

2010 STATE LEGISLATIVE TRACKING CHART – REVERSE MORTGAGES NRMLA¹

STATE	BILL	SUMMARY	BILL HISTORY
Federal Legislation	HB 4419	The bill (the Reverse Mortgage Elder Protection Act) would establish certain counseling and disclosure requirements with respect to reverse mortgages by amending Section 138 of TILA. Among other things, a creditor would be required to provide an applicant with a 16-point disclosure and counseling checklist prior to taking an application. Also requires counseling referral and certification of counseling	01/12/10: Introduced; Referred to the House Committee on Financial Services.
ARIZONA	HB 2242	HB 2242 amends Title 6 of the Arizona Revised Statutes by adding a new chapter relating to reverse mortgages. Among other things, the bill would (1) require counseling by an independent 3 rd party; ² (2) counselors must follow uniform HUD-approved counseling protocols; (3) the originator must provide certain disclosures (including costs, interest rate, and fees), receive counseling certification; (4) the reverse mortgage must contain restrictions ensuring the homeowner does not fund any unnecessary costs for obtaining the reverse mortgage (e.g., estate planning, financial advice); (5) provides for prepayment without penalty; and (6) prohibits the originator from offering an annuity, investment, or other type of financial instrument before closing or before expiration of the homeowner’s right to rescind. Bill does not currently contain NRMLA’s suggested changes.	01/14/10: Introduced and filed. 01/19/10: Assigned to Rules Committee. 01/20/10: Second reading.

¹ This Chart was updated on February 5, 2010 by Weiner Brodsky Sidman Kider PC solely for use by NRMLA and may not be relied upon by others. This Chart summarizes 2010 state legislative items through and up to February 5, 2010 directly affecting reverse mortgages, is for informational purposes only, and is not intended as formal legal advice. This Chart is based upon compilations available to us as reported in fee-based electronic databases. While we relied upon such databases in the preparation of this Chart, we cannot assure that such databases produce timely or accurate information. Further, we have not undertaken to engage nor did we confer with locally licensed counsel or governmental relations specialists in any of the jurisdictions discussed in this Chart, nor have we consulted with state legislative staff in all such jurisdictions. Such consultations, if undertaken, may reveal additional information not reflected in this Chart.

² To qualify as an independent 3rd party, the counselor may not be associated with or compensated directly or indirectly by a party involved in any of the following: originating or servicing the reverse mortgage, funding the loan underlying the reverse mortgage, or selling annuities, investments, loan term care insurance, or any other type of financial or insurance product.

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CALIFORNIA	SB 660	<p>As introduced, the bill provides that a lender, broker, person, or entity that recommends the purchase of a reverse mortgage in anticipation of financial gain owes the prospective borrower a duty of honesty, good faith, and fair dealing. The bill as amended provides that these duties shall not be construed to limit or narrow any other duty of a lender, broker, person, or entity. Entity not deemed to have breached duty solely based on the actions or omissions of the counseling agency. Compliance with reverse mortgage chapter and all other applicable law may be cited as evidence demonstrating compliance with above duties.</p> <p>As amended, the bill revises the California Reverse Mortgage notice that must be provided to reverse mortgage applicants to delete the language referencing the borrower’s home equity as “additional income” (<u>but now requires that notice to be provided prior to counseling</u>) and prohibits a lender from accepting a reverse mortgage loan application unless the lender provides the prospective borrower, <u>prior to his or her meeting with the counseling agency</u>, with a specified written checklist that conspicuously alerts the prospective borrower of subjects that he or she should discuss with the loan counselor.</p> <p>The bill requires that counselor and the prospective borrower sign checklist and return it to lender. Additionally, the bill as amended prohibits approval of loan application until signed checklist is provided to lender. The bill also requires that a copy of checklist be provided to the borrower.</p>	<p>Note that this bill has been carried forward from the 2009 legislative session.</p> <p>02/02/10: File date.</p>

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STATE	BILL	SUMMARY	BILL HISTORY
FLORIDA	SB 1532 (HB 845 companion bill)	SB 1532 includes provisions that include, among others, a definition of taking an application; specifies authorized fees and charges; requires lenders to provide borrowers certain loan information; specifies statute of limitations for collection of loan proceeds; prohibits lenders from requiring applicants to purchase certain financial products; provides for treble damages under certain circumstances. Also includes vague language re: lender’s ability to not make a reverse mortgage loan if the lender has reason to believe the borrower is unable to enter into a contract for any reason.	01/27/10: Introduced.
INDIANA	SB 328	SB 328 repeals a provision concerning reverse mortgage loans made by savings associations and replaces with requirements for reverse mortgage loans made by creditors in first lien mortgage transactions. ³	01/11/10: Introduced. 01/26/10: Committee report; Amend; Do pass; Adopted. 02/01/10: Amended; Prevailed voice vote.

