STATE OF NEW YORK

7589

2017-2018 Regular Sessions

IN ASSEMBLY

May 3, 2017

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

AN ACT to amend the real property law, in relation to conditions on lenders who extend reverse mortgages to persons over sixty and seventy years old

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

Section 1. Paragraphs (g), (h) and (i) of subdivision 2 of section 280 of the real property law, as added by chapter 613 of the laws of 1993, paragraph (i) as further amended by section 104 of part A of chapter 62 of the laws of 2011, are amended to read as follows:

(g) an authorized lender must deliver to the applicant, upon application[~~, if available,~~] a **plain language** statement prepared by the [~~local or county~~] **department of financial services who may consult with the New York state** office for the aging**, where appropriate,** on the advisability and availability of independent counseling and information services. **In addition to the plain language notice, no reverse mortgage loan application shall be taken by a lender unless the lender provides the prospective borrower, prior to his or her meeting with a counseling agency on reverse mortgages, with a reverse mortgage worksheet guide to be prepared by the department of financial services who may consult with the New York state office for the aging where appropriate.** Further, no reverse mortgage commitment shall be issued by an authorized lender until the applicant presents, in writing, a statement that the terms of the reverse mortgage loan have been explained by an attorney, a housing and urban development certified counselor or any other counseling service as indicated on the statement supplied by the [~~county or local office for the aging~~] **department of financial services** or a signed affidavit indicating that the applicant, although made aware of the importance of counseling and its local availability through the provision of such information by the authorized lender, chooses not to utilize any of

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

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the aforementioned available services. **The loan application shall not be approved until the signed reverse mortgage worksheet guide is provided to the lender. A copy of the reverse mortgage worksheet guide shall be provided to the borrower that shall have information including, but not limited to: how reverse mortgages can affect the borrower and their heirs and estate; the consequences of defaulting on a reverse mortgage; alternatives to a reverse mortgage; and the impact on the borrower's eligibility for government assistance programs.** The form of such statement and affidavit shall be developed by the **department of financial services, who may consult with the** New York state office for the aging **where appropriate**; and

(h) **a lender shall not accept a final and complete application for reverse mortgage loan from a prospective applicant or assess any fees upon a prospective applicant until a lapse of seven days from the date of counseling, as evidenced by the counseling certification, and without first receiving certification from the applicant or the applicant's authorized representative that the applicant has received counseling from an agency as described in paragraph (g) of this subdivision or seven days from receipt of a signed affidavit expressly waiving such counseling; and**

(i) any such reverse mortgage shall expressly and conspicuously bear a legend identifying it as such; and

[~~**(i)**~~] **(j)** subject to such rules or regulations as the superintendent of financial services may adopt, a reverse mortgage loan shall be made at either a fixed or variable rate of interest.

§ 2. Paragraphs (j), (k), (l) and (m) of subdivision 2 of section 280-a of the real property law, as added by chapter 613 of the laws of 1993, paragraph (l) as further amended by section 104 of part A of chapter 62 of the laws of 2011, are amended to read as follows:

(j) an authorized lender must deliver to the applicant upon application[~~**, if available,**~~] a **plain language** statement prepared by the [~~**local or county**~~] **department of financial services, who may consult with the New York state** office for the aging**, where appropriate,** on the advisability and availability of independent counseling and information services. **In addition to the plain language notice, no reverse mortgage loan application shall be taken by a lender unless the lender provides the prospective borrower, prior to his or her meeting with a counseling agency on reverse mortgages, with a reverse mortgage worksheet guide to be prepared by the department of financial services, who may consult with the New York state office for the aging where appropriate.** Further, no reverse mortgage commitment shall be issued by the authorized lender until the applicant presents, in writing, a statement that the terms of the reverse mortgage loan have been explained to them by an attorney, a housing and urban development certified counselor or any other counseling service as indicated on the statement supplied by the [~~**county or local office for the aging**~~] **department of financial services** or a signed affidavit indicating that the applicant, although made aware of the importance of counseling and its local availability through the provision of such information by the authorized lender, chooses not to utilize any of the aforementioned available services. **The loan application shall not be approved until the signed reverse mortgage worksheet guide is provided to the lender. A copy of the reverse mortgage worksheet guide shall be provided to the borrower that shall have information including, but not limited to: how reverse mortgages can affect the borrower and their heirs and estate, the consequences of defaulting on a reverse mortgage, alternatives to a reverse mortgage, and impacts**

on the borrower's eligibility for governmental assistance programs. The form of such statement and affidavit shall be developed by the department of financial services, who may consult with the New York state office for the aging where appropriate; and

(k) 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 until a lapse of seven days from the date of counseling, as evidenced by the counseling certification, and without first receiving certification from the applicant or the applicant's authorized representative that the applicant has received counseling from an agency as described in paragraph (j) of this subdivision or seven days from receipt of a signed affidavit expressly waiving such counseling; and

(l) a reverse mortgage pursuant to this section shall expressly and conspicuously bear a legend identifying it as such; and

[~~(l)~~] (m) subject to such rules or regulations as the superintendent of financial services may adopt, a reverse mortgage loan shall be made at either a fixed or variable rate of interest; and

[~~(m)~~] (n) in the event that an authorized lender or holder of the reverse mortgage loan intends to initiate foreclosure proceedings the mortgagor shall have the right to designate a third party who shall be notified. In the event that the mortgagor has not designated a third party to receive such notice of foreclosure, then the authorized lender or the holder of said reverse mortgage loan shall notify the local or county office for the aging of its intent to commence foreclosure proceedings. Such entity shall take appropriate action to protect the interests of the mortgagor.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.