Advising Clients with Tax and Insurance Deficiency Notices on Reverse Mortgages

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National Elder Rights Training Project for the National Legal Resource Center
Sponsorship for this Webinar is provided by a grant from the Administration on Aging.
February 23, 2011
• Greg is currently Director of the Office of Home and Community-Based Services at the U.S. Administration on Aging.
• In that capacity he and his staff support State and Area Agencies on Aging and local aging providers in the design and implementation of supports and services designed to facilitate aging in place.
• In addition Greg serves as the lead for activities related to housing with supportive services, the Community Innovations for Aging in Place (CIAIP) initiative, and the National Center for Benefits Outreach and Enrollment.
Presenter – Margot Saunders

- Margot is currently “of counsel” to the National Consumer Law Center, after serving as Managing Attorney of the Center’s Washington office from 1991 to 2005.
- Margot has testified before Congress on dozens of occasions regarding a wide range of consumer law matters, including predatory lending, payments law, electronic commerce, and other financial credit issues.
- Margot often serves as an expert witness providing opinions on predatory lending, banking issues, electronic benefits, servicing and credit math issues.
Presenter – Buz Zeman

- Buz Zeman has been doing reverse mortgage counseling since 1993.
- He has counseled over 3,000 households.
- Buz is the Director of Housing Options Provided for the Elderly (HOPE).
- Buz is also a reverse mortgage trainer and is a consultant to the National Council on Aging.
Presenter – David Godfrey

- Is a senior attorney at the ABA Commission on Law and Aging. He is responsible for the ABA’s role in the Administration on Aging funded National Legal Resource Center.
- Prior to joining the Commission he was responsible for elder law programming at Access to Justice Foundation in Kentucky.
• Rick Jurgens has been a consumer advocate and investigative reporter for the National Consumer Law Center since 2007. Prior to that he was a newspaper and wire service reporter.
Advising Clients with Tax and Insurance Deficiency Notices on Reverse Mortgages

Home Equity Conversion Mortgage (HECM) Overview

February 23, 2011
Overview Agenda

- HECM reverse mortgages
- HECM Delinquencies
- Aging Network Role
Home Equity Conversion Mortgage

- Reverse Mortgage insured by HUD FHA
- Eligibility
  - 62 and older
  - Property is borrowers primary residence
- Borrowers responsible for paying all property costs (e.g. – taxes, insurance, condo fees etc.)
- Loan is not due and payable until the borrower has ceased to occupy the property
Home Equity Conversion Mortgage

- HECM represents the largest share of the reverse mortgage market
- Growing numbers of seniors are turning to HECM reverse mortgages to assist them in “using their home to stay at home” and using the funds to finance home and community-based services
- Reverse mortgages are especially attractive to older people who’s only asset is their home
Home Equity Conversion Mortgage

- Despite this encouraging direction, reverse mortgages can be expensive and complicated and difficult for some elders to understand.

- AAAs and other aging providers with a background in comprehensive assessment and person centered options counseling may be in a good position to help seniors make decisions about HECM loans.

- A number of local housing counseling agencies are AAAs and other aging providers.
HECM Delinquencies

- Some borrowers are having difficulty keeping up with property charges and with funds left in their loan, the lender has paid.
- If the borrower has no loan funds left, until recently the lender has continued to advance the property charges.
- Approximately 30,000 HECM borrowers now owe the lender for payment of these property charges.
- Letters explaining they are delinquent and advising them on how to correct the situation are going out from January through April.
Aging Network Role with Delinquencies

- **Source of information, referral and assistance**
  - To ensure they are connected to all available resources that may be useful to them
  - Assistance in applying for public benefits to assist them in maximizing their income
  - Case management/coordination
  - Assistance related to housing transition
  - Referral to legal assistance as needed
Resources for the Aging Network

- **AoA Website** - http://www.aoa.gov/AoARoot/AoA_Programs/Special_Projects/HECM/index.aspx
  - FAQ for consumers
  - Issue brief for professionals
  - HECM basics slide deck
  - Additional resources

