

SENATE BILL 878

I2, I1, I3

0lr3154
CF HB 799

By: **Senators Kramer, Astle, DeGrange, Della, Forehand, Garagiola, Harrington, Kelley, King, Klausmeier, Madaleno, Peters, and Pugh**

Introduced and read first time: February 15, 2010

Assigned to: Rules

Re-referred to: Finance, February 19, 2010

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 3, 2010

CHAPTER _____

1 AN ACT concerning

2 **Reverse Mortgage Homeowners Protection Act**

3 FOR the purpose of ~~authorizing a borrower under a reverse mortgage loan to prepay~~
4 ~~the loan at any time without penalty; authorizing certain interest rates and~~
5 ~~interest that is contingent on certain factors in connection with a reverse~~
6 ~~mortgage loan; authorizing certain costs and fees in connection with a reverse~~
7 ~~mortgage loan; prohibiting a reduction in the amount or number of periodic~~
8 ~~advances paid to a borrower under a reverse mortgage loan under certain~~
9 ~~circumstances; establishing a certain penalty for failing to make certain~~
10 ~~advances and cure a default under certain circumstances; providing for the~~
11 ~~circumstances under which a reverse mortgage loan may become due and~~
12 ~~payable; specifying when the statute of limitations begins to run in certain~~
13 ~~actions; requiring that an instrument granting a security interest in certain real~~
14 ~~property securing a reverse mortgage loan contain a certain statement~~
15 providing that certain provisions of this Act do not require a lender that offers
16 to make a reverse mortgage loan to offer a reverse mortgage loan with certain
17 payment plans or to a certain borrower; requiring certain lenders and arrangers
18 of financing to conform to the requirements of certain federal laws and
19 guidelines under certain circumstances; providing that certain reverse mortgage
20 loans are not subject to certain federal laws or guidelines; providing that certain
21 lenders or arrangers of loans are not subject to certain regulatory approval
22 requirements under certain circumstances; prohibiting certain persons from
23 requiring a borrower to purchase an annuity, a long-term care policy, or other

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 financial or insurance product as a condition to obtaining a reverse mortgage
 2 loan; ~~prohibiting certain persons from engaging in, or being affiliated with or~~
 3 ~~employing a person who engages in, the sale of certain financial or insurance~~
 4 ~~products;~~ establishing a certain exception; prohibiting certain persons from
 5 referring a borrower to any person for the purchase of certain financial or
 6 insurance products until after the occurrence of certain events; providing that
 7 certain provisions of this Act do not prohibit certain persons from offering to a
 8 borrower, or referring a borrower to a person for the purchase of certain
 9 financial or insurance products; ~~providing that a person who complies with~~
 10 ~~certain federal laws is deemed to be in compliance with certain provisions of~~
 11 ~~this Act; requiring a lender to provide a borrower with a certain notice,~~
 12 ~~checklist, and list of counseling agencies at the time the borrower completes a~~
 13 ~~certain application~~ requiring a lender or an arranger of financing to provide a
 14 certain borrower with a certain checklist at a certain time; requiring a certain
 15 housing counseling agency to provide a borrower with a certain checklist under
 16 certain circumstances; ~~prohibiting a certain housing counseling agency from~~
 17 ~~receiving compensation from certain persons;~~ ~~requiring a lender to provide a~~
 18 ~~borrower with a certain summary of the principal terms and conditions of a~~
 19 ~~reverse mortgage loan before closing the loan;~~ ~~prohibiting a lender from making~~
 20 ~~a reverse mortgage loan or assessing any fees unless the lender receives certain~~
 21 ~~documentation;~~ ~~requiring the lender to provide copies of certain documentation~~
 22 ~~to the borrower and to retain the documentation for a certain period;~~ providing
 23 for certain penalties for certain violations of this Act by certain lenders or
 24 arrangers of financing; providing that certain lenders or arrangers of financing
 25 that violate certain provisions of this Act engage in an unfair or deceptive trade
 26 practice within the meaning of the Maryland Consumer Protection Act and are
 27 subject to certain enforcement and penalty provisions; providing that a violation
 28 of certain provisions of this Act does not constitute a violation of certain other
 29 provisions of law; providing for the application of this Act; defining certain
 30 terms; and generally relating to reverse mortgage loans.

