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Changes to Reverse Mortgages That Every Attorney Needs to Know

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Speakers:

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Reverse mortgages are specific to borrowers aged sixty-two (62) years or older who own their homes either free of debt or with a low mortgage balance. The loan is not due or payable so long as the property continues to be the homeowner's principal residence, and payments to the borrower are tax exempt. In Connecticut, the most common type of reverse mortgage is the FHA-insured Home Equity Conversion Mortgage (HECM). Once qualified, homeowners have several options as to how the funds are disbursed. Payment choices include equal, monthly payments, a lump-sum payment, a line-of-credit option, or a combination of these options.

At the closing, the homeowners execute two (2) Notes, the first payable to the lender and the second payable to the Secretary of Housing and Urban Development, and two (2) Mortgage Deeds, all of which reflect the same principal amount. Due to the nature of the repayment, this principal amount is usually equal to one hundred and fifty percent (150%) of the appraised value of the home.

The preparation of the Mortgagee Policy for a HECM-type reverse mortgage differs from the standard preparation in the following ways:

Title Policy Amount: This is probably the most confusing part of preparing a mortgagee policy. The Amount of Insurance under the policy is the amount of insurance requested by the lender. This amount is lower than the principal amount of the loan as shown on the Mortgage Deed and represents the lesser of the appraised value of the property or the maximum claim amount allowed by FHA (changes annually). The Amount of Insurance differs from the face value of the mortgage deed, and the difference is explained below.

Examples: If a property appraises at $222,000.00, that is less than the current FHA maximum claim limit. So, the Amount of Insurance would be limited to $222,000.00.

If the property appraises for $900,000.00, that is more than the current FHA maximum claim amount (2019 = $726,525.00). So, the Amount of Insurance would be limited to $726,525.00.

Schedule A Amount: The amount of the mortgage as shown on Schedule A of the Mortgagee Policy should follow the amount shown on the Mortgage Deed, *i.e.*, 150% of the appraised value or the maximum claim amount. For example, assume the principal amount of the loan on the mortgage deed is $333,000.00, the Amount of Insurance as reflected on the Mortgagee Title Insurance Policy is $222,000.00, and the principal amount reflected under Schedule A is $333,000.00. The policy premium is based on the Amount of Insurance rather than on the amount of the mortgage. In this example, the premium would be based on $222,000.00.

Schedule B, Part II: A notation concerning the difference between the amount of insurance and principal amount of the mortgage must be placed on Schedule B, Part II. The language is as follows:

> “Note: The Amount of Insurance under this policy is limited to the appraised value of the property or the maximum claim amount at the date of the mortgage (whichever is less), being $______________ (example - $222,000.00), notwithstanding that the principal amount of the insured mortgage is $____________, which amount is greater than the Amount of Insurance.”

A reference to a Second Mortgage in favor of HUD in the same amount of the first mortgage must also be indicated on Schedule B, Part II. The language is as follows:

> “A mortgage in the amount of $ _________________ (example - $333,000.00) in favor of the Secretary of Housing and Urban Development dated___________ and recorded______________ in the __________ Land Records at _______am/pm.”

Special Endorsements: A Future Advance – Reverse Mortgage endorsement (ALTA 14.3-06) must be attached to the policy. Other endorsements may be requested by the lender. Check the closing instructions.

When the property is sold or refinanced, there will be only one payoff amount, even though there is both a first and second mortgage on the property. After payoff, the lender will notify HUD of the payoff, and both the lender and HUD need to send a release. Although there is only one debt, a release of both mortgages will need to be obtained and recorded.

Should you have any questions concerning reverse mortgage transactions or need assistance with the preparation of the title policy, please contact a member of our Legal Staff or CATIC’s Agent Services Department.

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<u>Exhibits</u>

A) Sample reverse mortgage title insurance policy

B) Sample Lender and HUD note and mortgage