STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

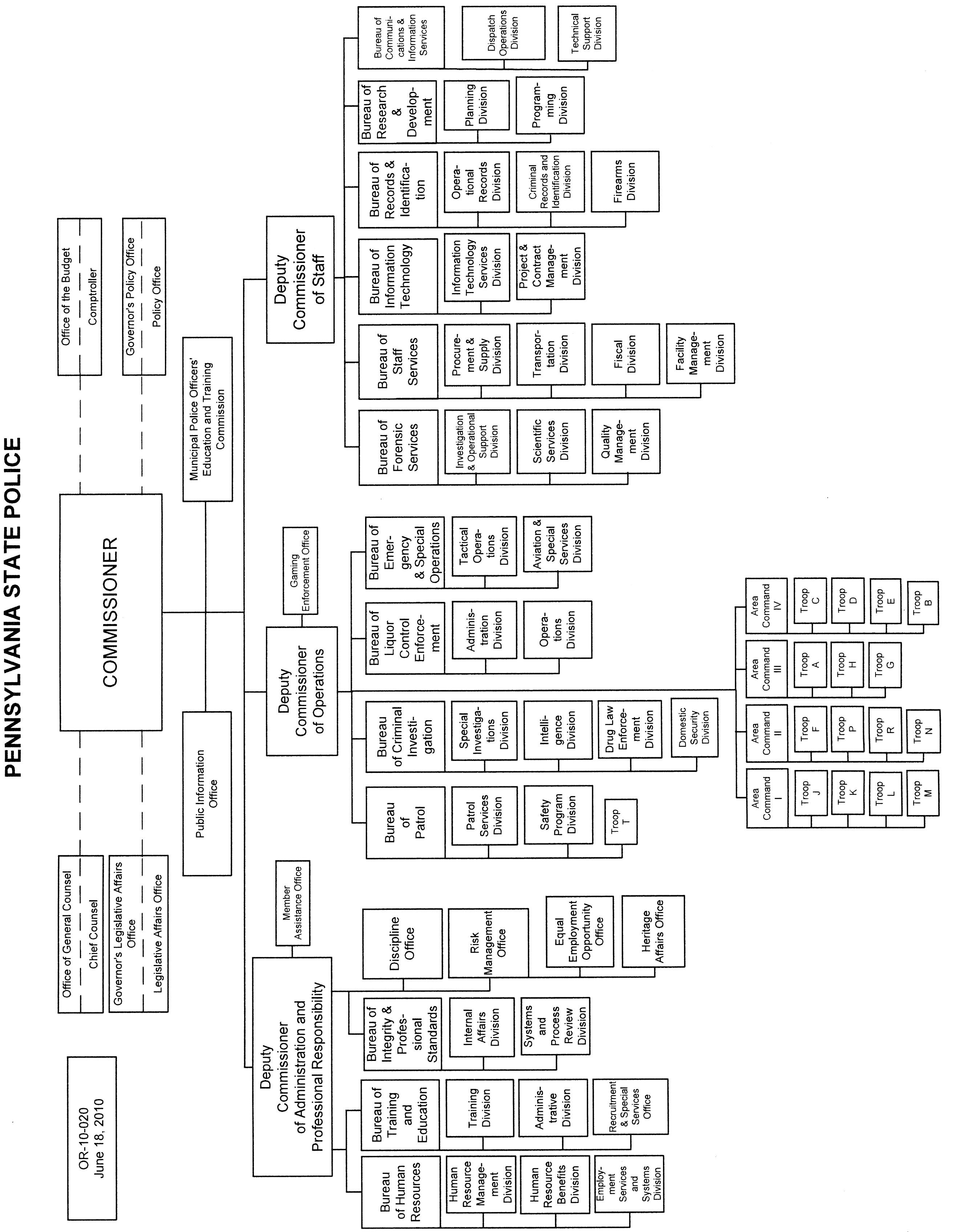
Reorganization of the State Police

The Executive Board approved a reorganization of the State Police effective June 18, 2010.

The organization chart at 40 Pa.B. 3867 (July 10, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(*Editor's Note*: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 10-1251. Filed for public inspection July 9, 2010, 9:00 a.m.]