31 BY adding to

32 Article – Commercial Law

33 Section ~~12-1201, 12-1202, 12-1205 through 12-1210, 12-1213 through~~
 34 ~~12-1216, 12-1219 through 12-1221, 12-1224, and 12-1225~~ through
 35 12-1208 to be under the new subtitle “Subtitle 12. Reverse Mortgage
 36 Loans Act”

37 Annotated Code of Maryland

38 (2005 Replacement Volume and 2009 Supplement)

39 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 40 MARYLAND, That the Laws of Maryland read as follows:

41 **Article – Commercial Law**

42 **SUBTITLE 12. REVERSE MORTGAGE LOANS ACT.**

~~PART I. DEFINITIONS; GENERAL PROVISIONS.~~

12-1201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ARRANGER OF FINANCING” MEANS A PERSON THAT:

(1) FOR A FEE OR OTHER VALUABLE CONSIDERATION, WHETHER RECEIVED DIRECTLY OR INDIRECTLY, AIDS OR ASSISTS A BORROWER IN OBTAINING A REVERSE MORTGAGE LOAN; AND

(2) IS NOT NAMED AS THE LENDER IN THE REVERSE MORTGAGE LOAN AGREEMENT.

~~(B)~~ (C) “BORROWER” MEANS AN INDIVIDUAL WHO MAKES A LOAN APPLICATION FOR OR RECEIVES A REVERSE MORTGAGE LOAN.

~~(C)~~ (D) “COUNSELING AGENCY” MEANS AN ENTITY APPROVED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO PROVIDE COUNSELING REGARDING REVERSE MORTGAGE LOANS.

(E) “DWELLING” HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

~~(D)~~ (F) “LENDER” MEANS A PERSON WHO MAKES A REVERSE MORTGAGE LOAN.

~~(E)~~ (G) “PERSON” INCLUDES AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

~~(F)~~ ~~“RESIDENTIAL REAL PROPERTY” MEANS OWNER OCCUPIED REAL PROPERTY HAVING A DWELLING ON IT DESIGNATED PRINCIPALLY AS A RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

~~(G)~~ (H) “REVERSE MORTGAGE LOAN” MEANS A NONRECOURSE LOAN THAT:

(1) IS SECURED BY ~~RESIDENTIAL REAL PROPERTY~~ THE BORROWER’S PRINCIPAL DWELLING;

1 (2) PROVIDES THE BORROWER WITH PURCHASE MONEY
 2 PROCEEDS, A LUMP SUM PAYMENT, PERIODIC CASH ADVANCES, ~~OR~~ A LINE OF
 3 CREDIT, OR ANY COMBINATION OF THOSE PAYMENT PLANS BASED ON THE
 4 EQUITY IN OR VALUE OF THE ~~RESIDENTIAL REAL PROPERTY~~ BORROWER'S
 5 PRINCIPAL DWELLING; AND

6 (3) REQUIRES NO PAYMENT OF PRINCIPAL OR INTEREST UNTIL
 7 THE FULL LOAN BECOMES DUE AND PAYABLE.

8 12-1202.

9 (A) THE PROVISIONS OF THIS SUBTITLE:

10 (1) APPLY TO ~~ALL~~ A REVERSE MORTGAGE LOANS LOAN SECURED
 11 BY RESIDENTIAL REAL PROPERTY A BORROWER'S PRINCIPAL DWELLING IN THE
 12 STATE; AND

13 (2) ARE IN ADDITION TO ANY OTHER APPLICABLE PROVISIONS OF
 14 LAW.

15 (B) IF A PROVISION OF THIS SUBTITLE CONFLICTS WITH ANY
 16 PROVISION OF THIS TITLE, THE PROVISION OF THIS SUBTITLE APPLIES.

17 12-1203. ~~RESERVED.~~

18 THIS SUBTITLE DOES NOT REQUIRE A LENDER THAT OFFERS TO MAKE A
 19 REVERSE MORTGAGE LOAN TO OFFER A REVERSE MORTGAGE LOAN:

20 (1) WITH ANY ONE OR MORE PARTICULAR PAYMENT PLANS; OR

21 (2) TO A PROSPECTIVE BORROWER WHO HOLDS TITLE TO A
 22 DWELLING IN OTHER THAN FEE SIMPLE INTEREST.

