

National Reverse Mortgage Lenders Association

2023 Southern Regional Meeting

July 13, Austin, TX



A Loan Officer's Guide to Reverse Mortgage Servicing

We will educate you so that you can better serve and educate your Reverse Mortgage borrower



First Things First – Privacy Protection

Before Death of Borrower	Permissions
Alternate Contact on Loan Application	Used only to locate Borrower; cannot discuss account
Authorized Third-Party	Can discuss account
Attorney-in-Fact, Guardian or Conservator	Can discuss account and can act on behalf of the borrower (i.e., request funds)

Note: Loan Officers must provide a signed third-party authorization form/letter to discuss the account after loan boarding.

First Things First – Privacy Protection

After Death of Borrower	Permissions
Authorized Third-Party	No longer authorized to discuss account
Attorney-in-Fact, Guardian or Conservator	No longer authorized to discuss account or act on behalf of borrower
Executor Personal Representative of the Estate (with supporting documentation)	Can discuss account-specific information and can act on behalf of borrower (i.e., Short Sales/DIL)

This information should not be regarded as compliance or legal advice and is for informational purposes only.

Prepare Borrower for Servicing

Provide borrowers/alternate contacts/authorized 3rd party phone# and email address at origination

Encourage Borrowers to Prepare for Maturity & Inform their Heirs of the following:

- Name and Phone Number of Servicer (on monthly statement)
- Recent monthly statement
- POA or Authorized Third Party letter (post-death will no longer be valid)
- Copy of Last Will & Testament / Trust
- Death Certificate

Discuss LOC Advances, Occupancy Certificate, Repair Set Aside, and Loss Draft

Line-of-Credit Advances

- **Attorney-in-Fact:** must sign "*POA Name, Attorney-in-Fact for <Borrower Name>*"
- **Timeframe:** 5 business days from receipt of a complete and approved request
- **Disbursement Method:** Direct Deposit or Check (*encourage Direct Deposit*)
- **First Year Restriction:** LOC advances subject to Initial Disbursement Limit (IDL)
- **Default Status:** LOC Funds frozen
- **Last Borrower's Death:** Unused LOC funds are not available and not in the loan balance.

Occupancy

- Annually borrowers must certify their occupancy
- Borrowers should notify their Servicer if they will be out of home for >2 months
- Borrowers can be out of their homes for up to 12 months for health reasons

Process:

- 1st occ cert is mailed annually within 30 days of the closing date anniversary
 - 2nd occ cert is mailed 30 days later
 - Phone calls begin 30 days later
 - A Property Inspection is ordered (and possibly a door knock)
 - Loan required to be referred to HUD for approval to call due & payable
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- **Default:** Failure to complete the verification results in a Default and the LOC is frozen when the loan is Called Due and Payable, and Foreclosure could commence

HUD requires the signed form that includes the required HUD-prescribed certification language.

First Year Repairs / Repair Set Aside

- **Repair Rider** to Loan Agreement: Shows required completion date and list of required repairs
- **Timeframe:** Maximum of 12 months to complete (including any extensions)
- **Communication:** Borrower should stay in contact with Servicer to report progress
- **Initial Disbursement of Funds:** to pay for materials (with receipts and delivery to home/job site)
- **Remaining Funds:** An inspection is required prior to disbursement of additional funds
- **Affidavit & Lien Waiver*:** required from the contractor(s) to close out repairs; or **Homeowner's Certification Form** if they completed repairs without a contractor
- **Excess Funds in RSA:** upon completion and inspection, remaining funds can be accessed by Borrower if the loan is open-ended; if closed-ended, no additional funds will be available.
- **Default:** Failure to complete by the deadline results in a Default and the LOC is frozen

