Advising Clients with Tax and Insurance Deficiency Notices on Reverse Mortgages

Margot Saunders, National Consumer Law Center David Godfrey, ABA Commission on Law and Aging Greg Case, Administration on Aging Buz Zeman, HOPE

> Rick Jurgens & Jessica Hiemenz National Consumer Law Center

National Elder Rights Training Project for the National Legal Resource Center Sponsorship for this Webinar is provided by a grant from the Administration on Aging. February 23, 2011

L A W C E N T E R* Advancing Fairness

Presenter – Greg Case

- Greg is currently Director of the Office of Home and Community-Based Services at the U.S. Administration on Aging.
- In that capacity he and his staff support State and Area Agencies on Aging and local aging providers in the design and implementation of supports and services designed to facilitate aging in place.
- In addition Greg serves as the lead for activities related to housing with supportive services, the Community Innovations for Aging in Place (CIAIP) initiative, and the National Center for Benefits Outreach and Enrollment.

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Presenter – Margot Saunders

- Margot is currently "of counsel" to the National Consumer Law Center, after serving as Managing Attorney of the Center's Washington office from 1991 to 2005.
- Margot has testified before Congress on dozens of occasions regarding a wide range of consumer law matters, including predatory lending, payments law, electronic commerce, and other financial credit issues.
- Margot often serves as an expert witness providing opinions on predatory lending, banking issues, electronic benefits, servicing and credit math issues.

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Presenter – Buz Zeman

- Buz Zeman has been doing reverse mortgage counseling since 1993.
- He has counseled over 3,000 households.
- Buz is the Director of Housing Options Provided for the Elderly (HOPE).
- Buz is also a reverse mortgage trainer and is a consultant to the National Council on Aging.

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Presenter – David Godfrey

- Is a senior attorney at the ABA Commission on Law and Aging. He is responsible for the ABA's role in the Administration on Aging funded National Legal Resource Center.
- Prior to joining the Commission he was responsible for elder law programming at Access to Justice Foundation in Kentucky.

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Moderator – Rick Jurgens

 Rick Jurgens has been a consumer advocate and investigative reporter for the National Consumer Law Center since 2007. Prior to that he was a newspaper and wire service reporter.



Advising Clients with Tax and Insurance Deficiency Notices on Reverse Mortgages

Home Equity Conversion Mortgage (HECM) Overview

February 23, 2011





Overview Agenda

- □ HECM reverse mortgages
- □ HECM Delinquencies
- □ Aging Network Role

Home Equity Conversion Mortgage

- □ Reverse Mortgage insured by HUD FHA
- □ Eligibility
 - 62 and older
 - Property is borrowers primary residence
- Borrowers responsible for paying all property costs (e.g. taxes, insurance, condo fees etc.)
- Loan is not due and payable until the borrower has ceased to occupy the property

Home Equity Conversion Mortgage

- □ HECM represents the largest share of the reverse mortgage market
- Growing numbers of seniors are turning to HECM reverse mortgages to assist them in "using their home to stay at home" and using the funds to finance home and community-based services
- Reverse mortgages are especially attractive to older people who's only asset is their home

Home Equity Conversion Mortgage

- Despite this encouraging direction, reverse mortgages can be expensive and complicated and difficult for some elders to understand
- AAAs and other aging providers with a background in comprehensive assessment and person centered options counseling may be in a good position to help seniors make decisions about HECM loans
- A number of local housing counseling agencies are AAAs and other aging providers

HECM Delinquencies

- Some borrowers are having difficulty keeping up with property charges and with funds left in their loan, the lender has paid
- If the borrower has no loan funds left, until recently the lender has continued to advance the property charges
- □ Approximately 30,000 HECM borrowers now owe the lender for payment of these property charges
- Letters explaining they are delinquent and advising them on how to correct the situation are going out from January through April

Aging Network Role with Delinquencies

□ Source of information, referral and assistance

- To ensure they are connected to all available resources that may be useful to them
- Assistance in applying for public benefits to assist them in maximizing their income
- Case management/coordination
- Assistance related to housing transition
- Referral to legal assistance as needed

Resources for the Aging Network

- □ AoA Website -<u>http://www.aoa.gov/AoARoot/AoA_Programs/Special_Projects/HECM/in</u> <u>dex.aspx</u>
 - FAQ for consumers
 - Issue brief for professionals
 - HECM basics slide deck
 - Additional resources
- AoA Electronic newsletter to aging network organizations and professionals linking to website
- NASUAD and n4a messages/webinars to State and Area Agency on Aging directors and key staff
- □ AoA messaging/webinars to specific grantee groups

Home Equity Conversion Mortgage (HECM) Overview

Questions?





HECM Property Charges Delinquencies

Buz Zeman, MSW/LCSW, Director Housing Options Provided for the Elderly (HOPE) zbuz@hotmail.com

How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The lender paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears, or ...foreclosure.



