

Regular Session, 2010

ACT No. 418

HOUSE BILL NO. 1468 (Substitute for House Bill No. 792 by Representative Richmond)

BY REPRESENTATIVE RICHMOND

1 AN ACT

2 To enact R.S. 6:1083(24), (25), and (26) and Part IV of Chapter 14 of Title 6 of the
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 6:1101 through 1104,
4 relative to reverse mortgages; to provide for definitions; to provide for requirements
5 on reverse mortgage loans; to provide for counseling; to provide for rescission of a
6 reverse mortgage loan; to provide for duties for elders regarding reverse mortgage
7 loans; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 6:1083(24), (25), and (26) and Part IV of Chapter 14 of Title 6 of the
10 Louisiana Revised Statutes of 1950, comprised of R.S. 6:1101 through 1104, are hereby
11 enacted to read as follows:

12 §1083. Definitions

13 As used in this Chapter:

14 * * *

15 (24) "Conventional reverse mortgage loan" means a reverse mortgage loan
16 other than a program reverse mortgage loan.

17 (25) "Program reverse mortgage loan" means a reverse mortgage loan
18 offered under or intended to be insured by the Federal Housing Administration
19 pursuant to Section 255 of the National Housing Act, 12 U.S.C. 1715z-20, as
20 amended, and regulations and guidance issued thereunder by the secretary of the
21 United States Department of Housing and Urban Development or the commissioner
22 of the Federal Housing Administration.

23 (26) "Reverse mortgage loan" means a nonrecourse loan secured by
24 immovable property that meets all of the following criteria:

1 (2) Any fixed maturity date agreed to by the lender and the borrower occurs.

2 (3) An event of default specified in the loan documents occurs.

3 C. Repayment of the reverse mortgage loan shall be subject to the following
4 conditions:

5 (1) Temporary absences from the home not exceeding sixty consecutive days
6 shall not cause the mortgage to become due and payable.

7 (2) Extended absences from the home exceeding sixty consecutive days, but
8 less than one year, shall not cause the mortgage to become due and payable if the
9 borrower has taken prior action which secures and protects the home in a manner
10 satisfactory to the lender, as specified in the loan documents.

11 (3) A reverse mortgage lender shall prominently disclose in the loan
12 agreement any interest rate or other fees to be charged during the period that
13 commences on the date that the reverse mortgage loan becomes due and payable, and
14 that ends when repayment in full is made.

15 D. The first page of any mortgage securing a reverse mortgage loan shall
16 contain the following statement in ten-point boldface type: "This mortgage secures
17 a reverse mortgage loan."

18 E.(1) A reverse mortgage lender shall not:

19 (a) Enter into any agreement that would obligate the borrower to purchase
20 an annuity, an investment, or long-term care insurance before the closing of the
21 reverse mortgage or before the expiration of the borrower's right to rescind the
22 reverse mortgage agreement, if a rescission period applies.

23 (b) Refer the borrower to anyone for the purchase of an annuity before the
24 closing of the reverse mortgage or before the expiration of the borrower's right to
25 rescind the reverse mortgage agreement, if a rescission period applies.

26 (2) This Section shall not prevent a lender from offering or referring
27 borrowers for title insurance, hazard, flood, or other peril insurance, or other similar
28 products that are customary and normal to a reverse mortgage loan.

1 §1102. Counseling

2 A.(1) Prior to accepting a final and complete application for a conventional
3 reverse mortgage loan or assessing any fees, a reverse mortgage lender shall provide
4 the prospective borrower with a list of at least five nonprofit counseling agencies that
5 have been approved by the United States Department of Housing and Urban
6 Development for counseling and that offer counseling to residents of the state. The
7 counseling agencies shall meet the standards and requirements established by the
8 United States Department of Housing and Urban Development for reverse mortgage
9 counseling.

10 (2) In connection with a conventional reverse mortgage loan, a mortgage
11 lender shall not pay any counseling service fees without first informing the
12 prospective borrower in writing that this may create a conflict of interest. A reverse
13 mortgage lender shall disclose to the prospective borrower in writing any other
14 payment arrangements or business affiliations between the lender and a counseling
15 agency.

16 B. A reverse mortgage lender shall not accept a final and complete
17 application for a conventional reverse mortgage loan from a prospective applicant
18 or assess any fees upon a prospective applicant without first receiving a certification
19 from the applicant or the applicant's authorized representative that the applicant has
20 received counseling from an agency described in Subsection A of this Section. The
21 certification shall be signed by the borrower and the agency counselor, and shall
22 include the date of the counseling and the name, address, and telephone number of
23 both the borrower and the counselor. An electronic facsimile copy of the housing
24 counseling certification shall satisfy the requirements of this Section.

25 §1103. Commitment and cooling off period

26 In connection with a conventional reverse mortgage loan, at least seven
27 calendar days prior to closing a reverse mortgage loan, a reverse mortgage lender
28 shall provide the borrower with a loan term sheet or commitment letter outlining the
29 proposed terms of the loan and informing the borrower that the borrower is not
30 obligated to proceed with the loan transaction.

1 §1104. Reverse mortgage lender; duties to elders

2 A. In addition to any other obligation under law, any reverse mortgage
3 lender who offers, sells, or arranges the sale of a reverse mortgage to an elder, shall
4 provide the elder with a notice that the elder should discuss the items outlined in this
5 Section with a loan counselor. For the purposes of this Section, "elder" means any
6 person sixty years of age or older.

7 B. The reverse mortgage counselor shall discuss the following items with a
8 prospective reverse mortgage borrower:

9 (1) How unexpected medical or other events causing the borrower to move
10 out of the borrower's home earlier than anticipated will impact the total annual cost
11 of the reverse mortgage loan.

12 (2) The extent to which the borrower's financial needs would be better met
13 by options other than a reverse mortgage loan, including less costly home equity
14 lines of credit, property tax deferral programs, or governmental aid programs.

15 (3) Whether the borrower intends to use the proceeds of the reverse
16 mortgage loan to purchase an annuity or other financial or insurance product and the
17 consequences of doing so.

18 (4) The effect of repayment of the reverse mortgage loan on other residents
19 of the domicile that is securing the reverse mortgage loan after all borrowers are
20 deceased or permanently abandon the domicile.

21 (5) The borrower's ability to finance routine or catastrophic home repairs,
22 especially if the maintenance is a factor that may determine when the reverse
23 mortgage loan becomes payable.

24 (6) The impact that the reverse mortgage loan may have on the borrower's
25 tax obligations and eligibility for government assistance programs, and the effect that
26 losing equity in the domicile securing the reverse mortgage loan will have on the
27 borrower's estate and heirs.

28 (7) The ability of the borrower to refinance alternative living
29 accommodations, such as assisted living or long-term care, after the borrower's
30 equity is depleted.

1 C. If the prospective reverse mortgage borrower meets with a loan counselor
2 prior to meeting with or discussing a reverse mortgage loan with a lender, the loan
3 counselor shall review the items discussed in Subsection B of this Section with the
4 prospective reverse mortgage borrower and also meet the notice requirement in
5 Subsection A of this Section.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____