] (E) Superintendent of financial services. The superintendent
28 established pursuant to section two hundred two of the financial
29 services law.

30 (F) MORTGAGOR. MORTGAGOR IS ONE WHO SIGNS THE MORTGAGE AS A BORROWER
31 OR AS A NON-BORROWER WHEN ONE HOLDS A REMAINDER INTEREST, OR SIGNS AS A
32 TRUSTEE.

33 (G) HOME EQUITY CONVERSION MORTGAGE (HECM). THE FHA REVERSE MORTGAGE
34 LOAN UNDER THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

35 (H) TENURE PAYMENT. EQUAL MONTHLY PAYMENTS ARE MADE BY THE LENDER TO
36 THE BORROWER OR BORROWERS AS LONG AS PROPERTY REMAINS THE PRINCIPAL
37 RESIDENCE UNLESS THE LOAN BECOMES DUE PURSUANT TO PARAGRAPH (C) OF THIS
38 SUBDIVISION.

39 (I) TERM PAYMENT. EQUAL MONTHLY PAYMENTS ARE MADE BY THE LENDER TO THE
40 BORROWER OR BORROWERS FOR A FIXED TERM OF MONTHS CHOSEN BY THE BORROWER,
41 UNLESS THE LOAN BECOMES DUE PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVI-
42 SION.

43 (J) LINE OF CREDIT. PAYMENTS ARE MADE BY THE LENDER TO THE BORROWER AT
44 TIMES AND IN AMOUNTS DETERMINED BY THE BORROWER OR BORROWERS, AS LONG AS
45 THE PROPERTY REMAINS PRINCIPAL RESIDENCE, UNLESS THE LOAN BECOMES DUE
46 PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

47 (K) MODIFIED TENURE. A TENURE PLAN COMBINED WITH A LINE OF CREDIT
48 FEATURE.

49 (L) MODIFIED TERM. A TERM PLAN COMBINED WITH A LINE OF CREDIT FEATURE.

50 (M) FULL DRAW. ALL AVAILABLE FUNDS ARE TAKEN IN A ONE-TIME SINGLE
51 PAYMENT.

52 (N) PARTIAL DRAW. A PORTION OF THE AVAILABLE FUNDS ARE TAKEN IN A
53 SINGLE PAYMENT.

54 (O) PRINCIPAL RESIDENCE. THE DWELLING WHERE THE BORROWER MAINTAINS A
55 PERMANENT PLACE OF ABODE AND TYPICALLY SPENDS A MAJORITY OF CALENDAR
56 YEAR. THE PROPERTY SHALL BE CONSIDERED TO BE THE PRINCIPAL RESIDENCE OF

1 ANY BORROWER WHO IS TEMPORARILY OR PERMANENTLY IN A HEALTH CARE INSTITU-
2 TION AS LONG AS THE PROPERTY IS THE PRINCIPAL RESIDENCE OF AT LEAST ONE
3 OTHER BORROWER WHO IS NOT IN A HEALTH CARE INSTITUTION.

4 (P) PROPRIETARY REVERSE MORTGAGE. A NON FHA INSURED LOAN.

5 (Q) COUNSELOR. SHALL BE AN INDIVIDUAL WHO HAS MET ALL TESTING AND
6 EDUCATION REQUIREMENTS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOP-
7 MENT AND IS INCLUDED IN THE HUD APPROVED ROSTER, AS LONG AS SAID ROSTER
8 SHALL BE MAINTAINED.

9 (R) COUNSELING PROTOCOL. EACH COUNSELOR SHALL FOLLOW HUD'S DETAILED
10 COUNSELING PROTOCOL, AS UPDATED AND AMENDED FROM TIME TO TIME. THE COUN-
11 SELING PROTOCOL FOR ALL REVERSE MORTGAGE LOANS, SHALL INCLUDE AMONG
12 OTHER THINGS A DISCUSSION OF: CLIENT NEEDS AND CIRCUMSTANCES; FEATURES
13 OF A REVERSE MORTGAGE LOAN; BORROWER RESPONSIBILITY UNDER A REVERSE
14 MORTGAGE LOAN; COSTS TO OBTAIN A REVERSE MORTGAGE; FINANCIAL AND TAX
15 IMPLICATIONS; ALTERNATIVES TO A REVERSE MORTGAGE LOAN; ELDER ABUSE
16 ISSUES AND WARNINGS ABOUT POTENTIAL REVERSE MORTGAGE INSURANCE FRAUD
17 SCHEMES. AS LONG AS REQUIRED BY HUD, THE CERTIFICATE CAN BE WITHHELD IF
18 THE BORROWER IS UNABLE TO ANSWER FIVE OUT OF TEN QUESTIONS ABOUT REVERSE
19 MORTGAGE BASICS, AFTER AN EXPLANATION OF THE CONCEPT HAS BEEN STATED BY
20 THE COUNSELOR. THE COUNSELING PROTOCOL CAN BE DELIVERED FACE TO FACE OR
21 OVER THE PHONE, AT THE SOLE OPTION OF THE BORROWER.

