REVERSE MORTGAGES

Overview

While reverse mortgages began at a **Maine** bank in 1961, it was not until the creation of the Home Equity Conversion Mortgage (HECM) program in 1987 that the modern reverse mortgage was established. In 1989, the first HECM was insured by the Federal Housing Administration (FHA).[1] Rising popularity of the loan in the 1990s had Congress impose the first set of regulations on reverse mortgages, which required lenders to disclose the total annual loan costs during the application process and allowed borrowers to apply for a reverse mortgage for up to four units in a residence.[2] A boom in the 2000's, largely due to a partnership with the American Association of Retired Persons (AARP), led to the creation of alternative reverse mortgage loans.[3] The landscape of reverse mortgages was altered throughout the 2010's by frequent legislation and regulation, increasing mortgage insurance premiums, lowering the interest rate floor, creating new HUD policies to make reverse mortgages safer, and implementing non-borrowing spouse protections.[4]

HECM Basics

Several types of reverse mortgages exist, including proprietary reverse mortgages, single-purpose reverse mortgages, and HECMs.[5] Proprietary reverse mortgages are offered by private lenders and are typically chosen by higher-income borrowers applying the loan to homes appraised at a higher value. Proprietary reverse mortgages usually come with higher interest rates. Single-purpose reverse mortgages are offered by government agencies and require the borrower to use the loan for purposes specified by the lender.[6] More homeowners can qualify for single-purpose reverse mortgages. Home Equity

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[1] All Reverse Mortgage, Inc., *History of the Reverse Mortgage – 1969 to Present Day Facts*, at https://reverse.mortgage/history (September 19, 2023).
[2] *Ibid.*
[3] Investopedia, *History of Reverse Mortgages*, at https://www.investopedia.com/history-of-reverse-mortgages-5224844 (October 4, 2024).
[4] All Reverse Mortgage, Inc., *History of the Reverse Mortgage – 1969 to Present Day Facts*, at https://reverse.mortgage/history (September 19, 2023).
[5] Consumer Financial Protection Bureau, *Are there different types of reverse mortgages?*, at https://www.consumerfinance.gov/ask-cfpb/are-there-different-types-of-reverse-mortgages-en-226/ (July 11, 2022).
[6] Federal Trade Commission, *Reverse Mortgages*, at https://consumer.ftc.gov/articles/reverse-mortgages (August 2022).

Conversion Mortgages (HECMs) are the most popular type of reverse mortgage.[7] These loans are available through a Federal Housing Administration-approved lender, allowing borrowers to "withdraw a portion of [one's] home equity to use for maintenance, repairs, or general living expenses," and allow borrowers to remain in their homes by keeping current on property taxes and homeowner's insurance.[8] HECMs are "nonrecourse" loans, meaning a borrower will never owe more than the value of the property when the loan is repaid.[9] HECMs are only available to homeowners that are at least age 62. There are additional requirements for borrowers to qualify, such as:

- The borrower must own the home or have a low mortgage balance;
- The home must be the borrower's principal residence;
- The borrower cannot owe any federal debt;
- The home must meet certain property standards;
- The borrower must receive counseling from a U.S. Department of Housing and Urban Development (HUD)-approved reverse mortgage counseling agency.[10]

Factors including the appraised value of the property, the borrower's age, and borrower's current interest rate each play a role in the amount available to borrow. The borrower can choose between an adjustable interest rate (in which the loan can be received as a line of credit, allowing the borrower to access it when desired) and a fixed rate (in which disbursement is made in a lump sum).[11]

HECMs constitute 95 percent of the reverse mortgages in the United States, so certain safeguards have been implemented by the FHA to protect borrowers, including:

- Limits on the amount that can be borrowed, to prevent borrowers from quickly spending their lump sum disbursements and rendering them unable to pay insurance or property taxes;
- Protections against a decline in home value by having the FHA cover the difference between the final loan balance and the net proceeds from the sale;
- Provisions that allow the surviving spouse of a borrower to continue living in the home.[12]

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[7] The New York Times, *Reverse Mortgages Are No Longer Just for Homeowners Short on Cash*, at https://www.nytimes.com/2022/04/01/business/retirement-reverse-mortgages-home-equity.html (April 1, 2022).

[8] U.S. Department of Housing and Urban Development, *Home Equity Conversion Mortgages for Seniors*, at https://www.hud.gov/program_offices/housing/sfh/hecm/hecmhome#:~:text=The%20HECM%20is%20the%20FHA's,homeowner's%20insurance%20are%20kept%20current.

[9] The New York Times, *Reverse Mortgages Are No Longer Just for Homeowners Short on Cash*, at https://www.nytimes.com/2022/04/01/business/retirement-reverse-mortgages-home-equity.html (April 1, 2022).

[10] Consumer Protection Financial Bureau, *Can anyone take out a reverse mortgage loan?*, at https://www.consumerfinance.gov/ask-cfpb/can-anyone-take-out-a-reverse-mortgage-loan-en-227/ (May 14, 2024).

[11] The Wall Street Journal, The New Math of Reverse Mortgages for Retirees, at https://www.wsj.com/articles/reverse-mortgages-in-retirement-advice-11654191860 (June 3, 2022).