23 12-1204. ~~RESERVED.~~

24 ~~PART II. REVERSE MORTGAGE LOAN PROVISIONS.~~

25 ~~12-1205.~~

26 ~~(A) IN THIS SECTION, "PENALTY" DOES NOT INCLUDE FEES, PAYMENTS,~~
 27 ~~OR OTHER CHARGES THAT WOULD HAVE BEEN DUE IF THE REVERSE MORTGAGE~~
 28 ~~LOAN BECAME DUE AND PAYABLE.~~

29 ~~(B) A BORROWER MAY PREPAY A REVERSE MORTGAGE LOAN, IN WHOLE~~
 30 ~~OR IN PART, AT ANY TIME WITHOUT PENALTY~~

1 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LENDER
 2 THAT OFFERS OR MAKES A REVERSE MORTGAGE LOAN SECURED BY A
 3 DWELLING IN THE STATE SHALL CONFORM TO THE REQUIREMENTS OF 12
 4 U.S.C. § 1715Z-20, AND ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12
 5 U.S.C. § 1715Z-20, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN
 6 IS INSURED UNDER 12 U.S.C. § 1715Z-20.

7 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN
 8 ARRANGER OF FINANCING THAT AIDS OR ASSISTS, OR OFFERS TO AID OR ASSIST,
 9 A BORROWER IN OBTAINING A REVERSE MORTGAGE LOAN SECURED BY A
 10 DWELLING IN THE STATE SHALL CONFORM TO THE REQUIREMENTS OF 12
 11 U.S.C. § 1715Z-20, AND ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12
 12 U.S.C. § 1715Z-20, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN
 13 IS INSURED UNDER 12 U.S.C. § 1715Z-20.

14 ~~12-1206.~~ 12-1205.

15 (A) A REVERSE MORTGAGE LOAN THAT IS NOT INSURED UNDER 12
 16 U.S.C. § 1715Z-20 IS NOT SUBJECT TO THE PROVISIONS IN 12 U.S.C. §
 17 1715Z-20, OR IN ANY REGULATIONS OR GUIDANCE ADOPTED UNDER 12 U.S.C. §
 18 1715Z-20, THAT:

19 (1) LIMIT ORIGINATION FEES TO \$6,000 AS ADJUSTED UNDER 12
 20 U.S.C. § 1715Z-20(R);

21 (2) IMPOSE MAXIMUM CLAIM AMOUNTS OR OTHER LOAN LIMIT
 22 RESTRICTIONS; OR

23 (3) REQUIRE GOVERNMENT INSURANCE FOR THE LOAN.

24 (B) A LENDER OR AN ARRANGER OF FINANCING IS NOT SUBJECT TO THE
 25 FEDERAL REGULATORY APPROVAL REQUIREMENTS OF 24 C.F.R., PART 202
 26 WHEN MAKING OR ARRANGING A REVERSE MORTGAGE LOAN THAT IS NOT
 27 INSURED UNDER 12 U.S.C. § 1715Z-20.

28 ~~(A) A REVERSE MORTGAGE LOAN MAY PROVIDE FOR:~~

29 ~~(1) A FIXED INTEREST RATE;~~

30 ~~(2) AN ADJUSTABLE INTEREST RATE; OR~~

31 ~~(3) A COMBINATION OF FIXED AND ADJUSTABLE INTEREST~~
 32 ~~RATES.~~

1 ~~(B) A REVERSE MORTGAGE LOAN MAY PROVIDE FOR INTEREST THAT IS~~
2 ~~CONTINGENT ON:~~

3 ~~(1) THE VALUE OF THE RESIDENTIAL REAL PROPERTY AT THE~~
4 ~~TIME THE REVERSE MORTGAGE LOAN IS EXECUTED OR MATURES; OR~~

5 ~~(2) CHANGES IN THE VALUE OF THE RESIDENTIAL REAL~~
6 ~~PROPERTY BETWEEN LOAN CLOSING AND MATURITY.~~

7 ~~12-1207.~~

8 ~~(A) A REVERSE MORTGAGE LOAN MAY INCLUDE ONLY THOSE COSTS~~
9 ~~AND FEES CHARGED BY THE LENDER, THE LENDER'S DESIGNEE, THE LOAN~~
10 ~~ORIGINATOR, OR THE LOAN SERVICER.~~

11 ~~(B) THIS SECTION APPLIES TO ALL COSTS AND FEES CHARGED IN~~
12 ~~CONNECTION WITH A REVERSE MORTGAGE LOAN, INCLUDING COSTS AND FEES~~
13 ~~CHARGED ON EXECUTION OF THE LOAN, ON A PERIODIC BASIS, OR ON MATURITY~~
14 ~~OF THE LOAN.~~