22 (S) COUNSELING CERTIFICATE. THE COUNSELOR SHALL ISSUE A COUNSELING
23 CERTIFICATE UPON THE COMPLETION OF THE SESSION BY EITHER HAND DELIVERY
24 OR THROUGH THE POSTAL SERVICE. AMONG OTHER THINGS, THE CERTIFICATE SHALL
25 CONTAIN THE ORIGINAL SIGNATURE OF THE COUNSELOR; COUNSELOR'S ID NUMBER,
26 AND THE LENGTH OF TIME OF THE SESSION.

27 2. A reverse mortgage loan pursuant to this section shall be subject
28 to the following:

29 (a) [the loan to value ratio shall be determined by the superintendent
30 of financial services; and

31 (b) subject to] such rules or regulations as the superintendent of
32 financial services shall adopt, any authorized lender or any successor
33 or assign of such authorized lender which suspends, ceases or makes late
34 payments to a [mortgagor] BORROWER under a reverse mortgage loan shall
35 be subject to forfeiture (as liquidated damages to such [mortgagor]
36 BORROWER and not as a penalty) of twice the interest which would other-
37 wise have been earned during the period in which payments were
38 suspended, ceased or made late, provided that said authorized lender or
39 any successor or assign of such authorized lender shall have the right
40 to make payments pursuant to said loan agreement within fifteen days of
41 each payment date, without penalty; and

42 [(c)] (B) the outstanding balance may be prepaid [in full] by the
43 [mortgagor] BORROWER without penalty at any time [during the term and/or
44 tenure of the loan]; PROVIDED, HOWEVER, IF SAID OUTSTANDING BALANCE IS
45 PAID IN FULL, THE LOAN WILL BE DEEMED SATISFIED AND NO LONGER BE IN
46 EFFECT; and

47 [(d)] (C) an authorized lender is prohibited from using or attaching
48 any property or asset of the [mortgagor] BORROWER except the real prop-
49 erty, INCLUDING A COOPERATIVE APARTMENT, securing the reverse mortgage
50 loan in settlement of a reverse mortgage obligation; and

51 [(e)] (D) the authorized lender must deliver to [an applicant] A
52 BORROWER such disclosures as may be required by the superintendent of
53 financial services which shall describe the relevant portions of the
54 reverse mortgage being offered, and shall include but not be limited to
55 the following items:

1 (i) [except for a tenure reverse mortgage loan, a schedule of payments
2 to and from the mortgagor and the total payments in dollars over the
3 term of the reverse mortgage loan for both the mortgagor and mortgagee
4 depending on the type of reverse mortgage loan being offered;
5 (ii)] a statement prominently displayed advising [applicants] BORROW-
6 ERS to consult with appropriate authorities regarding tax and estate
7 planning consequences of a reverse mortgage;
8 [(iii)] (II) where applicable a description of prepayment and refi-
9 nancing features;
10 [(iv)] (III) the interest rate and, except for a tenure reverse mort-
11 gage loan, the total interest payable on the loan;
12 [(v)] (IV) a statement concerning the compliance of the lender with
13 the criteria established by the superintendent of financial services
14 that an authorized lender must meet before it may make reverse mortgage
15 loans pursuant to this section; and
16 [(vi)] (V) a statement setting forth those events which would termi-
17 nate the reverse mortgage loan; and
18 [(f)] (E) in the event that an authorized lender or holder of the
19 reverse mortgage loan intends to initiate foreclosure proceedings the
20 [mortgagor] BORROWER shall have the right to designate a third party who
21 shall be notified. In the event that the mortgagor has not designated a
22 third party to receive such notice of foreclosure, then the authorized
23 lender or the holder of said reverse mortgage loan shall notify the
24 local or county office for the aging of its intent to commence foreclo-
25 sure proceedings. Such entity shall take appropriate action to protect
26 the interests of the [mortgagor] BORROWER; and
27 [(g)] (F) FOR ALL REVERSE MORTGAGE LOANS an authorized lender must
28 deliver to the [applicant] BORROWER, upon application, if available, a
29 statement prepared by the local or county office for the aging on the
30 [advisability and] availability of independent counseling [and informa-
31 tion services]. Further, no reverse mortgage [commitment shall be issued
32 by an authorized lender] PROCESSING OF THIS LOAN SHALL BEGIN until the
33 [applicant presents, in writing, a statement that the terms of the
34 reverse mortgage loan have been explained by an attorney, a housing and
35 urban development certified counselor or any other counseling service as
36 indicated on the statement supplied by the county or local office for
37 the aging or a signed affidavit indicating that the applicant, although
38 made aware of the importance of counseling and its local availability
39 through the provision of such information by the authorized lender,
40 chooses not to utilize any of the aforementioned available services. The
41 form of such statement and affidavit shall be developed by the New York
42 state office for the aging] BORROWER PROVIDES TO AN AUTHORIZED LENDER OR
43 BROKER THE ORIGINAL COUNSELING CERTIFICATE ALLOWED UNDER THE FEDERAL
44 HOUSING ADMINISTRATION (FHA) OR OTHER PROGRAMS APPROVED BY THE SUPER-
45 INTENDENT OF FINANCIAL SERVICES IN CONSULTATION WITH THE STATE OFFICE
46 FOR THE AGING; and
47 [(h)] (G) any such reverse mortgage shall expressly and conspicuously
48 bear a legend identifying it as such; and
49 [(i)] (H) subject to such rules or regulations as the superintendent
50 of financial services may adopt, a reverse mortgage loan shall be made
51 at either a fixed or variable rate of interest.
52 (I) THE PROCESSING OF A REVERSE MORTGAGE SHALL INCLUDE THE ORDERING OF
53 AN APPRAISAL, A TITLE SEARCH AND A CREDIT REPORT OR AN FHA CASE NUMBER,
54 WHEN APPLICABLE. A REVERSE MORTGAGE LOAN CANNOT BE PROCESSED, NOR SHALL
55 A BORROWER INCUR ANY PROCESSING EXPENSE UNTIL THE BORROWER COMPLETES THE
56 REQUIRED COUNSELING. THE PROCESSING OF A REVERSE MORTGAGE LOAN MAY ONLY

1 PROCEED ONCE THE COUNSELING IS COMPLETE, AS EVIDENCED BY THE SIGNED AND
2 DATED COUNSELING CERTIFICATE.

3 3. A reverse mortgage loan pursuant to this section may:

4 (a) provide that the [mortgagor's] BORROWER'S closing costs, including
5 but not limited to loan or commitment fees, if any, insurance premiums,
6 house repairs, legal fees, [the cost of annuities,] the costs of third-
7 party counseling, the costs of existing mortgages or liens, and other
8 appropriate costs be included in the principal of the reverse mortgage
9 loan and disbursed out of the loan proceeds at closing;

10 (b) provide for the maintenance of an escrow account by the authorized
11 lender for purposes of payment of real property taxes, insurance on the
12 property securing the loan, or any other fees and expenses as may be
13 permitted by superintendent of financial services regulation;

14 (c) provide that an authorized lender may, consistent with federal
15 laws and regulations, include a due-on-sale clause in its reverse mort-
16 gage loan agreement and at its option exercise and enforce such clause
17 in accordance with its terms.

18 (D) THE BORROWER SHALL NOT BE REQUIRED BY AN AUTHORIZED LENDER OR
19 BROKER TO PURCHASE AN INSURANCE OR ANNUITY PRODUCT AS A REQUIREMENT OR
20 CONDITION OF ELIGIBILITY EXCEPT FOR TITLE INSURANCE, HAZARD INSURANCE,
21 FLOOD OR OTHER PERIL INSURANCE OR OTHER SUCH PRODUCT THAT ARE CUSTOMARY
22 AND NORMAL TO THE TRANSACTION.