PENNSYLVANIA STATE POLICE
COMMISSIONER
Office of General Counsel
Chief Counsel
Governor's Legislative Affairs Office
Legislative Affairs Office
Office of the Budget
Comptroller
Governor's Policy Office
Policy Office
Public Information Office
Municipal Police Officers' Education and Training Commission
OR-10-020
June 18, 2010
Deputy Commissioner of Administration and Professional Responsibility
Member Assistance Office
Bureau of Human Resources
Human Resource Management Division
Human Resource Benefits Division
Employment Services and Systems Division
Bureau of Training and Education
Training Division
Administrative Division
Recruitment & Special Services Office
Bureau of Integrity & Professional Standards
Internal Affairs Division
Systems and Process Review Division
Discipline Office
Risk Management Office
Equal Employment Opportunity Office
Heritage Affairs Office
Deputy Commissioner of Operations
Gaming Enforcement Office
Bureau of Patrol
Patrol Services Division
Safety Program Division
Troop T
Bureau of Criminal Investigation
Special Investigations Division
Intelligence Division
Drug Law Enforcement Division
Domestic Security Division
Bureau of Liquor Control Enforcement
Administration Division
Operations Division
Bureau of Emergency & Special Operations
Tactical Operations Division
Aviation & Special Services Division
Area Command I
Troop J
Troop K
Troop L
Troop M
Area Command II
Troop F
Troop P
Troop R
Troop N
Area Command III
Troop A
Troop H
Troop G
Area Command IV
Troop C
Troop D
Troop E
Troop B
Deputy Commissioner of Staff
Bureau of Forensic Services
Investigation & Operational Support Division
Scientific Services Division
Quality Management Division
Bureau of Staff Services
Procurement & Supply Division
Transportation Division
Fiscal Division
Facility Management Division
Bureau of Information Technology
Information Technology Services Division
Project & Contract Management Division
Bureau of Records & Identification
Operational Records Division
Criminal Records and Identification Division
Firearms Division
Bureau of Research & Development
Planning Division
Programming Division
Bureau of Communications & Information Services
Dispatch Operations Division
Technical Support Division

Title 10—BANKS AND BANKING

DEPARTMENT OF BANKING

[10 PA. CODE CH. 47]

Mortgage Loan Modifications—Statement of Policy

The Department of Banking (Department) adds Chapter 47 (relating to mortgage loan modifications—statement of policy) under 7 Pa.C.S. § 6138(a)(4) (relating to authority of department), section 12 of the Consumer Discount Company Act (CDCA) (7 P. S. § 6212) and section 202.D of the Department of Banking Code (71 P. S. § 733-202.D).

Purpose

The purpose of this statement of policy is to provide guidance to licensees under 7 Pa.C.S. Chapter 61 (relating to Mortgage Licensing Act) (MLA) and the CDCA who wish to engage in mortgage loan modification activities. The events that have occurred in the mortgage industry over the last several years have left many consumers unable to pay their current mortgages. While some consumers feel comfortable contacting their current mortgage servicer to modify the current repayment terms, others have turned to third parties to negotiate on their behalf. Many of the Department's licensees have entered this niche industry because they believe that the experience and expertise they have gained by brokering and originating mortgage loans makes them qualified to negotiate a mortgage loan modification on behalf of a consumer. However, the mortgage loan modification process is not the same as brokering or originating mortgage loans. The guidance expressed in this statement of policy should allow licensees to avoid placing consumers who are struggling with their existing mortgage loans into inappropriate mortgage loan modifications and protect consumers in this Commonwealth from inexperienced and unscrupulous companies.

Explanation of Regulatory Requirements

There are no new regulatory requirements as a result of the issuance of this statement of policy.

Entities Affected

The statement of policy will affect existing licensees and future licensees who perform mortgage loan modifications under the MLA and CDCA.

Cost and Paperwork Requirements

Additional costs will not be incurred by the Department or licensees as a result of this statement of policy.

Effective Date/Sunset Date

The statement of policy is effective upon publication in the *Pennsylvania Bulletin.* There is no sunset date.

Contact Person

Persons with questions regarding the statement of policy should contact the Office of Chief Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290, (717) 787-1471.

STEVEN KAPLAN,
Secretary

(*Editor's Note*: Title 10 of the Pa. Code is amended by adding a statement of policy in §§ 47.1—47.6 to read as set forth in Annex A.)