15 ~~12-1208.~~

16 ~~(A) IF A REVERSE MORTGAGE LOAN PROVIDES FOR PERIODIC~~
17 ~~ADVANCES TO THE BORROWER, THE ADVANCES MAY NOT BE REDUCED IN~~
18 ~~AMOUNT OR NUMBER BASED ON AN ADJUSTMENT IN THE INTEREST RATE.~~

19 ~~(B) IF A LENDER FAILS TO MAKE ADVANCES AS REQUIRED BY THE~~
20 ~~TERMS OF THE REVERSE MORTGAGE LOAN, AND FAILS TO CURE A DEFAULT~~
21 ~~AFTER NOTICE OF THE DEFAULT AS SPECIFIED IN THE REVERSE MORTGAGE~~
22 ~~LOAN DOCUMENTS, THE LENDER SHALL FORFEIT TO THE BORROWER AN~~
23 ~~AMOUNT EQUAL TO THREE TIMES THE AMOUNT WRONGFULLY WITHHELD PLUS~~
24 ~~INTEREST AT THE LEGAL RATE OF INTEREST.~~

25 ~~12-1209.~~

26 ~~(A) A REVERSE MORTGAGE LOAN MAY BECOME DUE AND PAYABLE~~
27 ~~ONLY AFTER:~~

28 ~~(1) THE RESIDENTIAL REAL PROPERTY SECURING THE REVERSE~~
29 ~~MORTGAGE LOAN IS SOLD OR TITLE TO THE RESIDENTIAL REAL PROPERTY IS~~
30 ~~OTHERWISE TRANSFERRED;~~

31 ~~(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,~~
32 ~~ALL BORROWERS CEASE OCCUPYING THE RESIDENTIAL REAL PROPERTY~~
33 ~~SECURING THE LOAN;~~

1 ~~(3) A FIXED MATURITY DATE AGREED TO BY THE LENDER AND~~
2 ~~THE BORROWER; OR~~

3 ~~(4) THE OCCURRENCE OF AN EVENT SPECIFIED IN THE REVERSE~~
4 ~~MORTGAGE LOAN DOCUMENTS THAT JEOPARDIZES THE LENDER'S SECURED~~
5 ~~INTEREST IN THE RESIDENTIAL REAL PROPERTY SECURING THE LOAN.~~

6 ~~(B) FOR PURPOSES OF SUBSECTION (A)(2) OF THIS SECTION, A~~
7 ~~BORROWER DOES NOT CEASE TO OCCUPY THE RESIDENTIAL REAL PROPERTY~~
8 ~~SECURING THE LOAN IF THE BORROWER:~~

9 ~~(1) IS TEMPORARILY ABSENT FROM THE RESIDENTIAL REAL~~
10 ~~PROPERTY FOR NO MORE THAN 60 CONSECUTIVE DAYS; OR~~

11 ~~(2) (i) IS ABSENT FROM THE RESIDENTIAL REAL PROPERTY~~
12 ~~FOR MORE THAN 60 CONSECUTIVE DAYS BUT LESS THAN 1 YEAR; AND~~

13 ~~(ii) HAS TAKEN ACTION TO SECURE AND PROTECT THE~~
14 ~~RESIDENTIAL REAL PROPERTY IN A MANNER THAT IS SATISFACTORY TO THE~~
15 ~~LENDER, AS SPECIFIED IN THE REVERSE MORTGAGE LOAN DOCUMENTS.~~

16 ~~(C) IN AN ACTION TO RECOVER FUNDS THAT ARE DUE AND PAYABLE~~
17 ~~UNDER A REVERSE MORTGAGE LOAN, THE STATUTE OF LIMITATIONS RUNS~~
18 ~~FROM THE DATE THE REVERSE MORTGAGE LOAN BECOMES DUE AND PAYABLE,~~
19 ~~AS PROVIDED IN THE REVERSE MORTGAGE LOAN DOCUMENTS.~~

20 ~~12 1210.~~

21 ~~A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT THAT GRANTS A~~
22 ~~SECURITY INTEREST IN RESIDENTIAL REAL PROPERTY TO SECURE A REVERSE~~
23 ~~MORTGAGE LOAN SHALL CONTAIN THE FOLLOWING STATEMENT IN 12 POINT~~
24 ~~BOLDFACE TYPE ON THE FIRST PAGE OF THE INSTRUMENT:~~

25 ~~"THIS INSTRUMENT SECURES A REVERSE MORTGAGE LOAN."~~

26 ~~12 1211. RESERVED.~~

27 ~~12 1212. RESERVED.~~

28 ~~PART III. SALES OF FINANCIAL AND INSURANCE PRODUCTS.~~

29 ~~12 1213.~~

1 ~~IN THIS PART, "LENDER" INCLUDES A PERSON WHO PARTICIPATES IN THE~~
 2 ~~ORIGINATION OF A REVERSE MORTGAGE LOAN.~~

3 ~~12-1214.~~ 12-1206.