³ A creditor in a first lien mortgage transaction that qualifies as a FHA HECM or otherwise constitutes a reverse mortgage shall provide the debtor with a pamphlet that is approved by the department and that describes the availability of reverse mortgage counseling services provided by HUD-approved housing counselors. The debtor must receive the counseling services and present the creditor with the certificate before the creditor may make a first lien mortgage transaction.

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MARYLAND	TBD	<p>The bill will include provisions that address, among other things, the following: a prepayment penalty would not include any fees, payments, or other charges that would have been due if the reverse mortgage loan became due and payable; reverse mortgage loan may provide for a fixed, adjustable, or combination of such rates. The loan may include only those costs and fees charged by the lender, loan originator, or loan servicer, and applies to all costs and fees charged in connection with a reverse mortgage loan, including costs and fees charged upon execution of the loan, on a periodic basis, or upon maturity of the loan; a reverse mortgage loan becomes due and payable when the home securing the loan is sold or title to the home is otherwise transferred; standard” cross selling prohibitions; and Except for a bona fide error of computation, if a lender violates any provision of the bill, the lender may collect only the principal amount of the reverse mortgage loan and may not collect any interest, costs, fees, or other charges with respect to the loan. Additionally, a lender who knowingly violates any provision of the bill shall (if applicable) forfeit to the borrower three times the amount of interest and charges collected in excess of that authorized by law. Criminal liability provisions are also included in the bill.</p>	Awaiting official introduction.

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STATE	BILL	SUMMARY	BILL HISTORY
NEBRASKA	LB 892	LB 892 amends Nebraska Residential Mortgage Licensing Act (the “Act”) to include following provisions regarding reverse mortgages: Provides that reverse mortgage loans shall be governed without regard to certain requirements set out elsewhere for other types of mortgage transactions; ⁴ reverse mortgage loans may be made or acquired without regard to certain provisions for other types of mortgage transactions; ⁵ A licensee may in connection with a reverse mortgage loan, charge to the borrower (a) a nonrefundable loan origination fee which does not exceed 2% of the appraised value of the owner-occupied principal residence at the time the loan is made, (b) a reasonable fee paid to third parties originating loans on behalf of the licensee, and (c) such other fees as are necessary and required, including fees for inspections, insurance, appraisals, and surveys; a licensee failing to make loan advances as required in the loan documents and failing to cure the default as required in the loan documents shall forfeit to the borrower an amount equal to the greater of \$200.00 or 1% of the amount of the loan advance the licensee failed to make.	01/11/10: Introduced.
NEW JERSEY	A787	A787 establishes the New Jersey Senior Citizen Taxpayer Reverse Mortgage Program. The bill would establish a program for the granting of reverse mortgages for the purpose of payment of property taxes by senior citizens through the equity in their homes.	01/12/10: Introduced; Referred to Assembly Housing and Local Government Committee.
	A1459 (S193 Companion Bill)	A1459 prohibits financing of certain preneed funeral arrangements with a reverse mortgage.	01/12/10: Introduced; Referred to Assembly Financial Institutions and Insurance Committee.

⁴ (a) Payment in whole or in part is permitted without penalty at any time during the period of the loan; (b) an advance and interest on the advance have priority over a lien filed after the closing of a reverse-mortgage loan; (c) an interest rate may be fixed or adjustable and may also provide for interest that is contingent on appreciation in the value of the residential real estate; and (d) the advance shall not be reduced in amount or number based on an adjustment in the interest rate when a reverse-mortgage loan provides for periodic advances to a borrower.

⁵ (a) Limitations on the purpose and use of future advances or any other mortgage proceeds; (b) limitations on future advances to a term of years or limitations on the term of credit line advances; (c) limitations on the term during which future advances take priority over intervening advances; (d) requirements that a maximum mortgage amount be stated in the mortgage; (e) limitations on loan-to-value ratios; (f) prohibitions on balloon payments; (g) prohibitions on compounded interest and interest on interest; and (h) requirements that a percentage of the loan proceeds must be advanced prior to loan assignment.