They heard about Reverse Mortgages

- Ads, ads, ads
- Friends
- AAAs
- Social Service Agencies
- Legal Aides
- Ads, mailers, more ads



How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
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- Why do you want a reverse mortgage?
- What could you do instead?
- If you get this loan, what will it mean for you?
- What are the good things about it? (benefits)
- What are the bad things about it? (costs)
- What are the ways you can get the money?
- When will you have to pay back the loan?



The counselor cannot

- •Tell you whether you CAN get the loan
- •Tell you whether you SHOULD get the loan
- •Tell you what lender to go to

What is a reverse mortgage?

- •A loan
- •Against the value of your home
- •No payments as long as you live in the house
- Gets paid back when you stop living in the house

What the HECM (heck-um)?
Home Equity Conversion Mortgage
H - E - C - M = "Heck-um"





- A HECM is an FHA, federally-insured reverse mortgage
- Most, but not all, reverse mortgages are HECM loans
- Federally-insured means the government guarantees the loan
- Insurance protects you and the lender

What happens when you get a reverse mortgage?

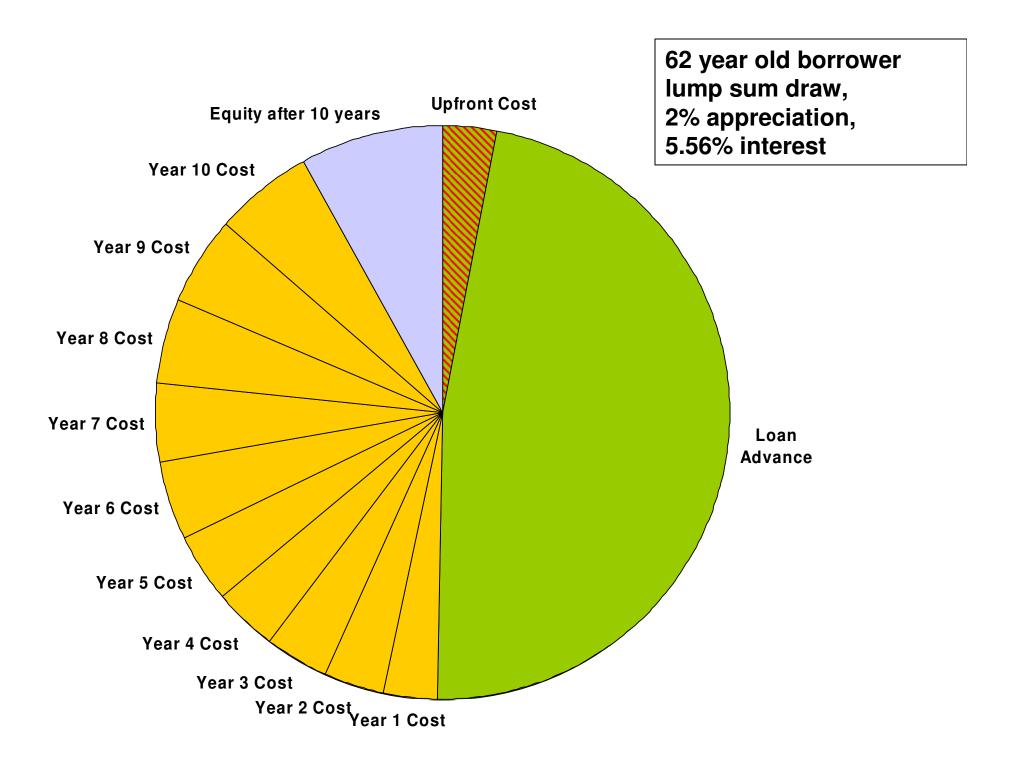
The **longer** you have the loan, the **larger** the debt will grow, and the **smaller** your equity in the house will be

Eventually, the debt can pass up the value of the home

What happens when you get a reverse mortgage?



- You borrow PART of the value of your house
- The lender adds interest and fees to the amount you borrow
- This uses up the value of the house over time
- At the beginning of the loan, the borrower has debt of 5-90% of home value
- If they borrowed the maximum amount possible, debt is 55%-75% of home value





How long can you keep the loan?

 You can keep it as long as you want – no time limit

 As long as you live in the house, no matter how long that is

•Doesn't matter how much you end up owing

What if you use up all of the home's value?

- •You can still keep the loan
- •You don't have to move out
- You don't have to make payments as long as you live there

Who owns the house?

•You do.

- That means you can sell it if you want
- •That also means that you have to pay for
 - Property taxes
 - Homeowner's insurance
 - Maintenance
 - HOA dues, condo fees, etc.