4 (A) (1) A LENDER OR AN ARRANGER OF FINANCING MAY NOT REQUIRE A
 5 SUBSECTON, A LENDER OR AN ARRANGER OF FINANCING MAY NOT REQUIRE A
 6 BORROWER TO PURCHASE AN ANNUITY, A LONG-TERM CARE POLICY, OR OTHER
 7 FINANCIAL OR INSURANCE PRODUCT AS A CONDITION TO OBTAINING A
 8 REVERSE MORTGAGE LOAN.

9 (2) A LENDER OR AN ARRANGER OF FINANCING MAY REQUIRE A
 10 BORROWER TO PURCHASE TITLE INSURANCE, HAZARD, FLOOD, OR OTHER PERIL
 11 INSURANCE, AND ANY OTHER FINANCIAL OR INSURANCE PRODUCT THAT IS
 12 REQUIRED FOR REVERSE MORTGAGE LOANS INSURED UNDER 12 U.S.C. §
 13 1715Z-20.

14 ~~12-1215.~~

15 ~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
 16 ~~SUBSECTION, A LENDER MAY NOT ENGAGE IN, BE AFFILIATED WITH A PERSON~~
 17 ~~WHO ENGAGES IN, OR EMPLOY A PERSON WHO ENGAGES IN THE SELLING OF~~
 18 ~~ANNUITIES, INVESTMENTS, LONG TERM CARE INSURANCE, OR ANY OTHER~~
 19 ~~FINANCIAL OR INSURANCE PRODUCT.~~

20 ~~(2) A LENDER MAY ENGAGE IN THE ACTIVITIES SPECIFIED IN~~
 21 ~~PARAGRAPH (1) OF THIS SUBSECTION IF THE LENDER MAINTAINS SUFFICIENT~~
 22 ~~PROCEDURAL SAFEGUARDS TO ENSURE THAT INDIVIDUALS INVOLVED IN THE~~
 23 ~~ORIGINATION OF A REVERSE MORTGAGE LOAN HAVE NO INVOLVEMENT WITH,~~
 24 ~~OR INCENTIVE TO PROVIDE A BORROWER WITH, ANY OTHER FINANCIAL OR~~
 25 ~~INSURANCE PRODUCT.~~

26 (B) A LENDER OR AN ARRANGER OF FINANCING MAY NOT REFER A
 27 BORROWER TO ANY PERSON FOR THE PURCHASE OF AN ANNUITY OR ANY OTHER
 28 FINANCIAL OR INSURANCE PRODUCT BEFORE THE LATER OF:

29 (1) THE CLOSING OF THE REVERSE MORTGAGE LOAN; OR

30 (2) THE EXPIRATION OF THE BORROWER'S RIGHT TO RESCIND
 31 THE REVERSE MORTGAGE LOAN AGREEMENT.

32 (C) THIS SECTION DOES NOT PROHIBIT A LENDER OR AN ARRANGER OF
 33 FINANCING FROM OFFERING TO A BORROWER, OR REFERRING A BORROWER TO
 34 A PERSON FOR THE PURCHASE OF:

1 (1) TITLE INSURANCE;

2 (2) HAZARD, FLOOD, OR OTHER PERIL INSURANCE; OR

3 (3) ~~SIMILAR OTHER~~ PRODUCTS THAT ARE CUSTOMARY UNDER A
4 REVERSE MORTGAGE LOAN.

5 ~~12-1216.~~

6 ~~A LENDER THAT COMPLIES WITH 12 U.S.C. § 1715Z-20(N)(1) AND (O),~~
7 ~~INCLUDING ANY REGULATIONS AND GUIDANCE PROMULGATED UNDER THOSE~~
8 ~~PROVISIONS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS PART III OF~~
9 ~~THIS SUBTITLE, REGARDLESS OF WHETHER THE REVERSE MORTGAGE LOAN IS~~
10 ~~INSURED UNDER 12 U.S.C. § 1715Z-20.~~