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NEW YORK	AB 6763	The bill provides that a lender providing a reverse mortgage to a person who is 60 years or older may receive not more than 20% of the future appreciation of property secured by the mortgage as consideration for providing the reverse mortgage.	01/06/10: Referred to Assembly Judiciary. Note: This bill is designated “same as” S01339.
	S 1339	Same as AB 6763	01/06/10: Referred to Aging.
	SB 2029	Among other things, establishes a reverse loan mortgage loan program for low income seniors, and provides for the state of NY mortgage agency to establish many of the parameters for the implementation of the program.	01/06/10: Referred to Senate. Note: This bill is designated “same as” A01371.
	A01371	Same as SB 2029.	01/06/10: Referred to Housing.
	SB 2035	Amends New York real property law by providing that a reverse mortgage loan may be secured by a cooperative apartment. Changes borrower age eligibility requirement for a reverse mortgage from 60 to 62 years. Note that NY law exempts FHA HECMs.	01/06/10: Referred to Senate Aging.
	AB 4492	Directs that long term care counseling shall be provided to individuals participating in the public retirement systems of the state and city of New York, and such counseling shall include reverse mortgages.	01/06/10: Referred to Assembly.
	AB 5418	Establishes NY compact for long term care; provides certain tax credits; requires federal financial participation; requires that the state provide assurance of quality of services in designing the waiver; outlines participation in such compact and pledge amounts; describes fraudulent practices. In pertinent part, the amount received from a reverse mortgage, if expended within 30 days of the time in which received, shall not be considered as income or assets.	01/06/10: Referred to Assembly Aging.

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STATE	BILL	SUMMARY	BILL HISTORY
NEW YORK (CONT'D)	A00889	Amends the public authorities law in relation to authorizing the New York mortgage agency to issue reverse mortgage loans.	01/06/10: Referred to Housing.
WASHINGTON	HB 2608	HB 2608 relates to the licensing of residential mortgage loan servicers through the NMLS and clarifying the existing authority of the regulator to regulate residential mortgage loan modification services. "Service or servicing a reverse mortgage loan" means, pursuant to an agreement with the owner of a reverse mortgage loan, calculating, collecting, or receiving payments of interest or other amounts due, administering advances to the borrower, and providing account statements to the borrower or lender. Note there are additional requirements regarding servicing fees.	01/08/10: Prefiled. 01/11/10: Introduced. 01/14/10: Scheduled for public hearing in the House Committee on Financial Institutions & Insurance. 01/19/10: House Minority; Do not pass. 01/20/10: House Bill Report. 01/21/10: Referred to General Government Appropriations.
	SB 6406	Companion bill to HB 2608.	
	SB 5400	(1) Unless exempt, Lenders who are licensed by DFI under the CLA must meet two requirements in order to offer proprietary reverse mortgage loans: (a) must maintain irrevocable letters of credit sufficient to meet known and expected mortgage payments for the next 12 months; and (b) must maintain at least \$10 million of capital or have a binding written commitment for at least that amount from a parent company. (2) Lenders cannot offer proprietary reverse mortgage loan products unless those products have been pre-approved by DFI. (3) Lender must pay late charge to borrower for any late advance on a proprietary reverse mortgage. (4) Prohibits requiring an applicant for a reverse mortgage to purchase an annuity as a condition of obtaining the reverse mortgage loan. (5) Borrower must be referred to independent counseling.	01/11/10: Companion bill to EHB 1311, which was enacted in Washington state in 2009. By resolution, reintroduced and retained in present status. Made eligible to be placed on third reading. ⁶ (Not clear that this bill will have any movement; but it is possible amendments could be made, further revising Washington's reverse mortgage statute enacted in 2009). 01/26/10: Senate Rules "X" file.

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⁶ Note: The substitute bill, which passed and was engrossed on 03/12/09, included the following amendments: (1) Requires lenders or any other third party that participates in the origination of a reverse mortgage loan to maintain safeguards acceptable to the DFI to ensure that individuals offering reverse mortgage loans do not provide borrowers with any other financial or insurance product. (2) Reverse mortgage applicant must receive certified counseling before lender may accept a final and complete reverse mortgage application. (3) Borrower in a proprietary reverse mortgage transaction has same right to rescind the transaction as provided in TILA.