

Written Testimony of
Peter H. Bell, President
National Reverse Mortgage Lenders Association

Before the
Committee on Corporations
Rhode Island Senate

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Chairman Walaska and distinguished members of the Committee on Corporations, thank you for giving me the opportunity to share my views on Senate Bill 388 sponsored by Senator Kevin Breene. We commend and support your efforts to protect the citizens of Rhode Island.

Currently, I serve as President of National Reverse Mortgage Lenders Association, which is headquartered in Washington, D.C. As the national voice of the reverse mortgage industry, NRMLA serves as an educational resource, policy advocate and public affairs center for reverse mortgage lenders and related professionals. NRMLA was established in 1997 to enhance the professionalism of the reverse mortgage business. In that capacity, NRMLA educates consumers about the pros and cons of getting a reverse mortgage, trains lenders to be sensitive to the needs of older Americans, enforces our Code of Conduct and Best Practices, and promotes reverse mortgages in the news media.

As you know, reverse mortgages enable homeowners 62 or older to convert part of the equity in their homes into tax-free income without having to sell, move, give up title, or take on new monthly mortgage payments. Borrowers are never, under any circumstances, forced to leave their homes providing they continue paying property taxes and insurance.

Borrowers can choose to receive reverse mortgage funds as a lump sum, fixed monthly payments (for up to life), line of credit, or as a combination of monthly income and line of credit. No mortgage payments are due during the life of the loan. Borrowers can use the funds anyway they wish. The loan becomes repayable when the borrower sells the home or permanently moves out.

Nationwide, in 2006, more than 76,000 seniors—almost double the number from the previous year—used reverse mortgages to pay off existing debts, fund health care expenses, pay for modifications to make their homes safer and more comfortable, or simply to create an income stream that provided additional cash and peace of mind. In Rhode Island, 338 reverse mortgage loans were made in 2006 compared to 198 in 2005.

While NRMLA supports certain parts of Senate Bill 388, there are provisions and definitions that could conflict with the concept of a reverse mortgage at the federal level, and could thus cause lenders some problems. First and foremost, Senate Bill 388 proposes to legislate topics that are currently addressed by a thorough and well-planned federal scheme, including maturity events and counseling timeframes. The outcome of this inconsistency with federal HECM regulations is to possibly impair reverse mortgages in Rhode Island, making it more difficult for Rhode Island seniors to access this tool, while providing no additional advantages to lenders or seniors. NRMLA recommends that the legislation provide that, for all reverse mortgage loans, if such loans meet federal requirements, particularly FHA requirements, then such loans will be deemed to be in compliance with Rhode Island law.

First, Senate Bill 388 provides for several maturity events, including "... if all borrowers cease occupying the home as a principal residence, except as provided in subdivision (f)." [Initially, we note, however, that the reference to "subdivision (f)" appears to be misplaced, and should refer to subdivision (6).] Senate Bill 388 excepts temporary absences from the home not exceeding 120 consecutive days, as well as extended absences from the home exceeding 120 consecutive days, but less than one year, if the borrower takes prior action to secure and protect the home in a manner satisfactory to the lender, as specified in the loan documents from the above maturity event. These maturity exceptions are not provided in the FHA HECM program.

FHA regulations make clear that a reverse mortgage must be repaid once the borrower (or last surviving spouse in the case of couples) permanently leaves the home, either upon death or move out. Furthermore, FHA regulations require that the borrower occupy the home as a primary residence, generally to mean that they live there at least half the time. Regulations do permit a borrower to live outside the property for up to 12 consecutive months, but only for reasons of physical or mental illness. Senate Bill 388, as currently written, would allow for extended absences from the home for any reason, which concerns us as this would conflict with current HUD regulations. NRMLA recommends that the legislation provide that, if a reverse mortgage loan complies with the FHA regulations in this regard, then such loans will be deemed to be in compliance with Rhode Island law with respect to maturity events and extended absence.

Second, FHA regulations limit the origination fee in connection with HECM loans. However, an attempt to place limits on origination fees charged on proprietary reverse mortgage programs may cause lenders to make up for the lost income by charging higher interest rates, thus reducing the amount of loan proceeds available to Rhode Island seniors.

Third, Senate Bill 388 requires a senior to obtain counseling in connection with a reverse mortgage within ten (10) business days after application for a loan. The FHA HECM program requires seniors to undergo counseling, but does not specify a time limit after applying for a HECM loan. Further, the proposed legislation requires a reverse mortgage loan to close within 180 days of the date the counseling certificate is provided. However, current FHA regulations require that a HECM loan application be taken within

180 days of the issuance of a counseling certificate. As drafted under Senate Bill 388, if a reverse mortgage loan application is taken just prior to the 180th day, the loan may not close within 180 days. This provision of the proposed legislation should be revised either to reflect that a reverse mortgage loan application must be taken within 180 days of the issuance of a counseling certificate, or that reverse mortgage loans that are processed in compliance with FHA regulations shall be deemed to be in compliance with this Rhode Island law provision.

Also, regarding counseling, Senate Bill 388 requires counselors to cover a specified list of items with seniors who apply for a reverse mortgage loan. The FHA HECM program, however, contains a more detailed list of requirements. We are concerned that Senate Bill 388 may create a list of required counseling information that is inconsistent with that provided under the FHA HECM program. One manner in which the Rhode Island legislature may remedy any potential inconsistencies in this regard is to provide in proposed section 34-25.1-9 that any counseling provided in connection with reverse mortgage loans that meets FHA requirements shall be deemed to meet this section of Rhode Island law.

Fourth, we recognize the need for informative disclosures, however, there currently exists a comprehensive federal set of disclosures for reverse mortgages, and HECM loans in particular. We are concerned that additional disclosures may be inconsistent with the federal framework of disclosures. One measure that the Rhode Island legislature could take to protect against inconsistent rules in this regard would be to provide in proposed section 34-25.1-10 that compliance with the federal Real Estate Settlement Procedures Act of 1974, Truth-in-Lending Act and their respective implementing regulations, Regulation X and Regulation Z, (and FHA requirements, when applicable) shall be deemed to meet this section of Rhode Island law.

Fifth, proposed section 34-25.1-11 of Senate Bill 338 should be revised to make clear that assignees of mortgagees (or agents of such assignees) may fulfill the duties with regard to annual account statement disclosures.

Finally, with respect to an application not being binding on the applicant until seven (7) days after certain specified events, please note that there are many circumstances in which borrowers need access to funds sooner to avoid foreclosure, cover medical expenses, or pay utility or other bills. [We also note that the references to “section (a)” and “section (b)” in proposed section 34-25.1-12 appear to be misplaced.]

We appreciate your review of our comments and consideration of our request to amend Senate Bill 388 as recommended. If you have any questions or would like any additional information, I would be happy to respond.

Respectfully Submitted,

Peter Bell, President
National Reverse Mortgage Lenders Association