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REVERSE MORTGAGES FOR BETTER LIVING

August 14, 2007

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Public Comments with Regard to Proposed Department of Banking Regulations
"Proper Conduct Of Lending and Brokering in the Mortgage Loan Business," IRRC No. 2620 3-43

Effect of the Proposed Regulations on Reverse Mortgages, Including FHA HECM Loans

Dear Members of the Office of Chief Counsel and Commission Members,

It appears the proposed regulations as currently drafted would have the effect of prohibiting licensees from offering reverse mortgages, including FHA insured HECM loans, in Pennsylvania.

This is in spite of the fact that reverse mortgages are not "covered loans" under 12 CFR 262.32 and by incorporation of the federal definition in Section 503 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (MBBCEPA), are not "covered loans" in Pennsylvania.

And in spite of the fact that reverse mortgages are excluded from the recently issued federal "Interagency Guidance on Nontraditional Mortgage Product Risks," and from the "Guidance on Nontraditional Mortgage Product Risks" issued by the Pennsylvania Department of Banking on April 13, 2007.

The issues with regard to reverse mortgages arise because certain provisions of the regulations apply to all mortgage loans, not just covered loans or nontraditional mortgages (NTM).

The areas of concern in the proposed regulations with regard to reverse mortgages are as follows:
1. Proposed Section 46.2 (e) (1) requires an income analysis and a determination that the borrower will have the ability to repay;
2. Proposed Section 46.2 (e) (4) states that a licensee shall not rely on the sale of the applicant's collateral in determining ability to pay;
3. Proposed Section 46.2 (f) (1) states that a licensee may not state or imply that an applicant's income is irrelevant to the transaction.
4. Proposed Section 46.2 (f) (3) again requires the ability to repay analysis.

Reverse mortgages, including the FHA insured Home Equity Conversion Mortgage (HECM) program, allow senior homeowners to convert home equity into income, and exist primarily to prevent senior homeowners who do not have the ability to make monthly payments from losing their homes. Proceeds are typically offered as a lump sum, a line of credit, or a monthly income payment. No payments are due until the home is sold, the effect of which

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is a dramatic increase in cash flow which for many seniors saves the family home. In the FHA program, the FHA insurance guarantees the monthly income checks for the life of the survivor.

Since monthly payments are not required in reverse mortgage loans, income and the ability to make monthly payments are not a requirement for approval for a reverse mortgage loan. Reverse mortgage loans are typically paid off when the last surviving borrower dies or moves out of the house and the house (the collateral) is sold.

The loan is a non-recourse loan, so only the lesser of the home value or loan balance need be paid back at time of sale. If the home value exceeds the loan balance, any excess goes to the borrower or to the estate. The borrower retains ownership of the home. There are no prepayment penalties.

It should be pointed out that FHA HECM loans are regulated by FHA and that all reverse mortgages must comply with the provisions of 12 CFR 226.33 that require additional disclosures for reverse mortgage loans, including the Total Annual Loan Cost (TALC) that estimates the total cost of a reverse mortgage loan over time. And third party counseling is part of the process. FHA borrowers receive mandatory counseling from an independent FHA approved reverse mortgage counselor before the lender may proceed with the loan.

It should also be pointed out that Section 504 (d) of the MBBCEPA says that Chapter 5 should be applied consistently with federal law and regulations and should not be read to override federal law.

In conclusion, we suggest that regulations intended to assure the proper conduct of lending and brokering should not be written so broadly so as to restrict or prohibit loan programs that have previously been determined not be improper, that is, that do not involve issues of concern to regulators either with regard to predatory lending or nontraditional mortgages, and that provide a valuable service to senior citizens. Furthermore, such regulations should not restrict or prohibit FHA lenders from offering FHA loan programs or imply that FHA lenders offering FHA insured programs pursuant to FHA regulations are engaging in improper conduct.

Proposed Revisions

We respectfully suggest that the regulations be revised to permit licensees to offer reverse mortgages in Pennsylvania by adding Section 46.2 (j) *"Exception. A licensee when offering a reverse mortgage loan is not required to comply with the provisions of Section 46.2 (e), Section 46.2 (f) (1), and section 46.2 (f) (3)"*.

We also suggest that you consider whether the disclosure required by Section 46.2 (b) can be waived with regard to reverse mortgages, or at least with regard to FHA HECM loans.

Thank you for your consideration of our comments. Should you so require, I would be available to discuss this matter at your convenience.

Sincerely,

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