11 ~~12-1217. RESERVED.~~

12 ~~12-1218. RESERVED.~~

13 ~~PART IV. REQUIRED DISCLOSURES AND COUNSELING.~~

14 ~~12-1219.~~

15 ~~(A) AT THE TIME A BORROWER COMPLETES AN APPLICATION FOR A~~
16 ~~REVERSE MORTGAGE LOAN, THE LENDER SHALL PROVIDE THE BORROWER~~
17 ~~WITH:~~

18 ~~(1) THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS~~
19 ~~SECTION;~~

20 ~~(2) THE CHECKLIST REQUIRED UNDER SUBSECTION (C) OF THIS~~
21 ~~SECTION; AND~~

22 ~~(3) A LIST OF AT LEAST FIVE COUNSELING AGENCIES.~~

23 ~~(B) A LENDER SHALL PROVIDE A BORROWER WITH THE FOLLOWING~~
24 ~~NOTICE, IN 16 POINT TYPE OR LARGER:~~

25 ~~“IMPORTANT NOTICE TO~~
26 ~~REVERSE MORTGAGE LOAN APPLICANT~~

27 ~~A REVERSE MORTGAGE LOAN IS A COMPLEX FINANCIAL TRANSACTION. IF~~
28 ~~YOU DECIDE TO OBTAIN A REVERSE MORTGAGE LOAN, YOU WILL SIGN BINDING~~
29 ~~LEGAL DOCUMENTS THAT WILL HAVE IMPORTANT LEGAL AND FINANCIAL~~
30 ~~IMPLICATIONS FOR YOU AND YOUR ESTATE. IT IS THEREFORE IMPORTANT TO~~

~~1 UNDERSTAND THE TERMS OF THE REVERSE MORTGAGE LOAN AND ITS EFFECT.
2 BEFORE ENTERING INTO THIS TRANSACTION, YOU ARE ENCOURAGED TO
3 CONSULT WITH AN INDEPENDENT LOAN COUNSELOR. A LIST OF APPROVED
4 COUNSELING AGENCIES WILL BE PROVIDED TO YOU BY THE LENDER.~~

~~5 SENIOR CITIZEN ADVOCACY GROUPS ADVISE AGAINST USING THE
6 PROCEEDS OF A REVERSE MORTGAGE LOAN TO PURCHASE AN ANNUITY OR
7 RELATED FINANCIAL OR INSURANCE PRODUCTS. IF YOU ARE CONSIDERING
8 USING YOUR PROCEEDS FOR THIS PURPOSE, YOU SHOULD DISCUSS THE
9 FINANCIAL IMPLICATIONS OF DOING SO WITH A COUNSELOR AND YOUR FAMILY
10 MEMBERS.”~~

11 12-1207.

12 ~~(c)~~ (A) A ON RECEIVING AN APPLICATION FOR A REVERSE
13 MORTGAGE LOAN, A LENDER OR AN ARRANGER OF FINANCING SHALL PROVIDE
14 A PROSPECTIVE BORROWER WITH A WRITTEN CHECKLIST, WRITTEN IN 12 POINT
15 TYPE OR LARGER, ADVISING THE BORROWER TO DISCUSS THE FOLLOWING
16 ISSUES WITH A COUNSELING AGENCY COUNSELOR:

17 (1) HOW UNEXPECTED MEDICAL OR OTHER EVENTS THAT CAUSE
18 THE BORROWER TO MOVE OUT OF THE BORROWER’S HOME EARLIER THAN
19 ANTICIPATED WILL IMPACT THE TOTAL ANNUAL COST OF THE REVERSE
20 MORTGAGE LOAN;

21 (2) THE EXTENT TO WHICH THE BORROWER’S FINANCIAL NEEDS
22 WOULD BE BETTER MET BY OPTIONS OTHER THAN A REVERSE MORTGAGE LOAN,
23 INCLUDING LESS COSTLY HOME EQUITY LINES OF CREDIT, PROPERTY TAX
24 DEFERRAL PROGRAMS, OR GOVERNMENTAL AID PROGRAMS;

25 (3) WHETHER THE BORROWER INTENDS TO USE THE PROCEEDS
26 OF THE REVERSE MORTGAGE LOAN TO PURCHASE AN ANNUITY OR OTHER
27 FINANCIAL OR INSURANCE PRODUCT AND THE CONSEQUENCES OF DOING SO;

28 (4) THE EFFECT OF REPAYMENT OF THE REVERSE MORTGAGE
29 LOAN ON OTHER RESIDENTS OF THE HOME SECURING THE REVERSE MORTGAGE
30 LOAN AFTER ALL BORROWERS HAVE DIED OR PERMANENTLY LEFT THE HOME;