"Covenants of the mortgage"

- Covenant means "promise"
- You are promising to:
 - Live in the house
 - Pay the taxes
 - Maintain homeowner's insurance in case of fire or other damage
 - Keep the house in as good condition as when you got the loan
 - Pay other required charges such as HOA dues



Review Question 3

What homeowner responsibilities will you have if you get a reverse mortgage?

Answer: Pay taxes, homeowners insurance, and maintenance

Default = Breaking your promises



- If you don't pay your property taxes and insurance on time, or if you don't take care of the house –
- You will be in "default" on the loan
- The lender can foreclose, and you can lose the house!
- Don't forget!!

Much more covered in up-front counseling, Including:

- •Benefits Check-up and referrals
- Encouraging long-term planning
- Explaining what costs can vary from lender to lender
- •RESPA's encouragement to shop

How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears ...or, foreclosure.





Apply and receive loan

- Sales persons of all types
- Many lenders to choose from
- Some agents, and all lenders, receive the most compensation when more money is borrowed at the beginning of the loan
- Agent sells the loan for the Lender, who gets the loan insured (FHA) and sells it to the investor

How the client got to this point

- They heard about Reverse Mortgages
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- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
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Failed to pay property charges

- Taxes, insurance, condo fees ...
- The servicer sent a letter to the client telling them the amount that they owed and asking them to pay it



How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears ...or, foreclosure.



The Servicer Paid Arrearage

 If the borrower did not pay the bill (taxes, insurance, condo fees, etc.) The lender paid it for them.
 - and added it to their debt



How the client got to this point

- They heard about Reverse Mortgages
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- The client received a letter saying they must repay the amount in arrears ...or, foreclosure.



Default Letter from Servicer

- You owe \$, which we have paid on your behalf.
- You MUST contact us within 30 days and "arrange to cure the delinquency".
- You MAY contact a counselor "free assistance in finding some viable resolution"



Mortgagee Letter 2011-01 published 1/3/11



- Subject: Home Equity Conversion Mortgage Property Charge Loss Mitigation
- Background
- Reporting Delinquencies to HUD
- Loss Mitigation Option
- Repayment Schedule
- Issuance of Property Charge Delinquency Letter
- Requesting Due and Payable
- Curing the Delinquency

Counseling Initiative



- A pilot project is underway
- Five Counseling Intermediaries have received funds to support ~125 counselors
- HUD training (through Neighbor Works is underway –began Jan18th)
- HUD has published "Counseling Guidelines for HECM Borrowers with Delinquent Property Charges"
- Most counseling will be by phone

HUD's direction to counselors

- Purpose: to assist HECM borrowers (borrowers) who are delinquent on
 - Real estate taxes
 - Property insurance, or
 - Other property charges or special assessments such as condominium fees, homeowners association dues, etc.
- An assessment will determine
 - Whether or not borrowers want to remain in their home
 - Whether or not a financial solution is possible



Counselor's Responsibility

- Counselors will assist borrowers to:
 - resolve the delinquency, if possible
 - determine options for additional financial assistance (including use of Benefits Checkup)
 - explore other housing options
 - identify resources to provide transitional housing guidance and refer the borrower to a local Area Agency on Aging (AAA) for additional guidance and counseling to assist with the transition
- Counselors will also be responsible for analyzing the borrower's:
 - financial capacity
 - Budget
 - ability to support repayment plan
 - future property charges



Outcome of Counseling

Borrowers will

- Understand the foreclosure process, and the consequences of not resolving their delinquency
- Have a full understanding of their financial situation
- Have decided whether or not to pursue a repayment plan or some other course
- Have worked with the counselor and servicer to negotiate a manageable repayment plan (if desired and workable), and
- understand the options available to resolve their delinquency and maintain their property charges going forward.



Referrals to local AAAs -1



- If the Benefits Checkup or other analysis indicates
 the borrower may qualify for benefits, the counselor will
 - Assist the borrower in filling out all the appropriate benefit program application forms and sending the forms to the appropriate social service agencies
 - Refer the borrower to a local AAA if they are unable to assist with filling out the benefit program application forms
 - Counselors will arrange a conference call between the HECM counselor, the borrower and the AAA to facilitate a "soft transfer."
 - With the borrower's permission, the counselor will provide the client's relevant information to the AAA.

Referrals to local AAAs -2

- If the borrower determines that he/she cannot afford to, is unwilling to bring the loan current, or no longer wants to keep the home, the counselor will
- Assist the borrower in transitioning out of their house to other suitable housing, including:
 - Referring the borrower to a local AAA
 - Counselors will arrange for a conference call with the client and the AAA to facilitate a "soft transfer"
 - With the borrower's permission, the counselor will provide the borrower's relevant information



Referrals to local AAAs -3



- Borrower may need hands-on case manager to assist in transitioning to other housing.
- It is hoped that local case managers will be available to assist.
- HUD's guidelines state "A case manager is a person at an AAA who has an ongoing relationship with a client. They meet regularly to address a client's complete process that can take weeks or months. Case managers are trained in social services and working with seniors and provide in- depth assistance such as, in some situations, they actually go stand in line for clients to apply for services, do follow-up for services or take them for medical assistance among other things."

