If your home has been damaged or destroyed by a natural disaster, your home is probably uninhabitable or in need of repairs. You may be anxious to find a trustworthy home improvement company, but be careful who you hire. Survivors of natural disasters are often targeted by unsavory home improvement contractors looking to take advantage of their precarious situation. These contractors demand large payments up front, and do little to no repair work. If a loan is needed to pay for the repairs, they may arrange a high-cost loan packed with hidden fees and costs. Here are some tips to protect yourself and your home.

**TIP 1: AVOID DEALING WITH CONTRACTORS WHO:**

- Use high pressure sales tactics like asking you to sign something right away or telling you the deal won’t last.
- Offer you special deals, like discounts on materials left over from previous jobs.
- Pressure you to sign documents immediately.
- Tell you they can help you get a loan from a lender they know.
- Misrepresent the terms of any financing they arrange.
- Only accept cash payments.
- Demand payment for the entire job up front.
- Refuse to give an estimate for the job up front.
- Ask you to get the required building permits.
- Give you only a cell phone number, pager number, or post office box as an address, and not a street address.

**TIP 2: HIRE A REPUTABLE CONTRACTOR**

- Get bids from at least three contractors. Make sure that the bids are itemized so you know exactly what you’re getting.
- Ask friends, neighbors, and family about contractors they have worked with.
- Find out how long the contractor has been in business.
- Contact the Better Business Bureau and/or the state Attorney General’s office to find out if there are any complaints about the contractor.
- Obtain and check several references from the contractor’s former customers, preferably those who had similar work done. If possible, inspect the contractor’s work in person.
- Make sure the contractor is licensed and registered with your state. Get a copy of the license to make sure it’s current.
- Talk to subcontractors about the contractor’s payment history. Your state’s law may allow subcontractors or suppliers to file mechanic’s liens against your home to satisfy their unpaid bills. Ask the contractor, subcontractors, and suppliers for a lien release or lien waiver.
- Make sure that the contractor carries personal liability, workers’ compensation, and property insurance.
damage coverage and get copies of insurance certificates to make sure they’re current.

- Make sure that the contractor is responsible for obtaining any permits required for the job and negotiate who pays for permits.

**TIP 3: WHEN HIRING A CONTRACTOR...**

**Always get a written agreement before any work starts and before you pay anything.** Make sure it contains the contractor’s name, address, telephone, and license number; the payment schedule; an estimated start and end date; the contractor’s obligation to obtain all necessary permits; how changes to the contract will be handled; warranties covering materials and workmanship as well as the contact information of the parties honoring the warranties, the length of the warranty period and any limitations. BE SURE TO PUT ORAL PROMISES IN WRITING. Never sign a contract that is incomplete or has unfilled blanks. Cross out any section of the contract that requires you to submit any dispute you have with the contractor to binding arbitration. If the contract notes that you are forced to use an arbitrator to settle a dispute, you will lose your right to sue the contractor if any problems arise.

**Remember, you may have a right to cancel the contract.** You should receive a written statement of your right to cancel the contract within three business days if you signed it in your home or a location other than the seller’s permanent place of business.

**Never pay in cash!** For smaller projects, you may be able to pay by check or credit card. If you have a problem with merchandise or services that you charged to a credit card and you have made a good faith effort to work out the problem with the seller, you have the right to withhold payment from the card issuer for the merchandise or services plus any finance or related charges.

**Shop around for a loan.** For larger projects, you may have to obtain a loan. Don’t let the contractor start work before you have a loan you’re satisfied with. Shop around for financing, and make sure that the payment terms are reasonable and affordable. Some home improvement contractors steer consumers to high-cost lenders who make loans with abusive terms. If the contractor is arranging financing, don’t sign the contract for work until the contractor has also given you the credit or loan contract. Compare the documents. What looked like a good price may turn out to be a very bad deal. Remember, you can back out of a loan at any time before you sign the papers. If you sign mortgage loan papers and the money is being used to repair or improve the home (rather than purchase it), the law allows you to change your mind within three business days. This means you can cancel the loan and get a refund of your closing costs.

**Don’t pay for the entire job at once.** As a rule of thumb, you shouldn’t pay for more than 33% of the estimated cost up front, and in many states, it’s illegal for the contractor to ask for more. Additionally, be wary if a contractor tells you halfway through the job that the final price will be higher than expected. If you have a written contract that says how much the job will cost, the contractor is not allowed to change it unless you agree to a change in the scope of the work. To learn more about your rights as a consumer, contact the consumer division of your state attorney general’s office.