Fiscal Note: 3-49. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 10. BANKS AND BANKING

PART IV. BUREAU OF CONSUMER CREDIT AGENCIES

CHAPTER 47. MORTGAGE LOAN MODIFICATIONS—STATEMENT OF POLICY

§ 47.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Acts—The MLA and the CDCA.

Advance fee—Any funds requested by or to be paid to a licensee in advance of or during the processing of a mortgage loan modification.

CDCA—The Consumer Discount Company Act (7 P. S. §§ 6201—6221).

Government agency—A Federal, State or local government agency, including the United States Department of Housing and Urban Development and the Pennsylvania Housing Finance Agency.

Licensee—A licensee under the MLA or CDCA or partially exempt entity under the MLA.

MLA—The Mortgage Licensing Act (7 Pa.C.S. Chapter 61).

Mortgage broker—The term as defined in section 6102 of the MLA (relating to definitions).

Mortgage loan—The term as defined in section 6102 of the MLA.

Mortgage loan modification—An agreement which revises the terms of an existing mortgage loan, including an agreement to reduce mortgage loan payment amounts, balance or interest rate. A mortgage loan modification may also include an agreement to waive any accrued or prospective mortgage loan charges.

Mortgage originator—The term as defined in section 6102 of the MLA.

§ 47.2. Purpose.

This chapter provides guidance to licensees under the acts who wish to engage in mortgage loan modification activities. Many licensees have expressed a belief that their experience and expertise in the business of originating mortgage loans equates to a similar expertise regarding mortgage loan modifications. However, modifying a mortgage loan is not the same as brokering or originating a mortgage loan. A licensee experienced in making or brokering loans may not have the necessary training or experience related to mortgage loan modifications to appropriately negotiate a mortgage loan modification on behalf of a borrower. The guidance expressed in this chapter should allow licensees to avoid placing borrowers who are struggling with their existing mortgage loans into inappropriate mortgage loan modifications.

§ 47.3. Provision of mortgage loan modification counseling to borrowers.

A licensee who wishes to provide mortgage loan modifications for mortgage loans other than those held or serviced by the licensee should do one of the following:

(1) Be approved as a counselor by a government agency or employed by a counselor approved by a government agency and follow the rules, regulations, policies and guidelines of the approving government agency.

(2) Verify and document that the borrower has received counseling regarding mortgage loan modifications from a counselor approved by a government agency.

§ 47.4. Options other than licensee mortgage loan modification.

Prior to contracting with a borrower to perform a mortgage loan modification, a licensee should inform the borrower of other appropriate options to resolve a delinquent mortgage loan, which may include:

(1) Repayment of the mortgage loan according to the contracted terms.

(2) A self-negotiated mortgage loan modification.

(3) Sale of the property which is collateral for the mortgage loan.

(4) Filing for personal bankruptcy.

§ 47.5. Improper activities regarding mortgage loan modifications.

A licensee providing mortgage loan modifications should not:

(1) Provide mortgage loan modifications for mortgage loans other than those held or serviced by the licensee in a manner inconsistent with § 47.3 (relating to provision of mortgage loan modification counseling to borrowers).

(2) Advise, encourage or permit a borrower to stop or delay making regularly scheduled payments on an existing mortgage loan unless a mortgage loan modification is completely negotiated and executed with the holder or servicer of the borrower's mortgage loan and the mortgage loan modification provides for such a cessation or delay in making regularly scheduled payments on the existing mortgage loan.

(3) Accept, hold or transmit any money unless the licensee is operating in compliance with Federal and State law, including the Debt Management Services Act (63 P. S. §§ 2401—2449) and the Money Transmission Business Licensing Law (7 P. S. §§ 6101—6118).

(4) Charge advance fees to a borrower for a mortgage loan modification.

(5) Attempt to negotiate or contract with a borrower for a mortgage loan modification which the licensee knows or has reason to believe the borrower will not be able to afford.

(6) Enter into any contract or agreement to purchase a borrower's property.

(7) Accept a power of attorney to represent a borrower or represent that the licensee has a power of attorney for a borrower.

(8) Fail in a timely manner to:

(i) Communicate with or on behalf of a borrower.

(ii) Act on any reasonable request from or take any reasonable action on behalf of a borrower.

(9) Engage in false or misleading advertising. Examples of false or misleading advertising include:

(i) Advertising which makes it appear that the licensee is a government agency.

