

VIA EMAIL

April 23, 2020

Commissioner Mary L. Gallagher
Division of Banks
1000 Washington Street
10th Floor
Boston, MA 02118
Mary.l.gallagher@state.ma.us

Re: H.B. 4647; Requesting Guidance on New Law Allowing Seniors to Receive Reverse Mortgage Counseling via Video Conference or by Telephone

The National Reverse Mortgage Lenders Association (“NRMLA”) is the national voice of the reverse mortgage industry. With over 300 member companies and over 2,000 member delegates, NRMLA serves as an educational resource, policy advocate and public affairs center for lenders and related professionals. NRMLA was established in 1997 to enhance the professionalism of the reverse mortgage industry. Our mission includes educating industry participants on best practices, regulatory requirements and market dynamics; providing helpful information to consumers about reverse mortgages; enforcing our Code of Ethics and Professional Responsibility;¹ and offering insight to policymakers working on reverse mortgage matters and related issues. NRMLA members make over 90% of the reverse mortgages originated today.

Background

On April 20, 2020, House Bill 4647 (“H.B. 4647”) was enacted into law on an expedited basis to address exigent circumstances arising from the COVID-19 pandemic. Among other matters, H.B. 4647, permits consumers, notwithstanding any law to the contrary, from April 20, 2020, until the termination of the COVID-19 state of emergency in Massachusetts, to obtain the required reverse mortgage counseling via a synchronous, real-time video conference, or by telephone in lieu of counseling in person; provided, however, that the counselor must be approved by the Executive Office of Elder Affairs for purposes of such counseling and such counselor must provide written certification that the borrower received counseling via a synchronous, real-time video conference or by telephone in lieu of counseling in person.

¹ *Code of Ethics & Professional Responsibility*, NRMLA, <http://www.nrmlaonline.org/nrmla/ethics/conduct.aspx>.

NRMLA welcomes these changes and provides the Division of Banks (the “Division”) additional comments, as stated below, to facilitate the effective implementation of H.B. 4647 and further the legislative intent embodied therein.

Comments

A. Amending or Suspending In-person Counseling Requirements in 209 CMR Section 55.04

Section 55.04 provides in relevant portions that reverse mortgage counseling must be conducted “in-person” and the counselor shall provide a written certification to the mortgagee that the mortgagor has received such “in-person” counseling.² In furtherance of legislative mandate under H.B. 4647, we respectfully request the Division announce, by appropriate publication, that the Division is amending or suspending the in-person counseling requirements set forth in Section 55.04 from April 20, 2020, until the termination of the COVID-19 emergency, as announced by the Governor.

B. Written Counselor Certification

H.B. 4647 provides that the reverse mortgage counselor must provide a written certification that the consumer received counseling via a synchronous, real-time video conference or by telephone in lieu of counseling in person.³ Section 55.04(2) further provides that, “[a] written certification which complies with all the requirements of 209 CMR 55.04 used by the counselor and received by the mortgagee may be in the form of a validly completed counseling certificate promulgated by the U.S. Department of Housing and Urban Development (“HUD”) in connection with its Home Equity Conversion Mortgage (HECM) program.”

We note the counseling certificate form promulgated by HUD in connection with its HECM program does not distinguish between synchronous, real-time video conference and telephonic counseling, but provides acknowledgement in the certificate only of counseling conducted in-person or by telephone. For HECM loans, if a consumer receives counseling via video conference, HECM counselors are permitted to indicate on the HUD counseling certificate that such counseling was conducted by telephone. In order to facilitate the appropriate use of the HECM counseling certificate, we respectfully request the Division clarify that use of the HUD HECM counseling certificate remains acceptable under the Division’s regulations and, for purposes of complying with H.B. 4647’s requirement that the reverse mortgage counselor must provide a written certification that the consumer received counseling via a synchronous, real-time video conference or by telephone in lieu of counseling in person, that counselors may acknowledge in the HUD HECM counseling certificate that such counseling was conducted by telephone when such counseling was conducted by synchronous, real-time video conference or by telephone, as permitted under HUD guidelines. To the extent the Division requires clarification in the HUD HECM counseling certificate when such counseling is conducted by synchronous, real-time video conference, such clarification can be provided within the “Notes” section of the HUD HECM Counseling Certificate.

² See 209 CMR Section 55.04(1)&(5).

³ See H.B. 4647, Section 2.

Conclusion

NRMLA appreciates the opportunity to submit this comment letter, requesting guidance on the changes made by the emergency passage of H.R. 4647.

We hope you will find our comments herein both helpful and informative. We would also welcome the opportunity to schedule a call with representatives of the Division to discuss the recommendations set forth in this letter, in more detail.

Very truly yours,



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