HUD's directions Re: Legal Aide

Advise borrowers of other sources of income •House match programs •Local property tax assistance •Debt Management plan •Other family members or friends •Bankruptcy as option to deal with unsecured debt, Legal Aide

Additional Referrals

- www.nonprofitreferrral.org
- •www.seniorhousingnet.com/seniors
- •www.eldercare.gov
- www.pparx.org (prescriptions)
- www.angelfoodministries.com
- •Legal Aide
- Housing Mate Match programs



Skills/expertise of Counselors



- Counselors may have extremely different skills and levels of expertise:
- Counselors might only have experience in reverse mortgage counseling
- Counselor might only case management experience
- May have an MSW in Social Work and extensive experience in case management, reverse mortgage counseling.
- ALL Property Charge Loss Mitigation Counselors are just beginning to do this counseling.

Characteristics of cases - mostly guesses at this point

- Debt could be any amount
- There will be significant home equity in some cases; but, more likely, home equity will be small or 0
- Clearly, many repayment plans will be possible
- For many, repayment plans will not be possible
- Many will be low income seniors

Imagining characteristics of cases you might be interested in



- Many borrowers will have credit card debt
- Many borrowers have only social security income
- Many borrowers will have little or no equity (Loans could very well be underwater)
- Only some loans will be less than 3 years old.
- Fixed-rate loans have predominated over the last few years (lenders make more money selling this type of HECM). There may be some cases where using a fixed rate loan resulted in loss of public benefits.

How cases will come to you.

- Clients may call you directly and may or may not have received a Delinquency Letter
- Property Charge Delinquency Counselors may refer clients
- Connecting the client to a counselor is always a helpful possibility, but clients are not required to use a counselor.



Questions?



• HECM ML 2011-1

http://www.hud.gov/offices/hsg/sfh/hecm/hecmml.cfm

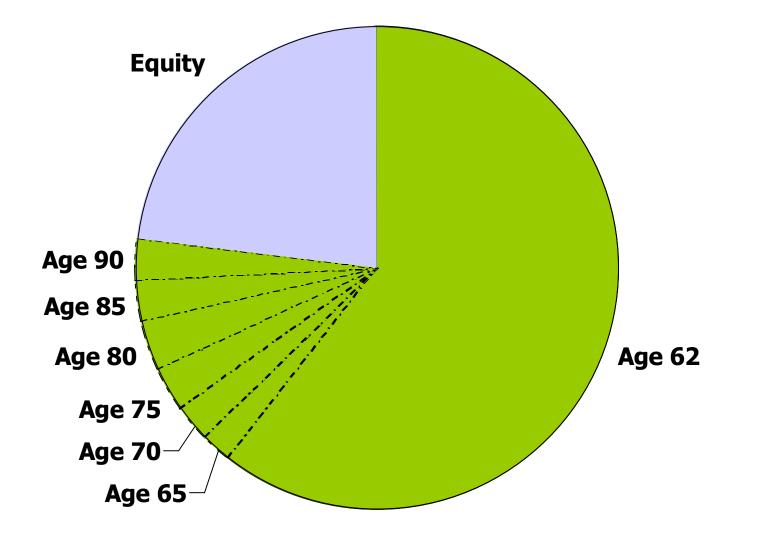
- Should you have any questions concerning this Mortgagee Letter, please call the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342).
- HUD's "Counseling Guidelines for ...Delinquency Issues" will be available on the NLRC website
- Buz Zeman MSW/LCSW, Director Housing Options Provided for the Elderly (HOPE) zbuz@hotmail.com