(ii) Advertising which includes a "guarantee" unless there is a bona fide guarantee which will benefit a borrower.

(iii) Advertising which makes it appear that a licensee has a special relationship with lenders when no such relationship exists.

(10) Make a statement or engage in an action which is false, misleading, deceptive or inappropriate. Examples of false, misleading, deceptive or inappropriate statements or actions include:

(i) Leading a borrower to believe that payments do not need to be made on the borrower's existing mortgage loan.

(ii) Encouraging or directing a borrower not to communicate with the holder or servicer of the borrower's mortgage loan.

(iii) Leading a borrower to believe that a mortgage loan modification can be negotiated on behalf of the borrower when the licensee has reason to believe that a mortgage loan modification cannot be negotiated on behalf of the borrower.

(iv) Leading a borrower to believe that the borrower's credit record will not be negatively affected by a mortgage loan modification when the licensee has reason to believe that the borrower's credit record may be negatively affected by the mortgage loan modification.

§ 47.6. Credit Services Act applicability to mortgage loan modifications.

A mortgage broker or mortgage originator providing mortgage loan modifications may be considered to be a "credit services organization" as that term is defined in section 2 of the Credit Services Act (73 P. S. § 2182). As such, a mortgage broker or mortgage originator providing mortgage loan modifications should carefully review the Credit Services Act (73 P. S. §§ 2181—2192) and, when appropriate, contact the Pennsylvania Office of Attorney General regarding the Credit Services Act's applicability to mortgage loan modifications.

[Pa.B. Doc. No. 10-1252. Filed for public inspection July 9, 2010, 9:00 a.m.]

DEPARTMENT OF BANKING

[10 PA. CODE CH. 49]

Reverse Mortgages—Statement of Policy

The Department of Banking (Department) adds Chapter 49 (relating to reverse mortgages—statement of policy) under 7 Pa.C.S. § 6138(a)(4) (relating to authority of department), section 12 of the Consumer Discount Company Act (CDCA) (7 P. S. § 6212) and section 202.D of the Department of Banking Code (71 P. S. § 733-202.D).

Purpose

The purpose of this statement of policy is to provide guidance to licensees regarding the Department's interpretation of the proper conduct of making, originating or servicing reverse mortgage loans and to inform licensees of the proper use of, and risks associated with, reverse mortgage loans.

Explanation of Regulatory Requirements

There are no new regulatory requirements as a result of this policy statement.

Entities Affected

The statement of policy affects existing licensees and new licensees under 7 Pa.C.S. Chapter 61 (relating to Mortgage Licensing Act) and the CDCA that make, originate or service reverse mortgage loans.

Costs and Paperwork Requirements

Additional costs will not be incurred by the Department or licensees as a result of this statement of policy.

Effectiveness/Sunset Date

The statement of policy is effective upon publication in the *Pennsylvania Bulletin*. There is no sunset date.

Contact Person

Persons with questions regarding the statement of policy should contact the Office of Chief Counsel, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290, (717) 787-1471.

STEVEN KAPLAN,
Secretary

(*Editor's Note*: Title 10 of the Pa. Code is amended by adding a statement of policy in §§ 49.1—49.3 to read as set forth in Annex A.)

Fiscal Note: 3-48. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 10. BANKS AND BANKING

PART IV. BUREAU OF CONSUMER CREDIT AGENCIES

CHAPTER 49. REVERSE MORTGAGES—STATEMENT OF POLICY

§ 49.1. Definitions.

Applicant—A person who submits an application for a reverse mortgage loan.

CDCA—The Consumer Discount Company Act (7 P. S. §§ 6201—6219).

Disbursements—Disbursements made by a licensee or assignee at or after the closing of a mortgage loan, including advances made on a reverse mortgage line of credit, regularly scheduled payments under a reverse mortgage loan and advances used to pay property charges.

FHA—The Federal Housing Administration.

HUD—The United States Department of Housing and Urban Development.

Hazard insurance—Insurance that covers property damage caused by fire, wind, storms and other similar risks.

Insured reverse mortgage loan—A reverse mortgage loan insured by the Federal government or agency or instrumentality thereof.

Licensee—A licensee under the MLA or CDCA or partially-exempt entity under the MLA.

MLA—The Mortgage Licensing Act (7 Pa.C.S. Chapter 61).

