

111TH CONGRESS
2D SESSION

H. R. 4419

To amend section 138 of the Truth in Lending Act to establish certain counseling and disclosure requirements with respect to reverse mortgages.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2010

Mr. SESTAK introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To amend section 138 of the Truth in Lending Act to
establish certain counseling and disclosure requirements
with respect to reverse mortgages.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reverse Mortgage
5 Elder Protection Act”.

6 **SEC. 2. COUNSELING AND DISCLOSURE REQUIREMENTS**
7 **FOR REVERSE MORTGAGES.**

8 Section 138 of the Truth in Lending Act (15 U.S.C.
9 1648) is amended by adding at the end the following:

1 “(c) REQUIRED STATEMENT REGARDING COUN-
2 SELING.—A creditor may not take an application for a re-
3 verse mortgage unless the creditor has provided to the ap-
4 plicant for the reverse mortgage, before the applicant re-
5 ceives any counseling regarding reverse mortgages pursu-
6 ant to subsection (e), the following written statement, dis-
7 closed clearly and conspicuously in type that is 16-point
8 or larger: ‘IMPORTANT NOTICE TO REVERSE
9 MORTGAGE LOAN APPLICANT: A REVERSE
10 MORTGAGE IS A COMPLEX FINANCIAL TRANS-
11 ACTION. IF YOU DECIDE TO OBTAIN A REVERSE
12 MORTGAGE LOAN, YOU WILL SIGN BINDING
13 LEGAL DOCUMENTS THAT WILL HAVE IMPOR-
14 TANT LEGAL AND FINANCIAL IMPLICATIONS
15 FOR YOU AND YOUR ESTATE. IT IS THEREFORE
16 IMPORTANT TO UNDERSTAND THE TERMS OF
17 THE REVERSE MORTGAGE AND ITS EFFECT. BE-
18 FORE ENTERING INTO THIS TRANSACTION, YOU
19 ARE REQUIRED TO CONSULT WITH AN INDE-
20 PENDENT LOAN COUNSELOR. A LIST OF AP-
21 PROVED COUNSELORS WILL BE PROVIDED TO
22 YOU BY THE LENDER. SENIOR CITIZEN ADVO-
23 CACY GROUPS ADVISE AGAINST USING THE
24 PROCEEDS OF A REVERSE MORTGAGE TO PUR-
25 CHASE AN ANNUITY OR RELATED FINANCIAL

1 PRODUCTS. IF YOU ARE CONSIDERING USING
2 YOUR PROCEEDS FOR THIS PURPOSE, YOU
3 SHOULD DISCUSS THE FINANCIAL IMPLICA-
4 TIONS OF DOING SO WITH YOUR COUNSELOR
5 AND FAMILY MEMBERS.’.

6 “(d) COUNSELING CHECKLIST.—

7 “(1) REQUIREMENT FOR CREDITOR TO PRO-
8 VIDE COUNSELING CHECKLIST BEFORE LOAN APPLI-
9 CATION.—A creditor may not take an application for
10 a reverse mortgage unless the creditor provides to
11 the applicant, before his or her meeting with a coun-
12 seling agency regarding reverse mortgages pursuant
13 to subsection (e), a written checklist that complies
14 with paragraph (3).

15 “(2) REQUIREMENT FOR COUNSELING AGENCY
16 TO PROVIDE CHECKLIST.—If a consumer seeks
17 counseling regarding reverse mortgages before re-
18 questing a loan application for a reverse mortgage
19 from a creditor, the counseling agency shall provide
20 the consumer with a written checklist that complies
21 with paragraph (3).

22 “(3) CONTENTS OF CHECKLIST.—A written
23 checklist, with respect to an applicant (or consumer,
24 in the case described in paragraph (2)), complies

1 with this paragraph only if the checklist meets the
2 following requirements:

3 “(A) The checklist is in writing in 12-point
4 type or larger.

5 “(B) The checklist conspicuously notifies
6 the applicant (or consumer) under the reverse
7 mortgage that he or she should discuss with the
8 counselor of the counseling agency the following
9 issues:

10 “(i) How unexpected medical or other
11 events that cause the applicant (or con-
12 sumer) to move out of the home, either
13 permanently or for more than one year,
14 earlier than anticipated will impact the
15 projected total annual loan cost of the
16 mortgage.

17 “(ii) The extent to which the appli-
18 cant’s (or consumer’s) financial needs
19 would be better met by options other than
20 a reverse mortgage, including less costly
21 home equity lines of credit, property tax
22 deferral programs, or governmental aid
23 programs.

24 “(iii) Whether the applicant (or con-
25 sumer) intends to use the proceeds of the

1 reverse mortgage to purchase an annuity
2 or other insurance products and the con-
3 sequences of doing so.

4 “(iv) The effect of repayment of the
5 loan on nonborrowing residents of the
6 home after all borrowers have died or per-
7 manently left the home.

8 “(v) The applicant’s (or consumer’s)
9 ability to finance routine or catastrophic
10 home repairs, especially if maintenance is
11 a factor that may determine when the
12 mortgage becomes payable.

13 “(vi) The impact that the reverse
14 mortgage may have on the applicant’s (or
15 consumer’s) tax obligations and eligibility
16 for government assistance programs, and
17 the effect that losing equity in the home
18 will have on the applicant’s (or con-
19 sumer’s) estate and heirs.

20 “(vii) The ability of the applicant (or
21 consumer) to finance alternative living ac-
22 commodatedions, such as assisted living or
23 long-term care nursing home registry, after
24 the applicant’s (or consumer’s) equity is
25 depleted.

1 “(e) COUNSELING REQUIREMENT.—A creditor may
2 not accept a final and complete application for a reverse
3 mortgage from a consumer or assess any fees upon a con-
4 sumer unless the creditor has complied with the following
5 requirements:

6 “(1) REQUIRED COUNSELING REFERRAL.—The
7 creditor shall—

8 “(A) refer the consumer to a housing
9 counseling agency approved by the Secretary of
10 Housing and Urban Development for counseling
11 that meets the standards and requirements es-
12 tablished by the Secretary for reverse mortgage
13 counseling; and

14 “(B) provide the consumer with a list of at
15 least 5 such housing counseling agencies ap-
16 proved by the Secretary, including at least two
17 agencies that can provide counseling by tele-
18 phone.

19 “(2) REQUIRED CERTIFICATION OF COUN-
20 SELING.—The creditor shall have received from the
21 consumer or the authorized representative of the
22 consumer—

23 “(A) a written certification (which may be
24 in the form of an electronic facsimile copy) that
25 the consumer has received counseling regarding

1 reverse mortgages from an agency as described
2 in paragraph (1), which shall be signed by the
3 consumer and the agency counselor providing
4 such counseling, and shall include the date of
5 the counseling and the name, address, and tele-
6 phone number of both the counselor and the
7 consumer; and

8 “(B) a copy of the checklist provided to
9 the consumer pursuant to subsection (d) that is
10 signed by the agency counselor providing such
11 counseling, if the counseling was done in per-
12 son, and by the consumer, and a copy of such
13 signed checklist shall be provided to the con-
14 sumer. The creditor shall maintain the certifi-
15 cation described in paragraph (2)(A) in an ac-
16 curate, reproducible, and accessible format for
17 the entire term of the reverse mortgage.”.

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