31 (5) THE BORROWER’S ABILITY TO FINANCE ROUTINE OR
32 CATASTROPHIC HOME REPAIRS, ESPECIALLY IF MAINTENANCE IS A FACTOR
33 THAT MAY DETERMINE WHEN THE REVERSE MORTGAGE LOAN BECOMES
34 PAYABLE;

1 **(6) THE IMPACT THAT THE REVERSE MORTGAGE LOAN MAY HAVE**
 2 **ON THE BORROWER'S TAX OBLIGATIONS AND ELIGIBILITY FOR GOVERNMENT**
 3 **ASSISTANCE PROGRAMS, AND THE EFFECT THAT LOSING EQUITY IN THE HOME**
 4 **SECURING THE REVERSE MORTGAGE LOAN WILL HAVE ON THE BORROWER'S**
 5 **ESTATE AND HEIRS; AND**

6 **(7) THE ABILITY OF THE BORROWER TO FINANCE ALTERNATIVE**
 7 **LIVING ACCOMMODATIONS, SUCH AS ASSISTED LIVING OR LONG-TERM CARE,**
 8 **AFTER THE BORROWER'S EQUITY IS DEPLETED.**

9 ~~(D)~~ **(B) IF AN INDIVIDUAL OBTAINS COUNSELING ON REVERSE**
 10 **MORTGAGE LOANS FROM A COUNSELING AGENCY BEFORE APPLYING FOR A**
 11 **REVERSE MORTGAGE LOAN, THE COUNSELING AGENCY SHALL PROVIDE THE**
 12 **INDIVIDUAL WITH THE WRITTEN CHECKLIST REQUIRED UNDER SUBSECTION ~~(C)~~**
 13 **(A) OF THIS SECTION.**

14 ~~(E) (1) A COUNSELING AGENCY MAY NOT RECEIVE COMPENSATION,~~
 15 ~~EITHER DIRECTLY OR INDIRECTLY, FROM:~~

16 ~~(I) THE LENDER;~~

17 ~~(II) THE ORIGINATOR OR SERVICER OF THE REVERSE~~
 18 ~~MORTGAGE LOAN; OR~~

19 ~~(III) A PERSON WHO SELLS ANNUITIES, INVESTMENTS,~~
 20 ~~LONG TERM CARE INSURANCE, OR ANY OTHER FINANCIAL OR INSURANCE~~
 21 ~~PRODUCT.~~

22 ~~(2) THIS SUBSECTION DOES NOT PROHIBIT A COUNSELING~~
 23 ~~AGENCY FROM RECEIVING A CHARITABLE OR PHILANTHROPIC CONTRIBUTION~~
 24 ~~THAT IS UNRELATED TO THE OFFERING OR SELLING OF A REVERSE MORTGAGE~~
 25 ~~LOAN.~~

26 ~~12-1220.~~

27 ~~(A) BEFORE CLOSING A REVERSE MORTGAGE LOAN, THE LENDER~~
 28 ~~SHALL PROVIDE THE BORROWER WITH A WRITTEN SUMMARY OF THE PRINCIPAL~~
 29 ~~TERMS AND CONDITIONS OF THE REVERSE MORTGAGE LOAN.~~

30 ~~(B) THE WRITTEN SUMMARY REQUIRED UNDER SUBSECTION (A) OF~~
 31 ~~THIS SECTION SHALL:~~

32 ~~(1) BE PREPARED AS A SEPARATE DOCUMENT;~~

33 ~~(2) BE WRITTEN IN PLAIN LANGUAGE; AND~~

~~(3) INCLUDE:~~

~~(i) THE INTEREST RATE AND WHETHER THE INTEREST RATE IS FIXED OR ADJUSTABLE;~~

~~(ii) IF THE INTEREST RATE IS ADJUSTABLE:~~

~~1. THE FREQUENCY OF THE RATE CHANGE AND THE MAXIMUM AMOUNT BY WHICH THE RATE CAN CHANGE IN ANY PERIOD; AND~~

~~2. THE INDEX TO WHICH ANY CHANGES IN THE INTEREST RATE ARE TIED;~~

~~(iii) THE TERM OF THE REVERSE MORTGAGE LOAN;~~

~~(iv) THE SCHEDULE OF PAYMENTS PAID OUT DURING THE TERM OF THE REVERSE MORTGAGE LOAN;~~

~~(v) ALL FEES THAT APPLY TO THE REVERSE MORTGAGE LOAN, INCLUDING FEES THAT MAY ACCRUE AFTER IT BECOMES DUE AND PAYABLE; AND~~