- **AoA Electronic newsletter to aging network organizations and professionals linking to website**

- **NASUAD and n4a messages/webinars to State and Area Agency on Aging directors and key staff**

- **AoA messaging/webinars to specific grantee groups**
Home Equity Conversion Mortgage (HECM)
Overview

Questions?
<table>
<thead>
<tr>
<th>HECM Property Charges Delinquencies</th>
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<td>Buz Zeman, MSW/LCSW, Director</td>
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<td>Housing Options Provided</td>
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<td>for the Elderly (HOPE)</td>
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<td><a href="mailto:zbuz@hotmail.com">zbuz@hotmail.com</a></td>
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How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The lender paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears, or ...foreclosure.
They heard about Reverse Mortgages

- Ads, ads, ads
- Friends
- AAAs
- Social Service Agencies
- Legal Aides
- Ads, mailers, more ads
How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears ...or, foreclosure.
Reverse Mortgage Counseling - before applying for the loan

- Why do you want a reverse mortgage?
- What could you do instead?
- If you get this loan, what will it mean for you?
- What are the good things about it? (benefits)
- What are the bad things about it? (costs)
- What are the ways you can get the money?
- When will you have to pay back the loan?
Reverse Mortgage Counseling
-before applying for the loan

The counselor cannot

● Tell you whether you CAN get the loan
● Tell you whether you SHOULD get the loan
● Tell you what lender to go to
Reverse Mortgage Counseling
-before applying for the loan

What is a reverse mortgage?

- A loan
- Against the value of your home
- **No payments** as long as you live in the house
- Gets paid back when you stop living in the house
Reverse Mortgage Counseling -before applying for the loan

What the HECM (heck-um)?

- Home Equity Conversion Mortgage
- H – E – C – M = “Heck-um”
Reverse Mortgage Counseling
-before applying for the loan

- A HECM is an FHA, federally-insured reverse mortgage
- Most, but not all, reverse mortgages are HECM loans
- Federally-insured means the government guarantees the loan
- Insurance protects you and the lender
What happens when you get a reverse mortgage?

The longer you have the loan, the larger the debt will grow, and the smaller your equity in the house will be.

Eventually, the debt can pass up the value of the home.
What happens when you get a reverse mortgage?

- You borrow **PART** of the value of your house
- The lender adds interest and fees to the amount you borrow
- This uses up the value of the house over time

- At the beginning of the loan, the borrower has debt of 5-90% of home value
- If they borrowed the maximum amount possible, debt is 55%-75% of home value
Your Total Home Value

Year 1 Cost
Year 2 Cost
Year 3 Cost
Year 4 Cost
Year 5 Cost
Year 6 Cost
Year 7 Cost
Year 8 Cost
Year 9 Cost
Year 10 Cost
Equity after 10 years
Upfront Cost

62 year old borrower lump sum draw, 2% appreciation, 5.56% interest

Loan Advance
Reverse Mortgage Counseling - before applying for the loan

How long can you keep the loan?

• You can keep it as long as you want – no time limit
• As long as you live in the house, no matter how long that is
• Doesn’t matter how much you end up owing
Reverse Mortgage Counseling - before applying for the loan

What if you use up all of the home’s value?

- You can still keep the loan
- You don’t have to move out
- You don’t have to make payments as long as you live there
Reverse Mortgage Counseling - before applying for the loan

Who owns the house?

- You do.
- That means you can sell it if you want
- That also means that you have to pay for
  - Property taxes
  - Homeowner’s insurance
  - Maintenance
  - HOA dues, condo fees, etc.
“Covenants of the mortgage”

- Covenant means “promise”

- You are promising to:
  - Live in the house
  - Pay the taxes
  - Maintain homeowner’s insurance in case of fire or other damage
  - Keep the house in as good condition as when you got the loan
  - Pay other required charges such as HOA dues
Reverse Mortgage Counseling
-before applying for the loan

Review Question 3

What homeowner responsibilities will you have if you get a reverse mortgage?

