STATE OF NEW YORK

1973

2021-2022 Regular Sessions

IN ASSEMBLY

January 13, 2021

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 filings concerning reverse mortgage loans

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

Section 1. Section 280-d of the real property law, as added by a chapter of the laws of 2020 amending the real property law relating to the regulation of default and foreclosure of reverse mortgages issued under the federal home equity conversion mortgage for seniors program, as proposed in legislative bills numbers S. 4408 and A. 5627, is amended 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~~

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

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~~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 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:~~] **In addition to the requirements of section one thousand three hundred four of the real property actions and proceedings law, an authorized lender shall include in the notice required by such section any additional information required by the department. The department is hereby authorized to promulgate rules and regulations requiring that a notice issued pursuant to subdivision one-a of section one thousand three hundred four of the real property actions and proceedings law include additional information necessary to explain the mortgagor's rights in a foreclosure process.**

3. In addition to the requirements of section one thousand three hundred six of the real property actions and proceedings law, each filing with the department that relates to a reverse mortgage loan shall include an affirmative statement that the lender, assignee or mortgage loan servicer either received final approval from the federal Department of Housing and Urban Development to accelerate the reverse mortgage loan that is the subject of the filing or that no such approval from the federal Department of Housing and Urban Development is required.

4. Authorized lenders shall comply with all applicable laws, regulations and any guidelines issued by the federal Department of Housing and Urban Development on loss mitigation for reverse mortgages and shall maintain policies on loss mitigation that shall be updated when necessary to ensure compliance with all applicable rules. Each authorized lender shall maintain loan level data and loss mitigation data for all loans associated with a repayment plan including, but not limited to:

(a) monthly surplus income;

(b) term of repayment plan;

(c) amount of monthly repayment plan [~~payment~~];

(d) due date of [~~next~~] **each** monthly payment;

(e) when a mortgagor experiences a hardship; and

(f) [~~reason for~~] **the nature of the** hardship.

[~~6.~~] **5.** 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.~~] **6.** 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 same date and in the same manner as a chapter of the laws of 2020 amending the real property law relating to the regulation of default and foreclosure of reverse mortgages issued under the federal home equity conversion mortgage for seniors program, as proposed in legislative bills numbers S. 4408 and A. 5627, takes effect.