Reverse Mortgages – brief description

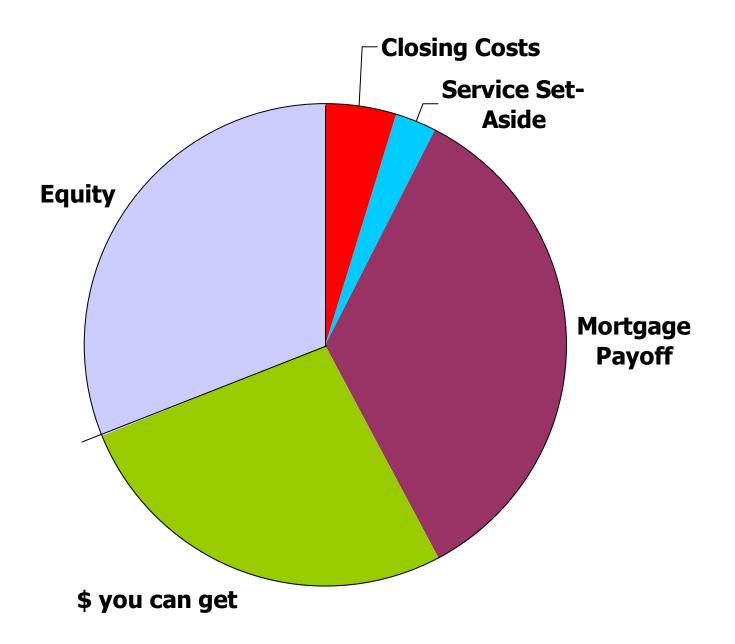


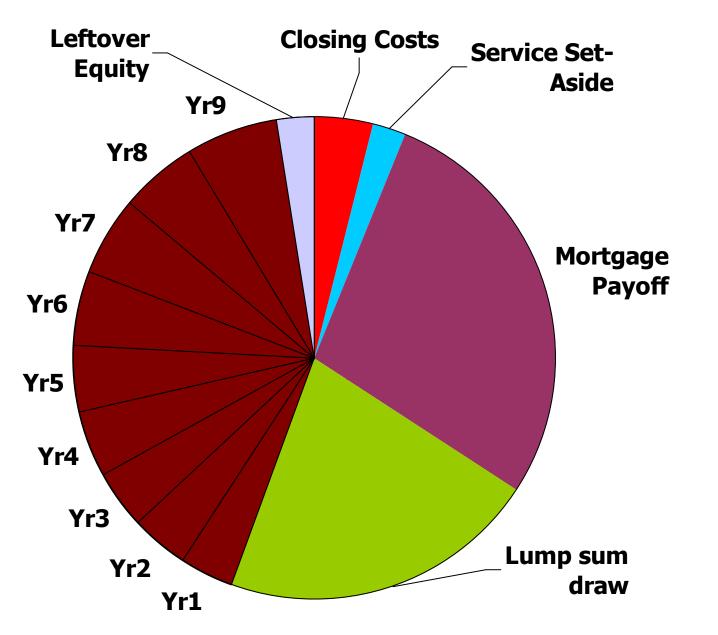
- A loan against home equity, providing cash advances to borrowers, available for homeowners 62+
- The loan does not need to be repaid until the end of the loan
 - Client moves out
 - Sells
 - Defaults on loan conditions
- In all cases one can borrow only a fraction of home value
- How much one can borrower depends on age, home value, and current interest rates
- There are many choices borrower must make at the beginning of the loan:
 - Fixed vs. Variable Interest Rate
 - HECM Standard vs. HECM Saver
 - How to access the money (all funds immediately, line of credit, set payment @ month, and more)

Loan amounts by age

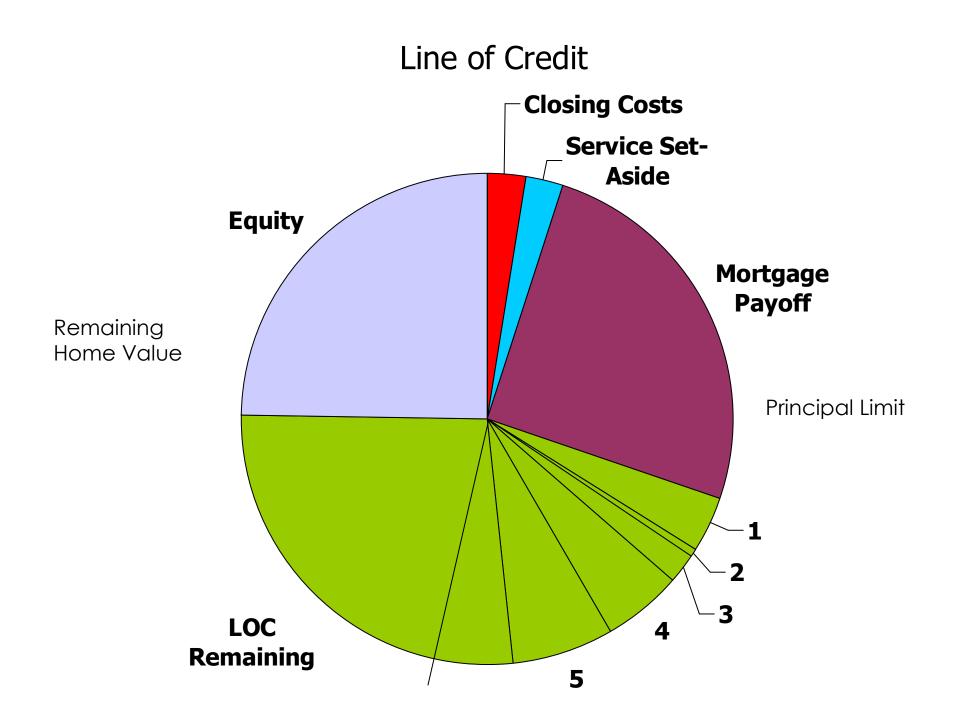


What happens to the money?

