Testimony

of

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National Reverse Mortgage Lenders Association

before the

Council of the District of Columbia

Committee on Housing and Neighborhood Revitalization

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John A Wilson Building

Chairperson Bonds and Members of the Committee:

Thank you for convening this hearing to examine Bill 22-0505, "Reverse Mortgage Foreclosure Prevention Act of 2017". I would like my written comments to be included in the record of today's public hearing. I am here today in my capacity as Executive Vice President of the National Reverse Mortgage Lenders Association (NRMLA), a trade association of over 300 companies and over 2300 member delegates involved in the origination, funding and servicing of reverse mortgages. Our organization has been serving the reverse mortgage industry as a policy advocate and educational resource since 1997. We also provide information about reverse mortgages to consumers and members of the press.

NRMLA member companies are responsible for over 90% of the over 1 million reverse mortgages made in the United States, and the over 7,000 reverse mortgages made here in the District. All NRMLA member companies commit themselves to our Code of Ethics & Professional Responsibility. Under that Code, placing the needs of the client takes precedence over all other considerations.

I am here today to express my views, on behalf of our members, on the proposed "Reverse Mortgage Foreclosure Prevention Act of 2017". We support the consumer protection provisions, and the consumer assistance options the Bill is designed to enhance, yet are very concerned that the Bill may cause some unintended consequences that may preclude reverse mortgage borrowers from taking advantage of the proposed program.

Part one (1) of bill's definitions section appears to use the term "Reverse Mortgage" and "Home Equity Conversion Mortgage" interchangeably. The "Home Equity Conversion Mortgage", or "HECM", is the FHA-insured reverse mortgage product. The overwhelming majority of reverse mortgages originated in the District, to date, are the FHA-insured HECM. There are, however, additional proprietary, non-FHA insured reverse mortgages that have been offered, and continue to be offered, here in the District. We are sure that it is not the Committee's intent to limit the proposed program to FHA-insured HECM borrowers, and suggest this definitional language be amended. We also submit that a "reverse mortgage" should be more accurately described in the Bill as a loan under which a homeowner provides a lien on their home in exchange for payments under the loan from a lender until a maturity event or default occurs and the lender is either repaid in full or the homeowner relinquishes the home to the lender.

The Bill does not make clear whether a zero-interest loan made under the proposed program would be a non-recourse loan to the senior homeowner. The FHA-insured HECM reverse mortgage, and the available proprietary reverse mortgages, are non-recourse loans and do not place the senior home owner at risk for personal liability. The Bill as drafted and introduced, does not make clear the consequences if a senior does not or is unable to repay the loan made by the Department of Housing and Community Development (DHCD). If the loan made by DHCD imposes any personal liability upon a senior, it may place such senior at greater economic risk in some instances than if the senior had not obtained the assistance of a DHCD loan.

Further, the Bill does not make clear that the DHCD loan would be completely subordinate to the reverse mortgage lien. If, through the settlement of the reverse mortgage, the lender takes a deed in lieu of foreclosure action, or allows for a short sale of the property, does the DHCD's lien become null and void? If not, then conceivably, the DHCD lien would "ride through" and this lien would behave like a "covenant running with the land" which would have to be paid off either by the lender, or any party purchasing the property from the lender. If this is how the DHCD lien would operate, then it would be, in effect, a restrictive covenant on the property, which is not permissible under the FHA-insured HECM program. A HECM lender would not be able to allow such a lien to be put in place under the current FHA and HUD guidelines.

Additionally, a unique feature of the FHA-insured HECM program is that it allows for the assignment of the loan to HUD when the outstanding balance of the loan reaches 98% of the Maximum Claim Amount, or the maximum amount of the established FHA insurance on any given loan. At this point in the loan's life-cycle and in preparation for the assignment to HUD, the lender must ensure the HECM is valid and legally enforceable, in first lien position and title to the property securing the HECM is good and marketable.

Therefore, to be able to meet this first lien eligibility requirement, lenders must ensure that any liens;

1. do not survive a foreclosure, or
2. can never become a superior-lien under the lien documentation, or under county or state laws.

If it is determined that such a lien does not meet these requirements for assignment, then a lender could not permit such a lien to be put into place behind an FHA-insured HECM reverse mortgage

Therefore, the proposed Bill should make clear that any lien securing a loan made by the DHCD under the program is fully subordinate to any reverse mortgage liens on the property and that such DHCD lien is fully discharged upon a voluntary or involuntary transfer of the property. We would urge the committee to fully research DC law to ensure that the proposed lien could not become a superior lien under any circumstances.

We would like to thank the Committee for allowing me to share my views on the proposed "Reverse Mortgage Foreclosure Prevention Act of 2017". As we indicated, we applaud the efforts of the committee to enhance reverse mortgage borrower safeguards and to offer assistance to those reverse mortgage borrowers who may have issues with their required property tax and hazard insurance payments. There are, however, some potential unintended consequences in the Bill as currently drafted. We would like to offer the resources of the National Reverse Mortgage Lenders Association to work with the Committee, and to coordinate with HUD, to develop a program which truly delivers the intended benefits and not place a reverse mortgage borrower at greater risk.