23 4. The superintendent of financial services shall adopt those rules or
24 regulations as it considers appropriate to govern reverse mortgage loans
25 made pursuant to this section. No reverse mortgage loan shall be made
26 unless it conforms to the requirements of this section and such rules
27 and regulations as the superintendent of financial services may adopt
28 [except those reverse mortgage loans made pursuant to section two
29 hundred eighty-a of this article]. A reverse mortgage loan made by any
30 authorized lender, national banking association, federal savings and
31 loan association or federal credit union in conformity with applicable
32 federal laws and regulations specifically regulating reverse mortgage
33 loans shall be deemed to conform to the requirements of this section
34 unless such reverse mortgage loan fails to conform to such rules and
35 regulations as the superintendent of financial services has expressly
36 declared to be neither preempted by, nor otherwise inconsistent with
37 such federal laws or regulations. Those rules or regulations shall
38 include, but are not limited to, the form and contents of any disclosure
39 statement, with the exception of the counseling statement prepared by
40 the New York state office for the aging pursuant to paragraph [(g)] (F)
41 of subdivision two of this section, that authorized lenders must provide
42 to [mortgagors] BORROWERS.

43 5. Notwithstanding any inconsistent provision of law, the priority of
44 the lien of a reverse mortgage, including the lien for all principal,
45 interest, fees, costs, shared appreciation and other charges assessed in
46 connection with the reverse mortgage, shall date from the recording of
47 the reverse mortgage irrespective of the date of any advance of reverse
48 mortgage loan proceeds or the date by which an authorized lender shall
49 be entitled to shared appreciation or accrued but unpaid interest, fees,
50 costs or other charges.

51 6. Nothing in this section shall be construed to limit, impair or
52 otherwise affect the priority under applicable law of any other mort-
53 gage, deed of trust, encumbrance or lien which was recorded or filed
54 prior to the effective date of this section.

1 7. The sale or transfer of the real property securing the reverse
2 mortgage loan [to a person other than an original mortgagor or mortga-
3 gors] shall result in the termination of the loan.

4 8. [In a term reverse mortgage loan, the real property securing the
5 reverse mortgage loan may be reappraised by an independent appraiser at
6 the end of the loan term. If the value of the real property has appreci-
7 ated, the term of the reverse mortgage may be extended or refinanced,
8 however, the total reverse mortgage loan amount may not exceed such
9 amount or ratio as may be determined by the superintendent of financial
10 services. The refinancing of the reverse mortgage loan shall be provided
11 by the original authorized lender or by any other authorized lender
12 designated by the mortgagee.

13 9. The principal, including any accrued but unpaid interest, of a
14 reverse mortgage loan agreement entered into pursuant to this section
15 may be insured by the mortgagor. If such insurance is purchased from or
16 otherwise provided by any agency of the state of New York the mortgagor
17 shall be granted the right, for a term reverse mortgage loan, to refi-
18 nance or extend the reverse mortgage loan at the end of the term,
19 subject to such rules or regulations as the superintendent of financial
20 services may adopt. The authorized lender shall have the option to
21 choose between refinancing or extending the reverse mortgage loan.
22 Subject to obtaining an adequate increase in the insurance and subject
23 to such rules and regulations as the superintendent of financial
24 services may adopt, the total reverse mortgage loan amount shall not
25 exceed such amount or loan to value ratio as may be determined by the
26 superintendent of financial services. The refinancing of the reverse
27 mortgage loan shall be provided by the original authorized lender or by
28 any other authorized lender designated by the mortgagee.

29 10. Any authorized lender offering reverse mortgage loans pursuant to
30 this section shall also offer reverse mortgage loans pursuant to section
31 two hundred eighty-a of this article. Subject to this section in the
32 event that an authorized lender makes reverse mortgage loans under this
33 section then that lender must make an equal number of reverse mortgage
34 loans pursuant to section two hundred eighty-a of this article. Such
35 loans shall be made to individuals who meet the requirements promulgated
36 in section two hundred eighty-a of this article provided that such indi-
37 vidual seeking the loan would otherwise qualify and be approved for that
38 loan. In the event that no or insufficient applications for reverse
39 mortgage loans pursuant to section two hundred eighty-a of this article
40 are made to a lender who has previously made reverse mortgage loans
41 pursuant to this section then there shall be no requirement for that
42 lender to make a reverse mortgage loan pursuant to section two hundred
43 eighty-a of this article. It shall also not be a requirement that an
44 authorized lender make any reverse mortgage loan to any individual who
45 would not qualify for such loan and/or would not otherwise be approved
46 for such loan.

47 11.] Nothing contained in this section, section six-h of the banking
48 law or any other provision of law shall be construed to prohibit a bank-
49 ing organization or licensed mortgage banker from providing reverse
50 mortgages to homeowners in this state under the federal housing adminis-
51 tration's home equity conversion mortgage insurance demonstration
52 program.