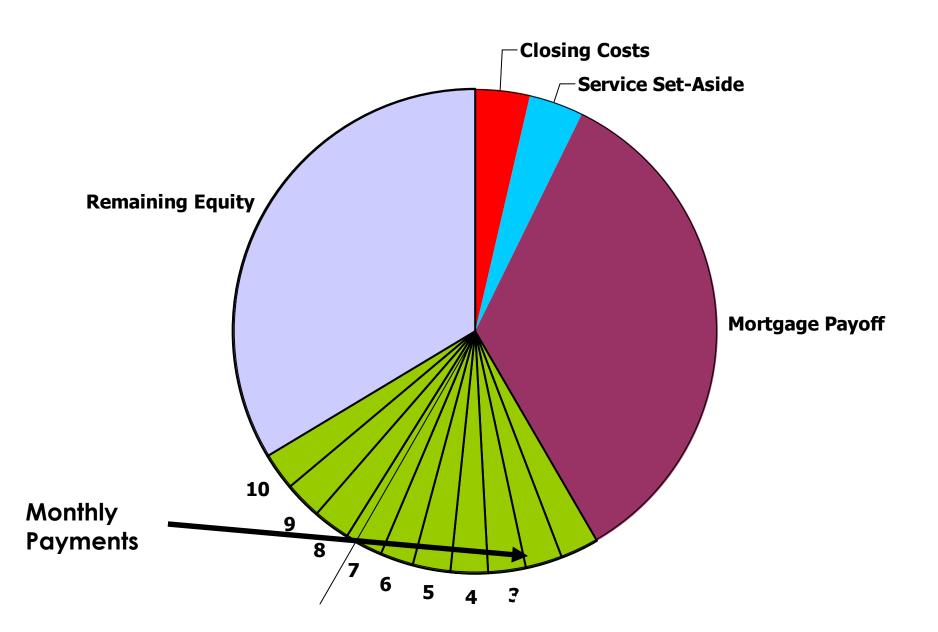


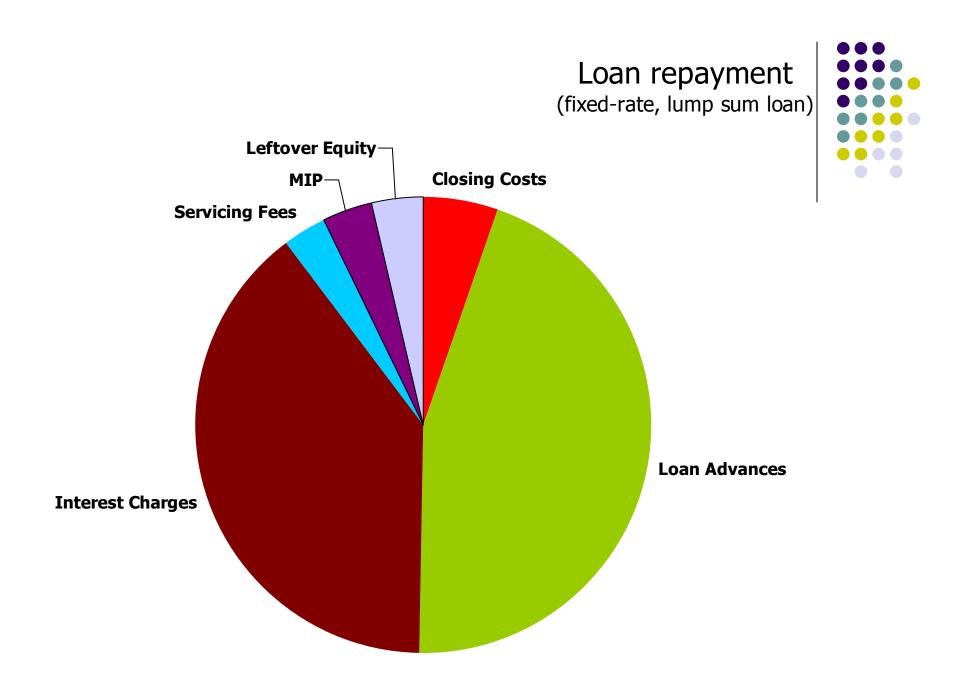


After 9 years, fixed rate, lump sum



Monthly Payments





Reverse Mortgage Issues

Margot Saunders – Counsel National Consumer Law Center www.consumerlaw.org

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- NCLC Report Subprime Revisited: How Reverse Mortgage Lenders Put Older Homeowners Equity at Risk – October 2009
- <u>http://www.nclc.org/images/pdf/pr-reports/report-reverse-mortgages-2009.pdf</u>

