

STATE OF NEW YORK

1246

2019-2020 Regular Sessions

IN SENATE

January 11, 2019

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

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.

LBD06745-01-9

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

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

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

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

26 § 2. Paragraphs (j), (k), (l) and (m) of subdivision 2 of section
27 280-a of the real property law, as added by chapter 613 of the laws of
28 1993, paragraph (l) as further amended by section 104 of part A of chap-
29 ter 62 of the laws of 2011, are amended to read as follows:

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

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

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

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

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

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

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