

August 9, 2012 - IMPORTANT UPDATE:

Massachusetts Face-to-Face Reverse Mortgage Counseling Delayed Until 2014

The Massachusetts' Governor signed a bill into law on Friday, August 3, 2012, that will delay a face-to-face reverse mortgage counseling mandate for two years. The mandate went into effect for a short time beginning August 1, 2012, prior to the Governor's signature on August 3, 2012.

August 1, 2012

Massachusetts Requires In-Person Counseling for Reverse Mortgage Applicants:

In August 2012, the Massachusetts Legislature enacted "An Act Relative to Mortgage Foreclosures" (the Act) which, effective August 1, 2012, requires in-person counseling in connection with reverse mortgage loans in Massachusetts.

The Massachusetts Legislature recently enacted another Bill which contains a provision delaying the effective date of the Act's in-person counseling requirement until August 1, 2014. The Bill passed both houses of the Massachusetts legislature and was sent to the Governor for his signature on July 26, 2012. Once the Governor receives the Bill, he has ten days to sign, veto, or return the Bill to the Legislature with recommended amendments. If the Governor takes no action during this ten day period the Bill then becomes law.

As of late afternoon July 31, 2012, the Governor had not signed the Bill. As a result, effective August 1, 2012, reverse mortgage lenders must comply with the Act's in-person counseling requirements until the Governor signs the Bill. As drafted, the Bill delaying the Act's in-person counseling requirements becomes effective immediately once the Bill becomes law. However, the provision delaying the effective date of the Act's in-person counseling requirement is not retroactive and will not apply during the period from August 1, 2012 until the bill is enacted. Reverse mortgage lenders and counselors should be prepared to comply with the Act's in-person counseling requirements as of August 1, 2012.

If the Governor signs the Bill into law, it will become effective upon that day of his signature. If the Governor takes no action for ten days after receiving the Bill, the in-person counseling requirement will apply on August 1, 2012 and be effective until August 6, 2012 then delayed until August 1, 2014.

As a reminder, the Act's in-person counseling requirements apply to "mortgagors," which are defined as applicants for a reverse mortgage who at the time of application: (1) have a gross income of less than 50 percent of the area median income, as periodically determined by HUD; and (2) possess assets, excluding a primary residence, valued at less than \$200,000.

If an applicant meets the definition of "mortgagor", the Act states that, before a reverse mortgage is closed, the lender must receive written certification of in-person counseling relating to the appropriateness of the reverse mortgage. Massachusetts regulations implementing the Act indicate that for HECM products, the HECM counseling certificate promulgated by HUD can be used to satisfy the written certification requirement.

For seniors that receive counseling on or before July 31, 2012 for which a proper counseling certificate has been executed, issued and delivered to the lender, such seniors should not need to be re-counseled in person in the event the Governor does not sign the Bill into law on July 31, 2012.

The Act states that a reverse mortgage executed with a mortgagor that has not received counseling from a Massachusetts approved counseling agency renders the terms of the reverse mortgage unenforceable. Additionally, the regulations, issued by the Massachusetts Division of Banks in October 2011 which

implemented the Act, state that making a reverse mortgage loan to a mortgagor that has not received the required in-person counseling constitutes grounds for the termination of a lender's reverse mortgage program approval and may constitute grounds for an administrative fine or penalty.

The regulations also provide that a lender may not make a reverse mortgage loan until a borrower has been given a 7 day cooling off period, which runs after the date of the issuance of a written commitment. A commitment may not be issued until a borrower receives from the lender and returns to the lender a signed Opt-In form. An Opt-In form may not be issued until a lender receives a properly executed counseling certificate.

Counselors and lenders are urged to obtain advice from their own attorneys and advisors as they devise their individual Massachusetts law compliance strategies under these circumstances.

For FHA technical support on this or any other FHA issue, please contact the FHA Resource Center at: www.hud.gov/answers Search our online knowledge base & find answers to our most commonly asked questions. You can also get email technical support at: answers@hud.gov or phone FHA toll-free between 8:00 a.m. & 8:00 p.m. ET (5:00 a.m. to 5:00 p.m. PT) at: (800) CALLFHA or (800) 225-5342. Call FHA TDD at: (877) TDD-2HUD (877) 833-2483).

Housing counselors may direct questions or comments to your respective HUD point of contact or email Housing.Counseling@hud.gov