**Answer:** Pay taxes, homeowners insurance, and maintenance
Default = Breaking your promises

- If you don’t pay your property taxes and insurance on time, or if you don’t take care of the house –
- You will be in “default” on the loan
- The lender can foreclose, and you can lose the house!
- Don’t forget!!
Reverse Mortgage Counseling - before applying for the loan

Much more covered in up-front counseling, including:

- Benefits Check-up – and referrals
- Encouraging long-term planning
- Explaining what costs can vary from lender to lender
- RESPA’s encouragement to shop
How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- **They applied and received loan**
- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears …or, foreclosure.
Apply and receive loan

- Sales persons of all types
- Many lenders to choose from
- Some agents, and all lenders, receive the most compensation when more money is borrowed at the beginning of the loan
- Agent sells the loan for the Lender, who gets the loan insured (FHA) and sells it to the investor
How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears … or, foreclosure.
Failed to pay property charges

- Taxes, insurance, condo fees …
- The servicer sent a letter to the client telling them the amount that they owed and asking them to pay it
How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears …or, foreclosure.
The Servicer Paid Arrearage

- If the borrower did not pay the bill (taxes, insurance, condo fees, etc.)
  The lender paid it for them.
  - and added it to their debt
How the client got to this point

- They heard about Reverse Mortgages
- They had counseling
- They applied and received loan
- They did not pay property charges
- The servicer paid property charges for the client (and added this amount to the debt)
- The client received a letter saying they must repay the amount in arrears …or, foreclosure.
Default Letter from Servicer

- You owe $, which we have paid on your behalf.
- You MUST contact us within 30 days and “arrange to cure the delinquency”.
- You MAY contact a counselor – “free assistance in finding some viable resolution”
Mortgagee Letter 2011-01
published 1/3/11

- Subject: Home Equity Conversion Mortgage Property Charge Loss Mitigation
- Background
- Reporting Delinquencies to HUD
- Loss Mitigation Option
- Repayment Schedule
- Issuance of Property Charge Delinquency Letter
- Requesting Due and Payable
- Curing the Delinquency
Counseling Initiative

- A pilot project is underway
- Five Counseling Intermediaries have received funds to support ~125 counselors
- HUD training (through Neighbor Works is underway –began Jan18th)
- HUD has published “Counseling Guidelines for HECM Borrowers with Delinquent Property Charges”
- Most counseling will be by phone
HUD’s direction to counselors

- **Purpose:** to assist HECM borrowers (borrowers) who are delinquent on
  - Real estate taxes
  - Property insurance, or
  - Other property charges or special assessments such as condominium fees, homeowners association dues, etc.

- **An assessment will determine**
  - Whether or not borrowers want to remain in their home
  - Whether or not a financial solution is possible
Counselor’s Responsibility

- Counselors will assist borrowers to:
  - resolve the delinquency, if possible
  - determine options for additional financial assistance (including use of Benefits Checkup)
  - explore other housing options
  - identify resources to provide transitional housing guidance and refer the borrower to a local Area Agency on Aging (AAA) for additional guidance and counseling to assist with the transition

- Counselors will also be responsible for analyzing the borrower’s:
  - financial capacity
  - Budget
  - ability to support repayment plan
  - future property charges
Outcome of Counseling

Borrowers will

- Understand the foreclosure process, and the consequences of not resolving their delinquency
- Have a full understanding of their financial situation
- Have decided whether or not to pursue a repayment plan or some other course
- Have worked with the counselor and servicer to negotiate a manageable repayment plan (if desired and workable), and
- understand the options available to resolve their delinquency and maintain their property charges going forward.
Referrals to local AAAs -1