~~(vi) THE CONDITIONS UNDER WHICH THE REVERSE MORTGAGE LOAN BECOMES DUE AND PAYABLE.~~

~~12-1221.~~

~~(A) A LENDER MAY NOT MAKE A REVERSE MORTGAGE LOAN OR ASSESS ANY FEES ON A BORROWER UNLESS THE LENDER RECEIVES:~~

~~(1) WRITTEN CERTIFICATION, SIGNED BY THE BORROWER, THAT THE BORROWER HAS:~~

~~(i) RECEIVED COUNSELING FROM A COUNSELING AGENCY;~~
~~OR~~

~~(ii) DECLINED TO RECEIVE COUNSELING; AND~~

~~(2) THE WRITTEN CHECKLIST REQUIRED UNDER § 12-1219(C) OF THIS SUBTITLE, SIGNED BY:~~

~~(i) THE BORROWER; AND~~

1 ~~(H) IF THE BORROWER RECEIVED COUNSELING IN PERSON,~~
2 ~~THE COUNSELOR.~~

3 ~~(B) IF THE CERTIFICATION REQUIRED UNDER SUBSECTION (A)(1) OF~~
4 ~~THIS SECTION CERTIFIES THAT THE BORROWER RECEIVED COUNSELING, THE~~
5 ~~CERTIFICATION SHALL:~~

6 ~~(1) INCLUDE:~~

7 ~~(i) THE DATE ON WHICH THE COUNSELING WAS PROVIDED;~~
8 ~~AND~~

9 ~~(ii) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF~~
10 ~~THE COUNSELOR; AND~~

11 ~~(2) BE SIGNED BY THE COUNSELOR.~~

12 ~~(C) THE LENDER SHALL:~~

13 ~~(1) PROVIDE THE BORROWER WITH COPIES OF THE~~
14 ~~CERTIFICATION AND CHECKLIST; AND~~

15 ~~(2) MAINTAIN THE CERTIFICATION AND CHECKLIST FOR THE~~
16 ~~TERM OF THE REVERSE MORTGAGE LOAN.~~

17 ~~12-1222. RESERVED.~~

18 ~~12-1223. RESERVED.~~

19 ~~PART V. PENALTIES.~~

20 ~~12-1224.~~

21 ~~(A) EXCEPT FOR A BONA FIDE ERROR OF COMPUTATION, IF A LENDER~~
22 ~~VIOLATES ANY PROVISION OF THIS SUBTITLE, THE LENDER MAY COLLECT ONLY~~
23 ~~THE PRINCIPAL AMOUNT OF THE REVERSE MORTGAGE LOAN AND MAY NOT~~
24 ~~COLLECT ANY INTEREST, COSTS, FEES, OR OTHER CHARGES WITH RESPECT TO~~
25 ~~THE REVERSE MORTGAGE LOAN.~~

26 ~~(B) IN ADDITION TO THE PENALTY UNDER SUBSECTION (A) OF THIS~~
27 ~~SECTION, A LENDER WHO KNOWINGLY VIOLATES ANY PROVISION OF THIS~~
28 ~~SUBTITLE SHALL FORFEIT TO THE BORROWER THREE TIMES THE AMOUNT OF~~
29 ~~INTEREST AND CHARGES COLLECTED IN EXCESS OF THAT AUTHORIZED BY LAW.~~

30 ~~12-1225.~~

~~A PERSON WHO WILLFULLY VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.~~

12-1208.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION:

(1) A LENDER OR ARRANGER OF FINANCING FOR A REVERSE MORTGAGE LOAN INSURED UNDER 12 U.S.C. § 1715Z-20 THAT VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTIES PROVIDED IN 12 U.S.C. § 1715Z-20, AND IN ANY REGULATIONS AND GUIDANCE ADOPTED UNDER 12 U.S.C. § 1715Z-20; AND

(2) A LENDER OR ARRANGER OF FINANCING FOR A REVERSE MORTGAGE LOAN NOT INSURED UNDER 12 U.S.C. § 1715Z-20 THAT VIOLATES THIS SUBTITLE:

(I) ENGAGES IN AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(II) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE, EXCEPT § 13-411.

(B) A VIOLATION OF THIS SUBTITLE DOES NOT CONSTITUTE A VIOLATION OF ANY OTHER SUBTITLE OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively to apply only to reverse mortgage loans applied for on or after the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.