

# STATE OF NEW YORK

884

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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

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:

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

7 § 280-d. Federal home equity conversion mortgage default and foreclo-  
8 sure regulation. 1. For the purposes of this section, the following  
9 terms shall have the following meanings:

10 (a) Reverse mortgage loan. A reverse mortgage loan as defined in  
11 section two hundred eighty of this article, which is issued in this  
12 state pursuant to the home equity conversion mortgage for seniors  
13 program operated by the federal Department of Housing and Urban Develop-  
14 ment.

15 (b) Authorized lender. An authorized lender as defined in section two  
16 hundred eighty of this article authorized to make reverse mortgage  
17 loans, as defined in this section.

18 (c) Department. The department of financial services established  
19 pursuant to section one hundred two of the financial services law.

20 2. [~~In the event of a default or foreclosure upon a reverse mortgage  
21 loan, the authorized lender, upon the commencement of the foreclosure  
22 proceeding, shall transmit to the department proof that the federal  
23 Department of Housing and Urban Development has granted prior approval  
24 to accelerate the loan, proof of the default notice to the mortgagor and~~

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

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~~1 any such information relating to the loans and the mortgagor as the  
2 department shall determine to be necessary. Upon receipt of such infor-  
3 mation, the department shall provide notice of and information relating  
4 to the foreclosure to the mortgagor. Such notice shall include a notice  
5 of the mortgagor's rights in the foreclosure process and contact infor-  
6 mation for legal service organizations which may be able to assist the  
7 mortgagor with the mortgage default and/or foreclosure.~~

~~8 3. No reverse mortgage loan commitment shall be issued by an author-  
9 ized lender unless such commitment provides in writing notice that the  
10 department will be provided notice of any default or foreclosure upon  
11 the loan so as to provide assistance to the mortgagor.~~

~~12 4. No authorized lender shall make an advance payment for any obli-  
13 gation arising from mortgaged real property. Furthermore, in the event a  
14 mortgagor defaults upon the payment of mortgage insurance premium, home-  
15 owners insurance premium or real property tax related to the mortgaged  
16 property, the authorized lender may only pay those premiums and/or taxes  
17 which are in arrears.~~

~~18 5. The department shall issue regulations which shall require mortga-  
19 gees to engage in mandatory loss mitigation procedures to be specified  
20 by the department. These loss mitigation procedures shall comply with  
21 any restrictions on loss mitigation issued by the federal Department of  
22 Housing and Urban Development for reverse mortgages and shall be updated  
23 when necessary to ensure compliance with federal rules. The mortgagee  
24 shall provide information to the department about loans receiving such  
25 loss mitigation assistance. This includes maintaining loan level, loss  
26 mitigation data and providing the department with the following informa-  
27 tion for loans associated with a repayment plan.] In addition to the  
28 requirements of section one thousand three hundred four of the real  
29 property actions and proceedings law, an authorized lender shall include  
30 in the notice required by such section any additional information  
31 required by the department. The department is hereby authorized to  
32 promulgate rules and regulations requiring that a notice issued pursuant  
33 to subdivision one-a of section one thousand three hundred four of the  
34 real property actions and proceedings law include additional information  
35 necessary to explain the mortgagor's rights in a foreclosure process.~~

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

44 4. Authorized lenders shall comply with all applicable laws, regu-  
45 lations and any guidelines issued by the federal Department of Housing  
46 and Urban Development on loss mitigation for reverse mortgages and shall  
47 maintain policies on loss mitigation that shall be updated when neces-  
48 sary to ensure compliance with all applicable rules. Each authorized  
49 lender shall maintain loan level data and loss mitigation data for all  
50 loans associated with a repayment plan including, but not limited to:

- 51 (a) monthly surplus income;
- 52 (b) term of repayment plan;
- 53 (c) amount of monthly repayment plan [~~payment~~];
- 54 (d) due date of [~~next~~] each monthly payment;
- 55 (e) when a mortgagor experiences a hardship; and
- 56 (f) [~~reason for~~] the nature of the hardship.

1     ~~[6.]~~ 5. Any person who has been injured by reason of any violation of  
2 this section may bring an action in his or her own name to recover  
3 treble his or her actual damages, plus the prevailing plaintiff's  
4 reasonable attorney's fees.

5     ~~[7.]~~ 6. The requirements of this section shall be conditions precedent  
6 to commencing an action to foreclose upon a home equity conversion mort-  
7 gage which is subject to the provisions of this section, and failure to  
8 comply therewith shall be a complete defense to a foreclosure action.

9     § 2. This act shall take effect on the same date and in the same  
10 manner as a chapter of the laws of 2020 amending the real property law  
11 relating to the regulation of default and foreclosure of reverse mort-  
12 gages issued under the federal home equity conversion mortgage for  
13 seniors program, as proposed in legislative bills numbers S. 4408 and A.  
14 5627, takes effect.