

# STATE OF NEW YORK

5820

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 regulation 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 Assem-  
bly, do enact as follows:

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

3 § 280-b. Federal home equity conversion mortgage regulation. 1. For  
4 the purposes of this section, the following terms shall have the follow-  
5 ing 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) Superintendent. The superintendent of financial services estab-  
15 lished pursuant to section two hundred two of the financial services  
16 law.

17 2. No authorized lender or any other party or entity shall in any  
18 manner, in the marketing or offering of reverse mortgage loans:

19 (a) use the words "public service announcement" in any commercial,  
20 mailing, advertisement or writing relating thereto; or

21 (b) use the words "government insured" or other similar language  
22 representing that reverse mortgage loans are insured, supported and  
23 sponsored by any governmental entity in any commercial, mailing, adver-  
24 tisement or writing relating thereto; or

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

LBD07787-05-7

1 (c) represent that any such loan is other than a commercial product.

2 3. (a) Every authorized lender or its agent shall provide, with any  
3 solicitation for reverse mortgage products mailed to a physical address  
4 within the state, supplemental consumer protection materials the content  
5 and form of which shall be specified by the superintendent or his or her  
6 designee.

7 (b) Every authorized lender shall provide each applicant or potential  
8 applicant for a reverse mortgage loan with the telephone number and  
9 internet website address provided by the federal Department of Housing  
10 and Urban Development for the purposes of acquiring home equity conver-  
11 sion mortgage counseling.

12 (c) The superintendent is authorized to promulgate such rules and  
13 regulations as he or she shall deem necessary to implement the  
14 provisions of this subdivision.

15 4. (a) Reverse mortgages secured by residential real property within  
16 the state shall be subject to the rules and regulations of the federal  
17 Department of Housing and Urban Development relating to the home equity  
18 conversion mortgage program.

19 (b) For all borrowers whose tax payments, mortgage insurance payments,  
20 homeowners insurance payments, or payments stemming from any other prop-  
21 erty obligation or obligations are administered by the authorized lend-  
22 er, and where these payments are derived from the proceeds of the mort-  
23 gage, the authorized lender shall provide on the borrower's periodic  
24 account statement a notice which reads in at least twelve point type:  
25 "YOUR TAXES AND INSURANCE ARE CURRENTLY BEING PAID BY THE PROCEEDS OF  
26 THIS MORTGAGE. THE FUNDS THAT HAVE BEEN SET ASIDE ARE EXPECTED TO BE  
27 EXHAUSTED AFTER THE TAX AND INSURANCE PAYMENTS OF (SPECIFY EXPECTED  
28 MONTH AND YEAR). IF THE PROCEEDS OF THIS MORTGAGE CANNOT PAY THE TAXES  
29 AND INSURANCE, YOU MUST PAY THESE OBLIGATIONS OR YOUR HOME MAY BE LOST  
30 TO FORECLOSURE. PLEASE NOTE THAT AS TAX AND INSURANCE AMOUNTS CAN VARY  
31 YOU SHOULD CONTINUE TO REVIEW THIS NOTICE FOR CHANGES."

32 (c) An authorized lender shall, by telephone and first class mail,  
33 inform and provide notice to a mortgagor when his or her home equity  
34 line of credit or life expectancy set aside is depleted to ten percent  
35 or less of its value. Such notice shall inform the mortgagor of his or  
36 her obligations relating to such real property including, but not limit-  
37 ed to, mortgage insurance, homeowners insurance and real property taxes  
38 previously paid by such line of credit or life expectancy set aside, and  
39 that such obligations must continue to be paid when the home equity line  
40 of credit or life expectancy set aside is depleted. Such notice shall  
41 use plain language, written in a clear and coherent manner using words  
42 with common and every day meanings, appropriately divided and captioned  
43 by its various sections.

44 (d) Each authorized lender shall, by telephone and first class mail,  
45 inform and provide notice to a mortgagor when his or her home equity  
46 line of credit or life expectancy set aside is depleted. Such notice  
47 shall inform the mortgagor of his or her obligations relating to the  
48 mortgaged real property including, but not limited to, mortgage insur-  
49 ance, homeowners insurance and real property taxes, and that the home  
50 equity line of credit or life expectancy set aside will no longer pay  
51 these obligations. Such notice shall use plain language, written in a  
52 clear and coherent manner using words with common and every day mean-  
53 ings, appropriately divided and captioned by its various sections.

54 5. In the event that an authorized lender seeks to foreclose on a  
55 reverse mortgage loan on the basis that the mortgaged real property is  
56 no longer the primary residence of the mortgagor, if during the verifi-

1 cation of the mortgagor's primary residence no responses are received in  
2 response to mailings relating thereto, such lender shall cause a tele-  
3 phone call to be made to the mortgagor, or if the mortgagor is unreacha-  
4 ble by telephone, a designated third-party specified by the mortgagor,  
5 and an in person visit to be made to the mortgagor at the mortgaged real  
6 property to be made prior to the commencement of any foreclosure  
7 proceeding. During such visit, the authorized lender or its agent shall  
8 provide clear information as to who they are, that the visit pertains to  
9 the reverse mortgage and the telephone number to call for further infor-  
10 mation. The authorized lender must wait at least thirty days following  
11 such visit, in addition to any additional time or notice requirements  
12 specified by any other provision of law, before initiating a foreclosure  
13 action on the basis that the mortgaged real property is no longer the  
14 primary residence of the mortgagor. If the mortgagor contacts the  
15 authorized lender and provides proof of residence after such visit but  
16 before the commencement of a foreclosure action, the authorized lender  
17 shall be barred from initiating such foreclosure action. Furthermore,  
18 no authorized lender shall charge a mortgagor any fee for any such visit  
19 and inspection. This prohibition on the imposition of fees shall include  
20 any and all inspections conducted by the authorized lender to verify the  
21 status of the reverse mortgage, or any suspected or actual default  
22 condition.

23 6. Both the authorized lender and the mortgagor shall be represented  
24 by an attorney or attorneys at the time of the closing on the reverse  
25 mortgage, and each such party shall have at least one attorney present  
26 to conduct the closing.

27 7. Any person who has been injured by reason of any violation of this  
28 section or any violation of the rules and regulations of the federal  
29 Department of Housing and Urban Development relating to the home equity  
30 conversion mortgage program may bring an action in his or her own name  
31 to recover treble his or her actual damages, plus the prevailing  
32 plaintiff's reasonable attorney's fees.

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

38 § 2. This act shall take effect on the ninetieth day after it shall  
39 have become a law; provided, that, effective immediately the superinten-  
40 dent of financial services is authorized and directed to amend, add  
41 and/or repeal any rules and regulations necessary to implement the  
42 provision of this act within 180 days after this act shall have become a  
43 law.