Maturity of a reverse mortgage loan—The date on which full repayment of the reverse mortgage loan is due.

Mortgage loan—A mortgage loan as defined in section 6102 of the MLA (relating to definitions) or a loan involving a mortgage made by a licensee under the CDCA, or both, as the context may require.

Mortgage originator—A mortgage originator as defined in section 6102 of the MLA.

Net worth—Assets less liabilities and assets unacceptable to HUD for purposes of complying with 24 CFR 202.5(n) or 202.8(b)(1) (relating to general approval standards; and loan correspondent lenders and mortgagees), as applicable.

Person—A person as defined in section 6102 of the MLA and section 2 of the CDCA (7 P. S. § 6202), as applicable.

Property charge set aside account—Funds set aside by the borrower to pay for property charges.

Property charges—Property taxes, hazard insurance and other charges required by the lender to be paid by the borrower.

Property taxes—The taxes assessed, or a reasonable estimate of the taxes to be assessed, on the property being mortgaged based upon the assessed value of the property and any improvements thereon.

Proprietary reverse mortgage lender—A licensee which makes proprietary reverse mortgage loans.

Proprietary reverse mortgage loan—A reverse mortgage loan that is not an insured reverse mortgage loan or single-purpose reverse mortgage loan.

Reverse mortgage loan—A mortgage loan that is a reverse mortgage transaction as defined in 12 CFR 226.33(a) (relating to requirements for reverse mortgages).

Service or *servicing*—Remitting payments to borrowers, or collecting or remitting payments for another of principal, interest, taxes, insurance and any other payments pursuant to a mortgage loan.

Single-purpose reverse mortgage loans—Reverse mortgage loans which are made by state or local governments or nonprofit organizations where the loan proceeds are to be used for a specified purpose.

Tenure reverse mortgage loan—A reverse mortgage loan where advances are made to the borrower for a period of time until the maturity of the reverse mortgage loan.

Term reverse mortgage loan—A reverse mortgage loan where advances are made to the borrower for a specified period of time.

§ 49.2. Purpose.

(a) This chapter provides guidance to licensees regarding the Department's interpretation of the proper conduct of making, originating or servicing reverse mortgage loans and to inform licensees of the proper use of, and risks associated with, reverse mortgage loans. Reverse mortgage loans can present eligible homeowners with unique benefits not available through standard mortgage loans. Because of this, the Department believes that reverse mortgage loans will become more available and widely offered to consumers in this Commonwealth. However, with these benefits also come unique risks to the homeowners. The vast majority of reverse mortgage loans that are marketed in this Commonwealth are to consumers who are 62 years of age or older, primarily because the Federally-insured reverse mortgage loan program prohibits the making of reverse mortgage loans to borrowers who are under 62 years of age. Because of the demographic to which most reverse mortgage loans are marketed, the Department is concerned about the potential for older consumers in this Commonwealth to be victimized by either bad advice or outright fraud. Furthermore, the Department is concerned that as reverse mortgage loans become more available, licensees may not be fully cognizant of the propriety of, and the necessary business practices required to limit risks to consumers in this Commonwealth who use, reverse mortgage loans.

(b) Most reverse mortgage lenders offer insured reverse mortgage loans and must adhere to well-established Federal standards set through the FHA's reverse mortgage loan insurance program, including consumer counseling. However, proprietary reverse mortgage loans are not insured by the Federal government and are not required to follow the standards and requirements mandated by the FHA to obtain Federal insurance. Therefore, proprietary reverse mortgage loans present certain financial risks that are not present with an insured reverse mortgage loan. For example, in the event that a proprietary reverse mortgage lender were to fail or become unable to service its proprietary reverse mortgage loans, borrowers' anticipated income streams could be disrupted or eliminated causing unexpected and severe financial hardship to the borrowers. Additionally, a risk facing proprietary reverse mortgage lenders is a decline in the market value of a property serving as collateral to a level that is less than the value of the proprietary reverse mortgage loan. While FHA insurance provides lenders of insured reverse mortgage loans with protection against this risk, proprietary reverse mortgage lenders would have no similar protection.

§ 49.3. Reverse mortgage practices.