Loss Drafts/Property Insurance Claims

- **File Claim:** Borrowers should contact their Insurance Carrier(s) and file a claim ASAP
- **Document Damages:** Borrowers should document all damages, including taking photos
- **Insurance Adjuster:** will inspect damages to determine claim proceeds
- **Claim Funds:** Checks are typically made payable jointly to both the servicer and borrower as the servicer is a Loss Payee. The borrower must sign and send a check to Servicer to hold and disburse funds.
- **Communication:** Borrowers should contact their Servicer regularly to report progress
- **Inspection:** A completion inspection is required prior to the disbursement of funds
- **Disbursement of Funds:** When inspection shows 100% complete, remaining funds are sent to the borrower*
 - HUD requires evidence that all repairs are satisfactorily completed. Servicers cannot cut and release checks like forward mortgage servicers.
- **Affidavit & Lien Waiver:** required from the contractor(s) to close out repairs; or **Homeowner's Certification Form** if they completed repairs without a contractor.

Prepayments

- Borrowers can make prepayments at any time, BUT to keep their LOC open, they must maintain a nominal balance. If the prepayment is enough to pay the loan in full, the loan will close, and the liens will be released.

Payment Application Waterfall:

- First to MIP
 - Second to Servicing Fees (if any)
 - Third to Interest
 - Fourth to the remaining portion of the Principal Balance.
- A HECM borrower with a LOC can re-borrow 100% of prepayments made, subject to the first-year restriction.
 - ❖ **IRS Tax Docs:** Borrowers will only be sent a Form 1098 if they prepaid >\$600 in interest or paid in full during the tax year (in compliance with IRS rules)

Payoff Quotes

- All quotes must be requested by an authorized party or be accompanied by a signed Borrower's Authorization
- Only incurred fees may be included. No future estimated fees can be included
- Turn times may be longer for loans in default or foreclosure (must get current incurred fees from attorneys/vendors)
- Quotes on loans in foreclosure have a shorter good-through date as fees are accruing regularly

Taxes & Insurance - LESAs

Purpose: Set Aside for Tax & Insurance Payments

- Fully-Funded LESA: required when the borrower *has not* demonstrated a satisfactory credit history and/or property charge payment history, even if residual income is sufficient. Property charges will be paid by the servicer out of the LESA Set-Aside until depleted. (mandatory; determined at underwriting)
- Partially-Funded LESA: required when the borrower *has* demonstrated a satisfactory credit & property charge payment history, but residual income is not sufficient. The borrower will receive semi-annual payments designed to bring residual income up to the standard. The Borrower is responsible for the payment of all property charges. (mandatory; determined at underwriting)

Note: A LESA must be set up at origination; we cannot establish a T&I set aside after origination.

Taxes & Insurance - LESAs

Restrictions:

- A LESA cannot be canceled or changed during the life of the loan.
- Funds are set aside for the specific intent of payment of property charges (Taxes & Insurance only) and a borrower may not access them for any other reason.
- If the borrower passes away, any Non-Borrowing Spouse (NBS) would **NOT** have access to the LESA, and LESA payments cease (LESA is established based on the borrower's age).
- If the borrower passes away, LESA funds are neither available nor "lost". They were never borrowed, and thus not added to the loan balance.

Default/Maturity Events and Resolution

Death - of last remaining borrower or non-borrowing spouse

- Payoff Loan
- Short Sale * – if in default, can sell for 95% of market value; if no default, sell for 100%
- Deed-in-Lieu * – title must be clear and property broom-swept

Occupancy - move out of all borrowers

- One borrower moves back into the property and certifies occupancy

Property Charge Default – failure to pay taxes, insurance, HOA, etc.

- Repayment plan (excluding HOA), At Risk Extension, or Borrower Financial Assistance Program (HAF)

Property Condition - Failure to maintain condition/condemnation

- Repair or Sell property, execute a Deed-in-Lieu of Foreclosure

Title Transfer - no borrower remains on the title

- Return at least one borrower to the title (if trust, contact servicer ahead of time for approval)