- If the Benefits Checkup or other analysis indicates the borrower may qualify for benefits, the counselor will
  - Assist the borrower in filling out all the appropriate benefit program application forms and sending the forms to the appropriate social service agencies
  - Refer the borrower to a local AAA if they are unable to assist with filling out the benefit program application forms
  - Counselors will arrange a conference call between the HECM counselor, the borrower and the AAA to facilitate a “soft transfer.”
  - With the borrower’s permission, the counselor will provide the client’s relevant information to the AAA.
Referrals to local AAAs -2

- If the borrower determines that he/she cannot afford to, is unwilling to bring the loan current, or no longer wants to keep the home, the counselor will
- Assist the borrower in transitioning out of their house to other suitable housing, including:
  - Referring the borrower to a local AAA
  - Counselors will arrange for a conference call with the client and the AAA to facilitate a “soft transfer”
  - With the borrower’s permission, the counselor will provide the borrower’s relevant information
Referrals to local AAAs -3

- Borrower may need hands-on case manager to assist in transitioning to other housing.
- It is hoped that local case managers will be available to assist.
- HUD’s guidelines state “A case manager is a person at an AAA who has an ongoing relationship with a client. They meet regularly to address a client’s complete process that can take weeks or months. Case managers are trained in social services and working with seniors and provide in-depth assistance such as, in some situations, they actually go stand in line for clients to apply for services, do follow-up for services or take them for medical assistance among other things.”
HUD’s directions Re: Legal Aide

Advise borrowers of other sources of income
- House match programs
- Local property tax assistance
- Debt Management plan
- Other family members or friends
- Bankruptcy as option to deal with unsecured debt, Legal Aide

Additional Referrals
- www.nonprofitreferral.org
- www.seniorhousingnet.com/seniors
- www.eldercare.gov
- www.pparx.org (prescriptions)
- www.angelfoodministries.com
- Legal Aide
- Housing Mate Match programs
Skills/expertise of Counselors

- Counselors may have extremely different skills and levels of expertise:
- Counselors might only have experience in reverse mortgage counseling
- Counselor might only case management experience
- May have an MSW in Social Work and extensive experience in case management, reverse mortgage counseling.
- **ALL Property Charge Loss Mitigation Counselors are just beginning to do this counseling.**
Characteristics of cases - mostly guesses at this point

- Debt could be any amount
- There will be significant home equity in some cases; but, more likely, home equity will be small or 0
- Clearly, many repayment plans will be possible
- For many, repayment plans will not be possible
- Many will be low income seniors
Imagining characteristics of cases you might be interested in

- Many borrowers will have credit card debt
- Many borrowers have only social security income
- Many borrowers will have little or no equity (Loans could very well be underwater)
- Only some loans will be less than 3 years old.
- Fixed-rate loans have predominated over the last few years (lenders make more money selling this type of HECM). There may be some cases where using a fixed rate loan resulted in loss of public benefits.
How cases will come to you.

- Clients may call you directly and may or may not have received a Delinquency Letter.
- Property Charge Delinquency Counselors may refer clients.
- Connecting the client to a counselor is always a helpful possibility, but clients are not required to use a counselor.
Questions?

- HECM ML 2011-1
- Should you have any questions concerning this Mortgagee Letter, please call the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342).
- HUD’s “Counseling Guidelines for …Delinquency Issues” will be available on the NLRC website

- Buz Zeman MSW/LCSW, Director
  Housing Options Provided for the Elderly (HOPE)
  zbuz@hotmail.com
Reverse Mortgages – brief description

- A loan against home equity, providing cash advances to borrowers, available for homeowners 62+
- The loan does not need to be repaid until the end of the loan
  - Client moves out
  - Sells
  - Defaults on loan conditions
- In all cases one can borrow only a fraction of home value
- How much one can borrow depends on age, home value, and current interest rates
- There are many choices borrower must make at the beginning of the loan:
  - Fixed vs. Variable Interest Rate
  - HECM Standard vs. HECM Saver
  - How to access the money (all funds immediately, line of credit, set payment @ month, and more)
Loan amounts by age
What happens to the money?