(a) *Financial strength.*

(1) A licensee lender should not offer reverse mortgage loans unless it has the financial ability to make disbursements and service the reverse mortgage loans as required. By their nature, reverse mortgage loans present risks to licensee lenders and borrowers that are unique to the reverse mortgage industry. Unlike standard mortgage loans, reverse mortgage loans create a stream of payments to the borrower that the borrower relies on to pay other obligations and may require extended periods of cash outlay with no cash return for licensees. Reverse mortgage loans also present "crossover risk," when the outstanding balance of the loan exceeds the value of the property held as collateral. In those cases, proprietary reverse mortgage loans do not have Federal insurance to protect lenders against the risk of not being able to recover the value of their reverse mortgage loan at maturity. The risks endanger the financial solvency of the licensee and disbursements to borrowers. Therefore, a licensee's financial strength and solvency is both a matter of concern to the licensee and the borrower.

(2) If a licensee knows or suspects that its financial situation or ability to service disbursements is at risk, the licensee should notify the Department immediately to discuss possible solutions that will protect consumers as well as the financial health of the licensee. To evaluate whether a licensee lender has sufficient financial capability to offer reverse mortgage loans, the Department will review the overall financial condition of the licensee and in particular, the ability to make disbursements and service its reverse mortgage loan portfolio. For example, although a mortgage lender licensee under the MLA is required to have a minimum net worth of $250,000, the Department believes that it may be necessary for such a licensee who makes reverse mortgage loans to take additional precautions to ensure that it has the ability to make disbursements and service its reverse mortgage loans. Additional precautions could include additional capital and funding sources. The Department will review a licensee's capital, liquidity and other factors, such as the licensee's business model and available financial resources to replenish capital, that affect the licensee's ability to service its reverse mortgage loans, particularly with respect to licensees that make or service proprietary reverse mortgage loans. Proprietary reverse mortgage loan lenders should also seek measures that act as insurance against crossover risk. The measures could include obtaining private insurance products to mitigate the risk.

(b) *Reverse mortgage loan agreements.*

(1) A licensee lender that makes proprietary reverse mortgage loans should consider the negative effects on borrowers if the licensee fails to make disbursements and service the loans. A licensee should consider inserting consumer protections in its reverse mortgage loan agreements that would allow borrowers to be released from their reverse mortgage loan obligations if the licensee or any assignee should fail to make disbursements or service the reverse mortgage loan. Additionally, a licensee should provide procedures for the release or satisfaction of liens on collateral in the event that a licensee or assignee is unable to make required disbursements, so that affected borrowers may obtain other financing. Lastly, a licensee should consider protections for borrowers such as not including in reverse mortgage loan agreements provisions which would allow a licensee or an assignee to discontinue disbursements or otherwise alter the terms of the reverse mortgage loan agreement because of the declining equity in a borrower's collateral.

(2) In the event that property charges are not escrowed as part of a reverse mortgage loan, and a borrower fails to pay the property charges as agreed, a licensee lender should consider and discuss with the borrower any available options the borrower may have to cure the default prior to foreclosing and explore alternatives to foreclosure to permit the borrower to remain in the property.

(c) *Reverse mortgage loan origination.* When offering reverse mortgage loans, a licensee should:

(1) Ensure that the licensee's mortgage originators offering reverse mortgage loans are knowledgeable about reverse mortgage loans in general and, specifically, with the reverse mortgage loans they are offering to applicants.

(2) Ensure that an applicant understands that the applicant's family or other beneficiaries may not inherit the property serving as collateral at the time of the applicant's death unless the reverse mortgage loan is paid in full.

(3) Encourage an applicant to discuss a proposed reverse mortgage loan transaction with the applicant's family members or beneficiaries.

(4) Require a reverse mortgage loan applicant to seek counseling from a HUD-approved reverse mortgage loan counselor.

(5) Discuss with a reverse mortgage loan applicant alternatives to a reverse mortgage loan that may serve an applicant's needs and goals.

(6) Under subsection (f), consider an applicant's circumstances and offer the reverse mortgage loan available to the licensee that best meets the applicant's needs and goals.

(7) For a term reverse mortgage loan, consider the projected financial condition of the applicant once the time period for making loan advances has expired and disclose to the applicant the adverse implications of a term reverse mortgage loan if the applicant does not have alternate sources of funds to meet the applicant's financial needs following the lapse of advances under a term reverse mortgage loan.

