STATE OF NEW YORK

5821

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 regulation of default and foreclosure 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-d to read as follows:

§ 280-d. Federal home equity conversion mortgage default and foreclosure regulation. 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) Department. The department of financial services established pursuant to section one hundred two of the financial services law.

2. In the event of a default or foreclosure upon a reverse mortgage loan, the authorized lender, upon the commencement of the foreclosure proceeding, shall transmit to the department proof that the federal Department of Housing and Urban Development has granted prior approval to accelerate the loan, proof of the default notice to the mortgagor and any such information relating to the loans and the mortgagor as the department shall determine to be necessary. Upon receipt of such information, the department shall provide notice of and information relating to the foreclosure to the mortgagor. Such notice shall include a notice

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

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of the mortgagor's rights in the foreclosure process and contact information for legal service organizations which may be able to assist the mortgagor with the mortgage default and/or foreclosure.

3. No reverse mortgage loan commitment shall be issued by an authorized lender unless such commitment provides in writing notice that the department will be provided notice of any default or foreclosure upon the loan so as to provide assistance to the mortgagor.

4. No authorized lender shall make an advance payment for any obligation arising from mortgaged real property. Furthermore, in the event a mortgagor defaults upon the payment of mortgage insurance premium, homeowners insurance premium or real property tax related to the mortgaged property, the authorized lender may only pay those premiums and/or taxes which are in arrears.

5. The department shall issue regulations which shall require mortgagees to engage in mandatory loss mitigation procedures to be specified by the department. These loss mitigation procedures shall comply with any restrictions on loss mitigation issued by the federal Department of Housing and Urban Development for reverse mortgages and shall be updated when necessary to ensure compliance with federal rules. The mortgagee shall provide information to the department about loans receiving such loss mitigation assistance. This includes maintaining loan level, loss mitigation data and providing the department with the following information for loans associated with a repayment plan:

(a) monthly surplus income;

(b) term of repayment plan;

(c) amount of monthly repayment plan payment;

(d) due date of next monthly payment;

(e) when a mortgagor experiences a hardship; and

(f) reason for hardship.

6. Any person who has been injured by reason of any violation of this section may bring an action in his or her own name to recover treble his or her actual damages, plus the prevailing plaintiff's reasonable attorney's fees.

7. The requirements of this section shall be conditions precedent to commencing an action to foreclose upon a home equity conversion mortgage which is subject to the provisions of this section, and failure to comply therewith shall be a complete defense to a foreclosure action.

§ 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.