[12] *Ibid.*

Changes to HECMs

In the past decade, the reverse mortgage scene has dramatically changed. In September 2013, the Reverse Mortgage Stabilization Act merged “Standard” HECMs (ones that allowed for the full withdrawal of the amount a lender was willing to provide) and “Saver” HECMs (ones that included reduced mortgage insurance premiums, reduced closing costs and lower borrowing limits).[13] In 2014, the federal government made changes to give surviving spouses additional time to get their affairs in order if their names were not on the loan.

In 2023, HUD made sweeping changes to HECM requirements to “update and streamline policy for the HECM program to improve the long-term performance of the program,” which would affect all FHA-insured HECMs.[14] In this revised version of the FHA handbook, lenders are allowed to recalculate a repayment plan for any borrower failing to repay, regardless of the borrower’s outstanding arrearage. Additionally, lenders are now able to offer additional funds to borrowers who agree to short sales, deeds in lieu or post-foreclosure eviction avoidance loss mitigation options. Other changes to the handbook would:

- Allow lenders to complete annual occupancy certification over the phone;
- Allow lenders to use corporate funds to pay for all property charges, not just property or insurance taxes;
- Allow lenders to include homeowner and condominium association dues in a borrower’s total arrearage when calculating repayment plans;
- Increase the threshold for when a lender must submit a due and payable request for outstanding property charges.[15]

Legislative Analysis

Colorado HB 1266 was signed into law by Democratic Governor Jared Polis on June 7, 2023. Effective immediately, the law added an exception to reverse mortgage repayment requirements when a home is temporarily unoccupied due to a natural disaster or other force majeure. Under this law, borrowers are exempt from paying a reverse mortgage if:

- The borrower is engaged in repairing the home with the intent of reoccupying the home as a principal residence or selling the home;
- The borrower stays in communication with the lender while the home is being repaired;
- The borrower complies with all other terms and conditions of the reverse mortgage;

[13] Public Law 113-29
[14] U.S. Department of Housing and Urban Development, Mortgagee Letter 2023-23
[15] Bradley, *Impact of Revised FHA Handbook on Reverse Mortgage Servicers,* at https://www.financialservicesperspectives.com/2024/05/impact-of-revised-fha-handbook-on-reverse-mortgage-servicers/ (May 30, 2024).

- Repairing or rebuilding of the home does not reduce the lender's security.

District of Columbia B25 242 was last heard in the Housing Committee on October 12, 2023, where no action was taken and it remains pending. This bill would establish a permanent Reverse Mortgage Foreclosure Prevention Program, include homeowners association and condominium fees as approved uses of the program's financial assistance, and expand eligibility to homeowners whose spouses executed the reverse mortgage.

District of Columbia B25 622/Act 25-353 was signed into law by Democratic Mayor Muriel Bowser on January 10, 2024. Effective immediately, this law amended, on an emergency basis, the District of Columbia Housing Finance Agency Act to extend the Housing Finance Agency's Reverse Mortgage Insurance and Tax Payment Program to include condominium fees and homeowners association fees as approved uses of the financial assistance provided by the program, and to give the Housing Finance Agency the discretion to issue greater assistance if necessary. Act 25-353 was effective for 90 days, before expiring on April 9, 2024.

Similar bill B25 623/Act 25-380 was signed into law on February 1, 2024 and is the temporary version of Act 25-353. The act became effective immediately and will expire on November 3, 2024.

Minnesota HF 333/Chapter 9 was signed by Democratic Governor Tim Walz on March 26, 2021. Effective August 1 of that year, this act requires loan servicers of reverse mortgages to provide notices to the borrower regarding delinquencies, defaults and unfulfilled obligations that may result in foreclosure under a reverse mortgage loan agreement.

New Jersey SB 2520 was introduced by Senator Shirley Turner, D-Mercer, and referred to the Senate Commerce Committee on February 5, 2024. The bill would establish pre-loan counseling requirements and a borrower right of rescission regarding reverse mortgages. Under this bill, lenders would be required to:

- Provide borrowers with a written checklist advising the borrower to discuss certain issues with a reverse mortgage counselor;
- Provide the names and contact information to borrowers for at least five counseling agencies based in New Jersey that are approved by the United States Department of Housing and Urban Development to engage in reverse mortgage counseling;
- Receive a certification from the borrower or an authorized representative attesting that the borrower has received in-person counseling on reverse mortgage loans from a counseling agency.

SB 2520 also provides reverse mortgage loan borrowers with a seven day right of rescission after the borrower's acceptance, in writing, of the lender's written commitment to make the reverse mortgage loan. During this period, the borrower cannot be required to close or proceed with the loan.

New York SB 884 was signed by Democratic Governor Andrew Cuomo on February 16, 2021. Effective immediately, the act requires lenders to report that they have received permission to foreclose on a reverse mortgage.

Utah HB 94 was signed by Republican Governor Spencer Cox on March 20, 2023. Effective May 2 of that year, this act eliminates the age requirement for a reverse mortgage borrower and changes the deadline for a prospective borrower to meet with an independent housing counselor before closing on a reverse mortgage

Conclusion

Reverse mortgages can be a way for seniors to maintain their standard of living, afford long-term care or be able to cover other expenses for themselves or their families during their lifetimes. Changes that have been made to HECM policy have modernized and streamlined the program. As a line of credit, a reverse mortgage can also offer certain advantages over regular home equity lines of credit, though it may come with greater upfront costs. As with any line of credit, it behooves borrowers to carefully consider all available options and to weigh potential pros and cons of the loan in the long-term. AFSA is committed to monitoring any new developments regarding reverse mortgages, as well as in the wider mortgage market.