53 S 2. Section 280-a of the real property law is REPEALED.

54 S 3. Subdivision 1 of section 281 of the real property law, as amended
55 by chapter 613 of the laws of 1993, paragraph (a) as amended by chapter
56 183 of the laws of 1999, paragraph (b) as further amended by section 104

1 of part A of chapter 62 of the laws of 2011, is amended to read as
2 follows:

3 1. (a) For the purposes of this section, a "credit line mortgage"
4 shall mean any mortgage or deed of trust, other than a mortgage or deed
5 of trust made pursuant to a building loan contract as defined in subdivi-
6 sion thirteen of section two of the lien law, which states that it
7 secures indebtedness under a note, credit agreement or other financing
8 agreement that reflects the fact that the parties reasonably contemplate
9 entering into a series of advances, payments and readvances, and that
10 limits the aggregate amount at any time outstanding to a maximum amount
11 specified in such mortgage or deed of trust. For purposes of this
12 section, "credit line mortgage" shall include a reverse mortgage loan as
13 defined in [sections] SECTION two hundred eighty [and two hundred eight-
14 y-a] of this article except that such a credit line mortgage of the
15 reverse mortgage loan type shall not be subject to the twenty year limi-
16 tation set forth in subdivision two of this section.

17 (b) Payments made by an authorized lender pursuant to any credit line
18 reverse mortgage made in accordance with section two hundred [eighty-a]
19 EIGHTY of this article during any one year shall be limited to such
20 amount or ratio as may be determined by the superintendent of financial
21 services. [In the event that a borrower does not take payment under
22 such credit line during the course of any year then that borrower shall
23 have the ability to increase the yearly payments by that amount avail-
24 able but not borrowed during previous years.]

25 S 4. The opening paragraph of section 6-h of the banking law, as
26 amended by chapter 613 of the laws of 1993, and as further amended by
27 section 104 of part A of chapter 62 of the laws of 2011, is amended to
28 read as follows:

29 Notwithstanding any inconsistent provision of law, in addition to any
30 other power exercised by it, every authorized lender, as defined by
31 section two hundred eighty [or two hundred eighty-a] of the real proper-
32 ty law, shall have the power to offer reverse mortgage loans (1) which
33 conform to the provisions of section two hundred eighty [or two hundred
34 eighty-a] of the real property law and the rules and regulations promul-
35 gated by the superintendent of financial services; or (2) which conform
36 to the requirements of the federal housing administration's home equity
37 conversion mortgage insurance [demonstration] program for as long as
38 such program exists as provided for in section 1715Z-20 of title 12 of
39 the United States Code. "Reverse mortgage" shall mean the mortgage,
40 deed of trust or other security instrument relating to a particular
41 reverse mortgage loan transaction.

42 S 5. Paragraph (s) of subdivision 1 of section 14 of the banking law,
43 as amended by section 90 of part A of chapter 62 of the laws of 2011, is
44 amended to read as follows:

45 (s) To permit authorized lenders, as defined by section two hundred
46 eighty [or two hundred eighty-a] of the real property law, to offer
47 reverse mortgage loans which shall conform to the provisions of section
48 two hundred eighty [or two hundred eighty-a] of the real property law.

49 S 6. The opening paragraph of paragraph 1 of subsection (c) of section
50 6501 of the insurance law, as amended by chapter 555 of the laws of
51 2003, is amended to read as follows:

52 an amortized instrument of indebtedness evidencing a loan secured by a
53 first lien on real estate which at the time the loan is made is not less
54 than eighty percent but not more than one hundred three percent of the
55 fair market value of the real estate with any percentage in excess of
56 one hundred percent being used to finance the fees and closing costs on

1 such indebtedness, except, however, for reverse mortgage loans made
2 pursuant to [sections] SECTION two hundred eighty [and two hundred
3 eighty-a] of the real property law; provided that:

4 S 7. Subdivision 16 of section 2426 of the public authorities law, as
5 added by chapter 613 of the laws of 1993, is amended to read as follows:

