



Reverse Mortgages May Affect Your Spouse

From the Office of Minnesota Attorney General Lori Swanson

“Sally” was younger than her husband. When they decided to take out a reverse mortgage on their home, the mortgage was only in her husband’s name. Soon after he passed away, the lender came after Sally and gave her a choice: either repay the loan in full or face foreclosure and lose her family home. Stories like Sally’s have become increasingly common as consumers discover the serious consequences a reverse mortgage can have for loved ones when both spouses are not listed on a reverse mortgage.

What is a Reverse Mortgage.

It’s hard to watch television without seeing commercials featuring retired television celebrities pitching reverse mortgages. A reverse mortgage involves a lender loaning you money based on the equity in your home. You typically don’t need to repay the loan as long as you live in the home. Most reverse mortgages are insured by the federal government, but some are offered by private lenders. Many people wonder whether a reverse mortgage is good option. Just like any complex financial instrument, there is no one-size-fits-all approach. While reverse mortgages may be suitable for some homeowners, they are not suitable for everyone.

Consequences for Married Couples.

Lenders typically require a borrower to be at least 62 years old to qualify for a reverse mortgage. When one spouse met the lender’s age requirement and the other did not, companies previously often placed the mortgage in the older spouse’s name. If the older spouse passed away or moved out of the home (such as for long-term medical care), the loan became due. The younger spouse was then placed in the difficult position of either repaying the loan or facing a foreclosure or eviction.

The available loan amount tends to increase with the borrower’s age. Because the broker’s commission is usually a percentage of the loan, excluding the younger spouse may increase the commission. Prior to recent law changes, brokers sometimes put the reverse mortgage in only one spouse’s name to maximize their commission.

Federal Law Changes.

Nearly all reverse mortgages are home equity conversion mortgages (HECMs) insured by the federal government and subject to regulations issued by the U.S. Department of Housing and Urban Development (HUD). HECMs issued after August 4, 2014, must defer repayment of the loan until after the non-borrowing spouse dies or leaves the residence. Lenders holding reverse mortgages issued before that date may assign them to HUD, which defers repayment until after the remaining spouse dies or otherwise leaves the residence.

Unfortunately, because these earlier mortgages are technically contracts between the lender and the mortgagor, the lender is not required to assign the loan to HUD and can instead still seek repayment or foreclose on the property. For both old and new reverse mortgages, to defer repayment, the spouse must be married to the

borrower (or in a committed same-sex relationship and legally prohibited from marrying) when the loan closed, must live with the borrower in the mortgaged property for the duration of the loan, and must still be married when the borrower passes away or moves out of the home. To retain the deferred repayment, the spouse must still comply with all other conditions of the loan.

Further, in determining the amount of the loan for HECMs issued after August 4, 2014, lenders must use the age of the youngest spouse, even if both spouses will not be listed on the mortgage.

Questions and Concerns.

For additional information, consumers may contact the following agencies:

U.S. Department of Housing and Urban

Development International Center

920 Second Avenue South, Suite 1300

Minneapolis, MN 55402

(612) 370-3000

Consumer Financial Protection Bureau

P.O. Box 4503

Iowa City, IA 52244

1-855-411-2372

Minnesota Department of Commerce

85 7th Place East, Suite 500

St. Paul, MN 55101

(651) 539-1500

HUD maintains a searchable database of HUD-approved HECM-counseling agencies available at https://entp.hud.gov/idapp/html/hecm_agency_look.cfm.