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- · Comments to federal and state regulators
 - E.g., Federal Reserve Board December 2010 (page 75)
 - <u>http://www.nclc.org/images/pdf/foreclosure_mortgage/p</u> redatory_mortgage_lending/comments-rescissiontila.pdf
- In comments to Federal Reserve Board we highlighted the issue of borrowers who are serious risk for losing their home due to nonpayment of property-related charges
- We also opposed several of problematic proposals made by the Board



- Inaccurate and deceptive marketing
 - E.g., HECM as a government benefit
 - "Cannot lose your home"
 - "Payments for life"
- Recent trend toward fixed-rate reverse mortgages requiring full-draw
 - HUD Data: between March 2009 and October 2010 over 60% of the HECM market switched from variable to fixed rate
 - Consumer begin paying interest and MIP on the full amount

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- Recent trend toward fixed-rate reverse mortgages requiring full-draw (Cont.)
 - Originators sell list of consumers who take out fixedrate HECM reverse mortgages - and therefore have a lump sum of money - to insurance brokers and financial salespeople
 - May affect eligibility for certain means-tested programs
 - No data on how consumers are using the lump-sum withdrawal

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- Cross-selling of expensive and unnecessary financial products
 - E.g., Annuities, long-term care insurance
- Non-borrowing spouses who relinquish their ownership interest



Reverse Mortgages – Attorney Referral

- Reverse mortgages are complex, disclosures are confusing and inadequate and counseling, while helpful, is inconsistent and underfunded
- Refer borrower to an attorney if questions arise about origination or servicing of the loan



Consumers with Reverse Mortgages – When to refer to an Attorney

- Failure of the reverse mortgage originator to evaluate the borrower's ability to pay the ongoing taxes and insurance charges
- Borrower seems confused and does not understand how a reverse mortgage works
- Borrower used all the money to purchase an annuity or long-term care insurance, leaving insufficient funds for the borrower to live on
- Borrower says they were pressured to take out this loan and the loan terms are not a good deal for the borrower.

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Consumers with Reverse Mortgages – When to refer to an Attorney

- Borrower agreed to have younger spouse deed over her share of the house to borrower, resulting in higher RM funds available, but spouse did not understand that she would be evicted from the property upon death, move of obligor-spouse
- Borrower took out a HECM loan and did not receive counseling
- Borrower was told he or she would receive a loan with certain features (e.g., variable) and received another type of loan
- Any inconsistencies in the closing documents

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- There may be some defenses to foreclosures
- Bankruptcy may be available and useful
- Affirmative claims about failures in underwriting might be possible
- Truth in Lending rescission may be available if the loan was made within past 3 years



One Piece of Good News – on another subject

- Today Treasury issued the garnishment rule prohibiting banks from allowing banks to process garnishment orders against Social Security and SSI and VA funds in bank accounts.
- Rule is effective May 1, 2011. Comments are due in late May. Watch our website or contact me for questions.
- msaunders@nclc.org.

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AoA National Legal Resource Center

David Godfrey ABA Commission on Law and Aging



http://www.nlrc.aoa.gov/nlrc/Legal Issues/Housi

ng/Mortage Issues.aspx

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Older Native Americans	Content Type: Website
Training	Overview of mortgage servicing, common problems and scams. Includes policy analysis and other resources.
About Training Project	
Technical Assistance	Reverse Mortgages
Further Information	Reverse Mortgages: Are They for You?
Legal Service Delivery Best	Source: Office of the Comptroller of the Currency
Practices	Content Type: Website with downloadable booklet
Best Practices	A consumer guide to reverse mortgages.
Model Approaches	Use Your Home to Stay at Home™ Consumer Booklet ₪
Legal Services Providers	Source: National Council of Aging Organizations
Resources	 Content Type: Website This site contains information on reverse mortgages as a tool for consumer to remain in their homes.
Case/Legislative Updates	AARP Reverse Mortgages Resources 🖻
Email Lists	Source: American Association of Retired Persons
News Stories	Content Type: Website
Funding Resources	Consumer focused information on reverse mortgages.
News and Press Releases	Home Equity Conversion Mortgage (HECM) Program The Role of the Aging Network in Assisting Older Mortgagees
Publications and Reports	Source: AoA
RSS Links	Content Type: Website with new content being added on emerging issues
Training and Conference Information	Evolving website looking at issues relating to delinquencies on reverse mortgages. Under the HECM program property taxes, insurance and other property charges are the responsibility of the homeowner. Lenders have advanced property tax, insurance and other property charges to
Webcasts	borrowers who were unable to pay them. HUD is now requiring lenders to try to collect these
Aging Network	advances and older borrowers who are unable to repay these advances may be in jeopardy of
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http://aoa.gov/AoARoot/AoA_Programs/Special_P rojects/HECM/index.aspx

