STATE OF NEW YORK

5822

2017-2018 Regular Sessions

IN ASSEMBLY

February 16, 2017

Introduced by M. of A. WEINSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to the provision of certain information to mortgagors 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:

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

§ 280-e. Federal home equity conversion mortgage information summary sheet. 1. For the purposes of this section the following terms shall have the following meanings:

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

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

(c) Mortgagor. A mortgagor as defined in section two hundred eighty of this article.

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

2. The department shall establish and distribute to authorized lenders, and periodically update, a New York state home equity conversion information summary. Such summary shall include, but not be limited to:

(a) notice that reverse mortgage loans are not free or cost free, and such loans have associated costs that are included in the financing thereof;

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

LBD07905-04-7

(b) a schedule of payments to be made to and from the mortgagor, and the total payment for both the mortgagee and the authorized lender over the term of the reverse mortgage loan contingent upon the type of such loan being offered;

(c) a statement advising mortgagors to consult with licensed professionals regarding the tax and estate planning consequences of reverse mortgage loans;

(d) where applicable, a description of the prepayment and refinancing provisions of the reverse mortgage loan;

(e) an explanation and itemization of the potential costs of reverse mortgage loans, including the rate of interest and total interest payable on such loan;

(f) a summary of actions or conditions that will constitute a default of the reverse mortgage loan;

(g) a summary and explanation of alternatives to entering into a reverse mortgage loan on the basis of economic hardship including, but not limited to, direct sale of the residence, social safety net programs, debt consolidation or economic counseling;

(h) information on a mortgagor's basic rights in the foreclosure process;

(i) a summary of the real property tax exemptions which are available to the mortgagor in order to reduce his or her cost of living;

(j) information about New York state-based organizations that provide federal Department of Housing and Urban Development certified reverse mortgage counseling;

(k) information on legal assistance and advocacy organizations and services which provide assistance to mortgagors in the event that complications or issues arise relating to the reverse mortgage loan; and

(l) such other information as the department shall deem necessary to fully inform mortgagors of their rights and responsibilities under a reverse mortgage loan.

3. Not less than five days prior to the closing upon a reverse mortgage loan, the authorized lender shall provide the mortgagor with a completed New York state home equity conversion information summary in duplicate. Each mortgagor shall sign both copies of such summary, attesting that he or she has read and fully understands the summary. One copy thereof shall be retained by the authorized lender and the other shall be retained by the mortgagor's attorney.

4. The provision of the information summary established by this section is integral to the execution of a reverse mortgage loan, thus in the absence of such a summary the related reverse mortgage loan shall be null and void.

5. Any person who has been injured by reason of any violation of this section or the rules and regulations related thereto may bring an action in his or her own name to recover treble his or her actual damages, plus the prevailing plaintiff's reasonable attorneys fee.

6. The superintendent of financial services is authorized to promulgate any rules or regulations he or she deems necessary to implement the provisions of this section.

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