- Equity
- Mortgage Payoff
- $ you can get
- Closing Costs
- Service Set-Aside
After 9 years, fixed rate, lump sum

- Leftover Equity
- Closing Costs
- Service Set-Aside
- Mortgage Payoff
- Lump sum draw
- Yr1
- Yr2
- Yr3
- Yr4
- Yr5
- Yr6
- Yr7
- Yr8
- Yr9
Loan repayment
(fixed-rate, lump sum loan)
Reverse Mortgage Issues

Margot Saunders – Counsel
National Consumer Law Center
www.consumerlaw.org
Reverse Mortgages – Issues & Concerns

• NCLC Report – Subprime Revisited: How Reverse Mortgage Lenders Put Older Homeowners Equity at Risk – October 2009

Reverse Mortgages – Issues & Concerns

- Comments to federal and state regulators
  - E.g., Federal Reserve Board - December 2010 (page 75)

- In comments to Federal Reserve Board we highlighted the issue of borrowers who are serious risk for losing their home due to non-payment of property-related charges

- We also opposed several of problematic proposals made by the Board
Reverse Mortgages – Issues & Concerns

• Inaccurate and deceptive marketing
  – E.g., HECM as a government benefit
  – “Cannot lose your home”
  – “Payments for life”

• Recent trend toward fixed-rate reverse mortgages requiring full-draw
  – HUD Data: between March 2009 and October 2010 over 60% of the HECM market switched from variable to fixed rate
  – Consumer begin paying interest and MIP on the full amount
Reverse Mortgages – Issues & Concerns

• Recent trend toward fixed-rate reverse mortgages requiring full-draw (Cont.)
  – Originators sell list of consumers who take out fixed-rate HECM reverse mortgages - and therefore have a lump sum of money - to insurance brokers and financial salespeople
  – May affect eligibility for certain means-tested programs
  – No data on how consumers are using the lump-sum withdrawal
Reverse Mortgages – Issues & Concerns

• Cross-selling of expensive and unnecessary financial products
  – E.g., Annuities, long-term care insurance
• Non-borrowing spouses who relinquish their ownership interest
Reverse Mortgages – Attorney Referral

- Reverse mortgages are complex, disclosures are confusing and inadequate and counseling, while helpful, is inconsistent and underfunded
- Refer borrower to an attorney if questions arise about origination or servicing of the loan
Consumers with Reverse Mortgages – When to refer to an Attorney

- Failure of the reverse mortgage originator to evaluate the borrower’s ability to pay the ongoing taxes and insurance charges
- Borrower seems confused and does not understand how a reverse mortgage works
- Borrower used all the money to purchase an annuity or long-term care insurance, leaving insufficient funds for the borrower to live on
- Borrower says they were pressured to take out this loan and the loan terms are not a good deal for the borrower.
Consumers with Reverse Mortgages – When to refer to an Attorney

- Borrower agreed to have younger spouse deed over her share of the house to borrower, resulting in higher RM funds available, but spouse did not understand that she would be evicted from the property upon death, move of obligor-spouse
- Borrower took out a HECM loan and did not receive counseling
- Borrower was told he or she would receive a loan with certain features (e.g., variable) and received another type of loan
- Any inconsistencies in the closing documents
Reverse Mortgages – Issues & Concerns

- There may be some defenses to foreclosures
- Bankruptcy may be available and useful
- Affirmative claims about failures in underwriting might be possible
- Truth in Lending rescission may be available if the loan was made within past 3 years
One Piece of Good News – on another subject

• Today – Treasury issued the garnishment rule prohibiting banks from allowing banks to process garnishment orders against Social Security and SSI and VA funds in bank accounts.

• Rule is effective May 1, 2011. Comments are due in late May. Watch our website or contact me for questions.

• msaunders@nclc.org.
The National Legal Resource Center is a collaborative effort developed by the Administration on Aging. Its partners are:

- The American Bar Association Commission on Law and Aging
- The Center for Elder Rights Advocacy
- The Center for Social Gerontology
- The National Consumer Law Center
- The National Senior Citizens Law Center
Reverse Mortgages

Reverse Mortgages: Are They For You?
Source: Office of the Comptroller of the Currency
Content Type: Website with downloadable booklet
A consumer guide to reverse mortgages.

