

STATE OF NEW YORK

2758--A

2017-2018 Regular Sessions

IN SENATE

January 17, 2017

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

5 (g) an authorized lender must deliver to the applicant, upon applica-
6 tion[~~, if available,~~] a plain language statement prepared by the [~~local~~
7 ~~or county~~] department of financial services who may consult with the New
8 York state office for the aging, where appropriate, on the advisability
9 and availability of independent counseling and information services. In
10 addition to the plain language notice, no reverse mortgage loan applica-
11 tion shall be taken by a lender unless the lender provides the prospec-
12 tive borrower, prior to his or her meeting with a counseling agency on
13 reverse mortgages, with a reverse mortgage worksheet guide to be
14 prepared by the department of financial services who may consult with
15 the New York state office for the aging where appropriate. Further, no
16 reverse mortgage commitment shall be issued by an authorized lender
17 until the applicant presents, in writing, a statement that the terms of
18 the reverse mortgage loan have been explained by an attorney, a housing
19 and urban development certified counselor or any other counseling
20 service as indicated on the statement supplied by the [~~county or local~~
21 ~~office for the aging~~] department of financial services or a signed affi-
22 davit indicating that the applicant, although made aware of the impor-

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

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1 tance of counseling and its local availability through the provision of
2 such information by the authorized lender, chooses not to utilize any of
3 the aforementioned available services. The loan application shall not
4 be approved until the signed reverse mortgage worksheet guide is
5 provided to the lender. A copy of the reverse mortgage worksheet guide
6 shall be provided to the borrower that shall have information including,
7 but not limited to: how reverse mortgages can affect the borrower and
8 their heirs and estate; the consequences of defaulting on a reverse
9 mortgage; alternatives to a reverse mortgage; and the impact on the
10 borrower's eligibility for government assistance programs. The form of
11 such statement and affidavit shall be developed by the department of
12 financial services, who may consult with the New York state office for
13 the aging where appropriate; and

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

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

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

28 § 2. Paragraphs (j), (k), (l) and (m) of subdivision 2 of section
29 280-a of the real property law, as added by chapter 613 of the laws of
30 1993, paragraph (l) as further amended by section 104 of part A of chap-
31 ter 62 of the laws of 2011, are amended to read as follows:

32 (j) an authorized lender must deliver to the applicant upon applica-
33 tion~~[, if available,]~~ a plain language statement prepared by the ~~[local~~
34 ~~or county]~~ department of financial services, who may consult with the
35 New York state office for the aging, where appropriate, on the advis-
36 ability and availability of independent counseling and information
37 services. In addition to the plain language notice, no reverse mortgage
38 loan application shall be taken by a lender unless the lender provides
39 the prospective borrower, prior to his or her meeting with a counseling
40 agency on reverse mortgages, with a reverse mortgage worksheet guide to
41 be prepared by the department of financial services, who may consult
42 with the New York state office for the aging where appropriate. Further,
43 no reverse mortgage commitment shall be issued by the authorized lender
44 until the applicant presents, in writing, a statement that the terms of
45 the reverse mortgage loan have been explained to them by an attorney, a
46 housing and urban development certified counselor or any other coun-
47 seling service as indicated on the statement supplied by the ~~[county or~~
48 ~~local office for the aging]~~ department of financial services or a signed
49 affidavit indicating that the applicant, although made aware of the
50 importance of counseling and its local availability through the
51 provision of such information by the authorized lender, chooses not to
52 utilize any of the aforementioned available services. The loan applica-
53 tion shall not be approved until the signed reverse mortgage worksheet
54 guide is provided to the lender. A copy of the reverse mortgage work-
55 sheet guide shall be provided to the borrower that shall have informa-
56 tion including, but not limited to: how reverse mortgages can affect

1 the borrower and their heirs and estate, the consequences of defaulting
2 on a reverse mortgage, alternatives to a reverse mortgage, and impacts
3 on the borrower's eligibility for governmental assistance programs. The
4 form of such statement and affidavit shall be developed by the depart-
5 ment of financial services, who may consult with the New York state
6 office for the aging where appropriate; and

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

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

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

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

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