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About AoA	Home Equity Conversion Mortgage (HECM) Program			
Press Room	The Role of the Aging Network in Assisting Older			
Elders & Families	Mortgagees			
Emergency Preparedness	HECM Basics HECM Borrowers and Delinquent Property Cost Payments Role of the Aging Network			
Aging Statistics	Resources			
AoA Programs	HECM Basics			
Older Americans Act & Aging Network	Home Equity Conversion Mortgages (HECM) are reverse mortgages insured by the HUD Federal Housing Administration (FHA). Only homeowners age 62 and older are eligible to participate in the HECM program. These reverse mortgages have been attractive to older adults for a number of			
Home & Community Based Long-Term Care	reasons.			
Elder Rights Protection	 Older adults with few assets aside from their home can tap into their equity to help them age in place. 			
Health, Prevention, and Wellness Program	 Borrowers can live in the home as long as they want without making any monthly payments, aside from property costs such as property taxes and insurance. 			
Special Proiects	Borrowers never owe more than the value of the house if sold at the time the loan comes	~		
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NLRC and Legal Resources

The **National Legal Resource Center (NLRC)** is available to assist you with your legal resource support needs related to your work with older consumers facing a wide range of legal problems, including those consumers facing HECM delinquencies and possible foreclosure.

The NLRC is an innovative partnership involving national legal support organizations well know for their support of aging and legal networks dedicated to serving older clients and consumers:

- ABA Commission on Law and Aging
- o Center for Elder Rights Advocacy
- National Consumer Law Center
- National Senior Citizens Law Center
- The Center for Social Gerontology

Each partner plays a unique role in providing resource support in developing, operating and providing legal assistance to at risk seniors, including support on public benefits and housing issues impacting older consumers. More Information about the partners and the resources they provide can be found at: <u>http://www.NLRC.aoa.gov</u>

 Locate a Legal Provider or Senior Legal Helpline to Provide Direct Legal Services to Older Consumers

Done

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http://www.nlrc.aoa.gov/nlrc/Services_Provi ders/index.aspx

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Home	Home > Legal Services Provide	iders	III

Legal Service Provider Listings

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About

Partners

Legal Issues

Caregivers

Elder Abuse

Employment

Family Law

Health Care

Housing

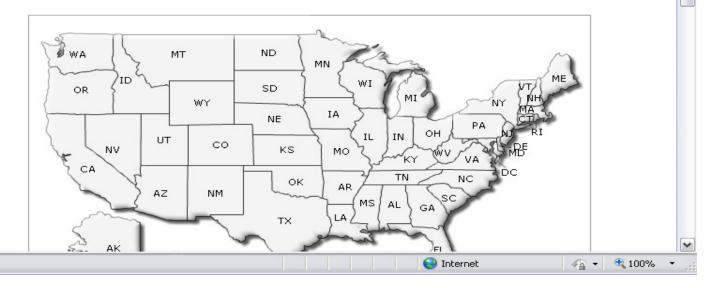
Financial Security

Events Calendar

About Case Consulation

Consumer Protection

Click on the map or select the state on the drop down



http://www.nlrc.aoa.gov/nlrc/Case_Consultation/Index.aspx

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About	Case Consultation	Request Tool	Į			
Partners		_				
Events Calendar		ol gives professionals and advocates in the field of law dvice in a broad range of legal subject matter areas tha				
Case Consultation		ance can focus on actual client cases or broader policy				
About Case Consulation		For instance, a program staffer on a local guardianship	task force			
Legal Issues	can use the consultation service f	or policy information and advice.)				
Consumer Protection	Full listing of legal subject matters					
Caregivers	A case consultation request may	A case consultation request may go to one of three participating programs: The National Senior				
Elder Abuse		Citizens Law Center, The National Consumer Law Center or the American Bar Association Commission on Law and Aging. In order to provide the most appropriate assistance, in some instances your case consultation request may be routed to and discussed with another trusted organization. Do not				
Employment						
Family Law		nt identifying information with your request.				
Financial Security	Case consultation is only available	ble to professionals and advocates in law and agin	ıg,			
Health Care	including:					
Housing	Title III-B legal assistance p					
Legal Capacity	Legal Services Corporation (State Legal Assistance Deve					
LGBT Aging	 Elder law and consumer law 	attorneys in the public and private sectors				
Long Term Care	 Members of the judiciary Aging services staff of Area 	Agencies on Aging, ADRCs, and State Units on Aging				
Older Native Americans	 Professionals and advocates Long-term care ombudsman 	within organizations serving older persons				
Training						
About Training Project	-	legal advice to individuals. If you are an individual in a legal services provider in your area.	need of			
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