* An authorized representative must be appointed to convey the title

Property Charges – Taxes & Insurance

- Servicers send letter cycles pre- and post-payment due date
- **Property Charge Delinquency Letter (PCDL):**
 - States an obligation of the borrower to pay property charges has not been met
 - States failure of the borrower to pay property charges will result in loan becoming D&P
 - Includes the amount advanced by the Servicer
 - Provides notice of the availability of Housing Counseling
 - Provides notice of all available loss mitigation options the mortgagee may offer
- **Note:**
 - Mortgagee must be a named loss payee on the insurance policy
 - HO-6 coverage is required on condominiums (“walls-in” coverage)

Taxes & Insurance – Default Remedies

- Repayment Plan (ML 2015-11)
 - Term length depends upon income
 - May be required to repay the default balance before MCA reaches 98%
 - Payment should not exceed 25% of the borrower's surplus income
 - If a term less than the max allowable term is not possible, the payment at max term may exceed 25%
 - Taxes & Insurance only; Cannot include HOA dues
 - If the default balance is <\$2k, D&P is deferred

- At-Risk Extension of Foreclosure
 - Youngest living mortgagor is at least 80 **and** has critical circumstances
 - Must be supported with documentation and renewed annually

- Borrower Financial Assistance Programs (Housing Counselors can advise)

Maturity / Death Process

- Upon notification: Demand Letter is Sent
 - HUD prescribed language; 30 days to satisfy the debt or provide a letter of intent outlining their intentions for the property/loan
- Servicer initiates first legal action of Foreclosure
 - Timing of referral for foreclosure depends on state law, but this is required by HUD no later than 6 months after death or default
 - Earlier in states where opening probate is required to meet first legal (MD, DC, DE, ME & NH)
 - Foreclosure timeframes vary by jurisdiction
- Estate can request up to two 90-day extensions of Foreclosure
 - With proof property is being marketed – listing agreement, sales contract
- Probate is completed if required in the jurisdiction

Probate Process Overview

- Legal process of administering a deceased person's estate
 - Purpose is to administer organize assets, money, and possessions and distribute as inheritance
 - For property, allows for legal title to transfer from deceased party to another
 - In many states, title transfers at death in heirs at law
 - In others, need personal representative to effectuate transfer
- Borrower dies with will: testate succession
 - Someone is appointed by borrower to administer estate
 - Details who gets assets, etc.
 - Must still go through legal process and obtain orders
- Borrower dies without a will: intestate succession
 - Must go through legal process
 - Judge will follow state succession rules

Drawbacks to Probate

- Money
 - Filing fees– some states may be \$1200+
 - Attorney fees – higher amount if no will, if someone contests validity of will, or heirs are not in agreement
 - Probate fees may apply – tax that applies to estate (ex: CT could be up to \$12,500)
 - Certified Judgments/Orders – may need certified or original orders
 - Miscellaneous fees – appraisal fees, postage fees, notary fees, estate sale prep fees
- Time
 - Timelines for probate case can vary from 6 months to 2 years
 - Depends on presence of will, size of estate, ability to locate beneficiaries

Creditor Probate

- Probate cases generally require some type of notice to a creditor, who can make formal claims against the estate
- Some states require creditors to open a probate or declaratory action prior to proceeding to foreclosure to properly transfer title
 - The purpose is to appoint a PR so title can pass hands or to divest heirs of their statutory probate interest and give marketable title to creditor
 - Ex: Maryland, Texas

Resources

- **NRMLA Consumer Guides:** www.nrmlaonline.org/category/consumer-guides
 - What You Need to Know About Your HECM After Closing
 - What Do I Do When My Loan is Due?

- **CFPB:** <https://pueblo.gpo.gov/CFPBPubs/CFPBPubs.php?PubID=13459>
 - You have a reverse mortgage: Know your rights and responsibilities

- **HUD Websites:**
 - http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hecm/hecmhome
 - http://portal.hud.gov/hudportal/HUD?src=/topics/information_for_senior_citizens

- **HUD Counseling** (800)569-4287 or www.hud.gov/program_offices/housing/sfh/hcc

- **Treasury's Homeowner Assistance Fund (HAF):** www.ncsha.org/homeowner-assistance-fund/