

## **LOSS MITIGATION OPTIONS FOR REVERSE MORTGAGES**

Chicago Volunteer Legal Services, Access to Justice Program

August 16, 2018

- I. **Overview of Reverse Mortgages a/k/a Home Equity Conversion Mortgages (“HECM”)**
- II. **Relevant statutes, regulations & guidelines for a federally insured HECM** *\*Not an exhaustive list*
  - a. 12 U.S.C. §1715z-20(j) *Insurance of Home Equity Conversion Mortgages for Elderly Homeowners*
  - b. Code of Federal Regulations (C.F.R.)
    - i. 24 C.F.R. §206 *Home Equity Conversion Mortgage Insurance*
    - ii. 12 C.F.R. §1026.33 *Requirements for Reverse Mortgages*
  - c. U.S. Department of Housing & Urban Development (“HUD”) Guidelines (HECM *specific*)
    - i. HUD Mortgagee Letters, found at:  
[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/hecm/hecmml](https://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hecm/hecmml)
    - ii. HUD Handbook, found at:  
[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/handbooks/hsg/4235.1](https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4235.1)
- III. **Case management & working with your Client**
  - a. Communication, goal setting & reality check
- IV. **Loss Mitigation in the Reverse Mortgage Context** (*Home Retention*)
  - a. Options for *Borrowers*
    - i. Reinstatement by curing default pursuant to 24 C.F.R. §206.125(a)(3)
      1. Illinois Hardest Hit Fund (“IHFF”) Program available to eligible borrowers that have defaulted for failure to pay property taxes & insurance
      2. Lump sum repayment of back property taxes and insurance premiums
        - a. Chapter 13 Bankruptcy Payment Plan
      3. Moving back into property to cure occupancy default
      4. Making necessary repairs to cure repair requirements & provisions of HECM
    - ii. Repayment Plan pursuant to HUD Mortgagee Letters 2015-11 & 2016-07
      1. Submit cover letter and budget with supporting documentation
    - iii. At-Risk Extension for borrowers over 80 years old with a terminal illness, long-term disability, or unique occupancy need pursuant to HUD Mortgagee Letter 2015-11
    - iv. Redemption
  - b. *Deceased Borrower* Context
    - i. *\*Options for Non-Borrower Surviving Spouses*
      1. For HECM loans originated on or after August 4, 2014:
        - a. A “Deferral Period” may be initiated upon death of borrower, which allows *Non-Borrower Surviving Spouse* to live in property until his or her death as long as all other HECM obligations are met per HECM terms
      2. For HECM loans originated before August 4, 2014:
        - a. Mortgagee Optional Election (“MOE”) Assignment pursuant to HUD Mortgagee Letter 2015-15 & 2016-05 allows *Non-Borrower Surviving Spouse* to live in property after deceased borrower’s death under the following conditions:
          - i. *\*Spouse must obtain title to property or establish a “legal right to remain” within 90 days of the death of the borrower subject to 60 day extension per HECM Guidelines*
          - ii. *\*Spouse must have been married at time of closing and death*

- iii. Home must be spouse's principal residence
    - iv. Spouse must cure any defaults of property taxes and insurance
      - 1. Repayment Plan not an option, however, may reinstate
    - v. Spouse must elect MOE option **within 120 days** of borrower's death
  - ii. Options for *Heirs, Mortgagor's Estate, or Title Holders*
    - 1. Short-Sale Payoff a/k/a "Short-Sale by Operation of Law" or "Short Payoff"
      - a. Heirs may pay-off the HECM at 95% of the appraised value of the home
        - i. Chapter 13 Bankruptcy Payment Plan possible on behalf of the estate when appraised value is low enough
      - b. Appraisal is completed by Servicer and lasts 120 days
      - c. Letter of intent & proof of funds generally required in order to execute  
 See HUD Mortgagee Letter 2015-10; HUD Handbook 4235.1, Chapter 9: *HUD Servicing*; HUD Handbook 4330.1, Chapter 13: *Home Equity Conversion Mortgages*
    - 2. Stabilizing Urban Neighborhoods Program (SUN Initiative)
      - a. Loan Terms: Principal of at least \$40-45,000; 6.375% interest; 30 year term
      - b. Sufficient income and savings to cover closing costs & down payment
      - c. Short-sale application done through real estate agent chosen by SUN
- c. Loss Mitigation Inquiries, Issues & Correcting Servicing Errors
  - i. *Requests for Information* pursuant to 12 C.F.R. §1024.36
  - ii. *Notices of Error* pursuant to 12 C.F.R. §1024.35
  - iii. IHMF Appeal
  - iv. CFPB Complaints
  - v. Escalations through Servicer and/or HUD