(8) If available, consider whether establishing an escrow account for property charges is appropriate for the applicant and, if such an option is not available, discuss with the applicant the utility of establishing a property charge set aside account.

(9) Limit fees and charges to what is reasonable for the reverse mortgage loan. For proprietary reverse mortgage loans, the permissible fees and costs on insured reverse mortgage loans should be considered a guide as to what is reasonable.

(10) When offering a proprietary reverse mortgage loan, confirm that the applicant understands that the reverse mortgage loan being offered is not a government-sponsored or insured reverse mortgage loan and explain the differences between a proprietary reverse mortgage loan and government-sponsored or insured reverse mortgage loan.

(11) Disclose and ensure that the applicant understands the amount of, and service provided for, each fee and charge imposed in connection with a reverse mortgage loan.

(d) *Nonborrower spouse.* A licensee is strongly cautioned to consider the appropriateness of, and fully disclose the possible consequences of, a reverse mortgage loan for a nonborrower spouse living in the mortgaged property. Consequences include the nonborrower spouse being unable to keep the property if the applicant ceases to live in the property because of the applicant's death or other circumstances which cause the applicant to vacate the premises.

(e) *Conflicts of interest.* A licensee should not:

(1) Offer ancillary or third-party products or services funded by the proceeds of a reverse mortgage loan if the licensee or an affiliated person would receive a financial benefit from the proceeds or services, excluding affiliated business arrangements as provided for and in accordance with 24 CFR 3500.15 (relating to affiliated business arrangements).

(2) Offer, solicit or make a reverse mortgage loan for the purpose of financing the sale of a product or service by the licensee or any affiliated person.

(3) Accept or receive any fee, compensation or other benefit for referring applicants to other individuals or entities for the purpose of applicants obtaining products or services to be financed with the reverse mortgage loan proceeds.

(f) *Unsuitability.* A licensee should not offer reverse mortgage loans that the licensee knows, or reasonably should have known, is unsuitable for, or contrary to the wishes or expectation of, an applicant. A licensee should ask an applicant about the purpose for the proposed reverse mortgage loan and, if the reverse mortgage loan is unsuitable for the applicant, should fully disclose to the applicant why the reverse mortgage loan is not suitable. Examples of circumstances which might indicate that an offered reverse mortgage loan is unsuitable include reverse mortgage loans when the applicant:

(1) Does not intend to reside in the property on a long term basis.

(2) Does not want nonborrower residents of the property to be displaced at the maturity of the loan because they will not be able to pay off the reverse mortgage loan.

(3) Will use the proceeds of the reverse mortgage loan to purchase a product, such as annuities or other investments, which are not appropriate for the borrower.

(4) Does not understand the terms and conditions of a reverse mortgage loan or what happens to the collateral when the reverse mortgage loan matures.

(5) Would receive disbursements from the reverse mortgage loan that are insufficient to meet the applicant's stated needs or is not enough to justify the initial cost of a reverse mortgage loan.

(g) *Servicing.* Licensee lenders should perform their servicing obligation in a timely manner and in accordance with agreements with borrowers.

(h) *Mental capacity.* A licensee should take steps to confirm the applicant understands the reverse mortgage loan transaction. When a licensee has reason or should have reason to believe that an applicant is not able to understand or comprehend a reverse mortgage loan transaction due to reduced or diminished mental capacity, a licensee should take steps to determine if the consumer has the ability to understand the transaction. These steps should be documented by the licensee and could include asking appropriate additional questions, contacting appropriate family members or a known guardian, or requesting a physician's note. If the licensee concludes that the customer is unable to understand the transaction due to diminished or reduced mental capacity, the licensee should not proceed with offering or making a reverse mortgage loan.

(i) *Powers of attorney.* When a person seeks to enter into a reverse mortgage loan transaction on behalf of an applicant pursuant to a power of attorney or other similar document, the licensee should not continue with the loan transaction without obtaining and reviewing the documents granting the power of attorney and confirming that the power of attorney documents are current and authorize the applicant's representative to enter into and consummate the proposed reverse mortgage loan. In those cases, licensees should recommend that the person acting with the power of attorney consult with the family members, if any, of the applicant regarding the consequences of a reverse mortgage loan, including the possible loss of the collateral.

[Pa.B. Doc. No. 10-1253. Filed for public inspection July 9, 2010, 9:00 a.m.]