Use Your Home to Stay at Home™ Consumer Booklet
Source: National Council of Aging Organizations
Content Type: Website
This site contains information on reverse mortgages as a tool for consumer to remain in their homes.

AARP Reverse Mortgages Resources
Source: American Association of Retired Persons
Content Type: Website
Consumer focused information on reverse mortgages.

Home Equity Conversion Mortgage (HECM) Program The Role of the Aging Network in Assisting Older Mortgagors
Source: AoA
Content Type: Website with new content being added on emerging issues
Evolving website looking at issues relating to delinquencies on reverse mortgages. Under the HECM program property taxes, insurance and other property charges are the responsibility of the homeowner. Lenders have advanced property tax, insurance and other property charges to borrowers who are unable to pay them. HUD is now requiring lenders to try to collect these advances and older borrowers who are unable to repay these advances may be in jeopardy of losing their home.
Home Equity Conversion Mortgage Program (HECM) Program

The Role of the Aging Network in Assisting Older Mortgagees

HECM Basics

HECM Borrowers and Delinquent Property Cost Payments

Role of the Aging Network

Resources

HECM Basics

Home Equity Conversion Mortgages (HECM) are reverse mortgages insured by the HUD Federal Housing Administration (FHA). Only homeowners age 62 and older are eligible to participate in the HECM program. These reverse mortgages have been attractive to older adults for a number of reasons.

- Older adults with few assets aside from their home can tap into their equity to help them age in place.
- Borrowers can live in the home as long as they want without making any monthly payments, aside from property costs such as property taxes and insurance.
- Borrowers never owe more than the value of the house if sold at the time the loan comes due.
NLRC and Legal Resources

The National Legal Resource Center (NLRC) is available to assist you with your legal resource support needs related to your work with older consumers facing a wide range of legal problems, including those consumers facing HECM delinquencies and possible foreclosure.

The NLRC is an innovative partnership involving national legal support organizations well known for their support of aging and legal networks dedicated to serving older clients and consumers:

- ABA Commission on Law and Aging
- Center for Elder Rights Advocacy
- National Consumer Law Center
- National Senior Citizens Law Center
- The Center for Social Gerontology

Each partner plays a unique role in providing resource support in developing, operating and providing legal assistance to at-risk seniors, including support on public benefits and housing issues impacting older consumers. More information about the partners and the resources they provide can be found at: http://www.NLRC.aoa.gov

- Locate a Legal Provider or Senior Legal Helpline to Provide Direct Legal Services to Older Consumers
Legal Service Provider Listings

Click on the map or select the state on the drop down
Case Consultation Request Tool

The Case Consultation Request Tool gives professionals and advocates in the field of law and aging access to intensive and tailored advice in a broad range of legal subject matter areas that impact older persons. Requests for assistance can focus on actual client cases or broader policy and practice information and advice. (For instance, a program staffer on a local guardianship task force can use the consultation service for policy information and advice.)

Full listing of legal subject matters.

A case consultation request may go to one of three participating programs: The National Senior Citizens Law Center, The National Consumer Law Center or the American Bar Association Commission on Law and Aging. In order to provide the most appropriate assistance, in some instances your case consultation request may be routed to and discussed with another trusted organization. Do not include any client names or client identifying information with your request.

Case consultation is only available to professionals and advocates in law and aging, including:

- Title III-B legal assistance providers
- Legal Services Corporation (LSC) providers
- State Legal Assistance Developers
- Elder law and consumer law attorneys in the public and private sectors
- Members of the judiciary
- Aging services staff of Area Agencies on Aging, ADRCs, and State Units on Aging
- Professionals and advocates within organizations serving older persons
- Long-term care ombudsman staff

The NLRC website cannot provide legal advice to individuals. If you are an individual in need of legal assistance, please check a legal services provider in your area.
Questions?