

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1897

By: Morgan

AS INTRODUCED

An Act relating to mortgages; providing for reverse mortgages; stating legislative intent; providing definition; establishing certain rules to govern reverse mortgage loans; exempting reverse mortgage loans from certain mortgage transaction provisions; providing for treatment of reverse mortgage loans proceeds by certain public benefit programs; providing for consumer information and counseling; requiring the Aging Services Division of the Department of Human Services to prepare a certain consumer informational statement regarding reverse mortgages; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 101 of Title 46, unless there is created a duplication in numbering, reads as follows:

It is the intent of this act to allow certain homeowners, especially elderly homeowners, to meet their financial needs by accessing the equity in their homes through a reverse mortgage. The

legislature recognizes that many restrictions and requirements that exist to govern traditional mortgage transactions are inapplicable in the context of reverse mortgages. In order to foster reverse mortgage transactions and better serve the citizens of this state, this act authorizes the making of reverse mortgages, and expressly relieves reverse mortgage lenders and borrowers from compliance with certain inappropriate requirements.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 102 of Title 46, unless there is created a duplication in numbering, reads as follows:

As used in this act, "reverse mortgage" means a nonrecourse loan secured by real property which:

1. Provides cash advances to a borrower based on the equity in the owner-occupied principal residence of the borrower;

2. Requires no payment of principal or interest until the entire loan becomes due and payable; and

3. Is made by any lender authorized to engage in business as a bank, savings institution, or credit union under the laws of the United States or of this state, or is an approved mortgagee through the Department of Housing and Urban Development/Federal Housing Administration or the Department of Veterans Affairs, or is an approved Seller/Service with Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, or any other lender authorized to make reverse mortgage loans by the State Banking Board.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 103 of Title 46, unless there is created a duplication in numbering, reads as follows:

A. Reverse mortgage loans shall be governed by the following rules, without regard to the requirements set out elsewhere for other types of mortgage transactions:

1. Prepayment - Payment, in whole or in part, shall be permitted without penalty at any time during the period of the loan;

2. Intervening Liens - All advances made under a reverse mortgage and all interest on such advances shall have priority over any lien filed after the closing of a reverse mortgage;

3. Interest - A reverse mortgage may provide for an interest rate which is fixed or adjustable, and may also provide for interest that is contingent on appreciation in the value of the property;

4. Periodic Advances - If a reverse mortgage provides for periodic advances to a borrower, such advances shall not be reduced in amount or number based on any adjustment in the interest rate;

5. Lender Default - Lenders failing to make loan advances as required in the loan documents, and failing to cure such default as required in the loan documents, shall forfeit any right to collect all interest. Lenders may also be subject to administrative penalty as determined by the State Banking Department;

6. Mortgage Recordation Tax - The real estate mortgage tax, Section 1901 et seq. of Title 68 of the Oklahoma Statutes, on reverse mortgages shall not exceed the actual cost of recording the mortgage;

7. Repayment -

a. the mortgage shall become due and payable upon the occurrence of any one of the following events:

- (1) the home securing the loan is sold,
- (2) all borrowers cease occupying the home as a principal residence,
- (3) any fixed maturity date agreed to by the lender and the borrower is reached, or
- (4) an event occurs which is specified in the loan documents and which jeopardizes the lender's security.

b. the repayment requirement is also expressly subject to the following additional conditions:

(1) temporary absences from the home not exceeding sixty (60) consecutive days shall not cause the mortgage to become due and payable,

(2) temporary absences from the home exceeding sixty (60) consecutive days but less than one (1) year shall not cause the mortgage to become due and payable so long as the borrower has taken prior action which secures the home in a manner satisfactory to the lender,

(3) the lender's right to collect reverse mortgage proceeds shall be subject to the applicable statute of limitations for contracts.

Notwithstanding the applicable statute of limitations for contracts, the statute of limitations shall commence on the date that the mortgage becomes due and payable, and

(4) the lender must prominently disclose any interest or other fees to be charged during the period that commences on the date that the mortgage becomes due and payable, and ends when repayment in full is made.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 104 of Title 46, unless there is created a duplication in numbering, reads as follows:

Reverse mortgage loans may be made or acquired without regard to the following provisions for other types of mortgage transactions:

1. Limitations on the purpose and use of future advances or any other mortgage proceeds;

2. Limitations on future advances to a term of years, or limitations on the term of credit line advances;

3. Limitations on the term during which future advances take priority over intervening advances;

4. Requirements that a maximum mortgage amount be stated in the mortgage;

5. Limitations on loan-to-value ratios;

6. Prohibitions on balloon payments;

7. Prohibitions on compounded interest and interest on interest;

8. Interest rate limits under the usury statutes; and

9. Requirements that a percentage of the loan proceeds must be advanced prior to loan assignment.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 105 of Title 46, unless there is created a duplication in numbering, reads as follows:

A. Reverse mortgage loan payments made to a borrower shall be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

B. Undisbursed funds shall be treated as equity in the home of the borrower and not as proceeds from a loan for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

C. This section applies to any law relating to payments, allowances, benefits, or services provided on a means-tested basis by this state, including but not limited to supplemental security income, low-income energy assistance, property tax relief, medical assistance, and general assistance.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 106 of Title 46, unless there is created a duplication in numbering, reads as follows:

A. No reverse mortgage commitment shall be made by a lender unless the loan applicant attests, in writing, that the applicant

received from the lender at time of initial inquiry a statement prepared by the Aging Services Division of the Department of Human Services regarding the advisability and availability of independent information and counseling services on reverse mortgages.

B. The Aging Services Division of the Department of Human Services shall be responsible for:

1. Developing the content and format of the statement described in subsection A of this section;

2. Providing independent consumer information on reverse mortgages and their alternatives; and

3. Referring consumers to independent counseling services with expertise in reverse mortgages.

SECTION 7. This act shall become effective November 1, 1995.

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