6 16. Reverse mortgage. A reverse mortgage loan pursuant to section two
7 hundred eighty [or two hundred eighty-a] of the real property law shall
8 mean a loan which is secured by a first mortgage on real property
9 improved by a one to four-family residence or condominium OR COOPERATIVE
10 APARTMENT that is the residence of the [mortgagor] BORROWER, the
11 proceeds of which are advanced to the mortgagor during the loan term in
12 equal installments, in advances through a line of credit or otherwise,
13 in lump sums, or through a combination thereof. A reverse mortgage may
14 be structured to provide for the addition of accrued but unpaid interest
15 to principal, AND MORTGAGE INSURANCE PREMIUM IN THE AMOUNT OF ONE AND
16 ONE-QUARTER PERCENT OF THE OUTSTANDING BALANCE REMAINING OR SUCH OTHER
17 AMOUNT AS MAY BE REQUIRED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN
18 DEVELOPMENT. Such reverse mortgage loan may provide for an initial lump-
19 sum advance wherein the mortgagor may receive an amount necessary to pay
20 closing costs, including but not limited to loan or commitment fees, if
21 any, insurance premiums, the cost of house repairs, legal fees, [the
22 cost of annuities,] the costs of third party counseling, the amount
23 necessary to pay off existing mortgages or liens, and other appropriate
24 costs.

25 S 8. Paragraph (b) of subdivision 3-b of section 2428 of the public
26 authorities law, as added by chapter 613 of the laws of 1993, and as
27 further amended by section 104 of part A of chapter 62 of the laws of
28 2011, is amended to read as follows:

29 (b) the reverse mortgage loan is issued pursuant to section two
30 hundred eighty [or two hundred eighty-a] of the real property law;

31 S 9. Subdivision 2 of section 252-a of the tax law, as amended by
32 chapter 613 of the laws of 1993, is amended to read as follows:

33 2. Reverse mortgages conforming to the provisions of section two
34 hundred eighty [or two hundred eighty-a] of the real property law secur-
35 ing obligations of mortgagors or exempted therefrom pursuant to subdivi-
36 sion four of section two hundred eighty [or subdivision four of section
37 two hundred eighty-a] of the real property law shall be exempt from any
38 tax or fee imposed by this article. In each case where an exemption is
39 claimed under this subdivision, the lender shall provide documentation
40 in a format approved by the commissioner [of taxation and finance] to
41 enable recording officers to affirmatively determine when a mortgage
42 being presented for recording is a reverse mortgage conforming to such
43 provisions of the real property law and entitled to an exemption under
44 this subdivision. Where such documentation is not furnished, the maximum
45 principal debt or obligation which shall be the measure of the tax
46 imposed by and pursuant to the authority of this article in the case of
47 a reverse mortgage shall be the proceeds of the loan which the author-
48 ized lender is obligated to lend the borrower at the execution of such
49 mortgage or at any time thereafter but determined without regard to any
50 contingency relating to the addition of any unpaid interest to principal
51 or relating to any percentage of the future appreciation of the property
52 securing the loan as consideration or additional consideration for the
53 making of the loan. Provided, however, if subsequent to the recording of
54 such mortgage, the proceeds which the authorized lender is obligated to
55 lend the borrower are increased at any time, such new or further indebt-
56 edness or obligation shall be the measure of the tax at such time unless

1 at that time an exemption is applicable under the first sentence of this
2 subdivision or otherwise.

3 S 10. Section 131-x of the social services law, as amended by section
4 73 of part B of chapter 436 of the laws of 1997, is amended to read as
5 follows:

6 S 131-x. Reverse mortgage loans. Notwithstanding any other incon-
7 sistent provisions of law and to the extent permissible under federal
8 law, regulation or waiver, the proceeds of a reverse mortgage loan made
9 in conformity with the requirements of section two hundred eighty [or
10 two hundred eighty-a] of the real property law or exempted therefrom
11 pursuant to subdivision four of section two hundred eighty [or subdivi-
12 sion four of section two hundred eighty-a] of the real property law
13 shall not be considered as income or resources of the mortgagor for any
14 purpose under any law relating to food stamps, public assistance, veter-
15 an assistance, safety net assistance, low-income home energy assistance,
16 federal supplemental security income benefits and/or additional state
17 payments, medical assistance, any prescription drug plan or other
18 payments, allowances, benefits or services available pursuant to this
19 chapter; provided, however, that for applicants or for recipients of
20 safety net assistance, any such reverse mortgage loan proceeds shall be
21 disregarded as income and/or resources only in the event that, and for
22 so long as, federal laws and regulations exempt loan proceeds in the
23 determination of eligibility for both the aid to families with dependent
24 children and supplemental security income programs.

25 S 11. This act shall take effect immediately.