**Make sure the contractor completes the job.** Don’t make final payment or sign a certificate of completion until all of the work meets the standards spelled out in the contract, permit issuers have inspected and approved the work, you have received written warranties for materials and workmanship, you have received proof that all subcontractors and suppliers have been paid, the job site has been cleaned up, and you have inspected and approved the completed work.
**Keep all paperwork in a safe place.** This includes copies of the contract, change orders, and correspondence with your home improvement professionals. Keep a log or journal of all telephone calls, conversations, and activities. Take photographs or a video as the job progresses.

**TIP 4: RESOLVING A COMPLAINT**

Try to resolve any complaints with the contractor first. Follow up any phone conversations with a letter. Send the letter by certified mail return receipt requested or send with a tracking number via postal service or another carrier, so you can prove the company received your letter. Keep a copy for your files. If your complaint isn’t satisfactorily resolved, contact:

- Your state Attorney General’s Consumer Protection Division
- An attorney or legal services office (if income eligible)
- Your state’s Licensing Board
- Your local Better Business Bureau
- A consumer reporter at your local newspaper, TV, or radio station
- Local dispute resolution programs

**ADDITIONAL RESOURCES**

Find an attorney:

- The National Association of Consumer Advocates is a network of attorneys committed to ethical representation of consumers (see Find an Attorney and search by state and practice) at: https://www.consumeradvocates.org/find-an-attorney
- Legal-aid attorney representation may be available if you are low-income. A list of local legal-aid organizations is available at: https://www.lsc.gov/


The National Consumer Law Center’s Surviving Debt (2019), contains everything consumers, counselors, community leaders, and others should know about what to do when a family is in financial trouble. The book is available in print and as an e-book at https://library.nclc.org/bookstore. Bulk pricing is available. Read the first chapter for free at https://library.nclc.org/sd/0102.

*More advice and materials about other consumer issues related to survivors of natural disasters can be found at https://www.nclc.org/issues/disaster-relief-consumer-protections.html.*
Insurance Money After a Disaster

October 2018

If your home has been damaged by a natural disaster, homeowner’s insurance can give you the money you need to repair or rebuild your home. But beware! There may be others hoping to profit from your misfortune. Scam artists and unscrupulous home improvement contractors flock to areas affected by natural disasters. Here are some tips for avoiding these scammers and getting money from your insurance company.

DON’T GET SCAMMED!

Post-disaster scams are common. Here are some examples.

- A person calls or shows up at your house to offer to help with filing claims with your insurance company or getting government benefits, for a fee. The claims adjuster sent by your insurance company and government officials, from FEMA and other agencies, do not request fees. The process for filing an insurance claim begins with a call to your insurance company.
- Your contractor asks you to sign a “direction to pay form” that allows your insurance company to pay the contractor directly (i.e., the contractor doesn’t have to go through you) before any repair work is completed or before you’ve had a chance to inspect the work that’s been done. Don’t sign such a form until the work is complete and you are sure you are satisfied with the repair work.
- A person claiming to be an agent of FEMA or another disaster relief organization calls and asks for your personal or financial information. FEMA and other disaster relief organizations do not contact disaster victims until and unless they’ve been contacted by the victim. If you receive an unsolicited phone call like this, do not disclose personal or financial information that could jeopardize your identity or bank account.

FILING YOUR CLAIM

After a disaster, the process of rebuilding your life may seem overwhelming, but it is important to get in touch with your insurance company and mortgage lender quickly.

- Obtain a copy of your homeowner’s insurance policy and a copy of your flood insurance policy (if your home sustained flood damage). Your insurance agent can provide you with a copy of your policy, if needed. Review your insurance policy to get a sense of what is covered and what obligations you may have after a loss. For example, many insurance policies have deadlines for filing claims and require the homeowner to make temporary repairs to protect against further damage or vandalism. Proof of loss for flood insurance must be submitted within 60 days unless the deadline is extended.
- Fully document any temporary repairs you make. Keep your receipts and take pictures of the damage before making repairs. (Ideally, you should take pictures or video of each room in your home before a disaster strikes, which allows for a better assessment of disaster related damages).
- Contact your insurer immediately to give notice that you have or may have a claim. If you notify your insurer by phone, follow up with a written confirmation with proof of delivery (e.g., return receipt requested or sent with a tracking number via postal service or another carrier).
• Ask your insurer for immediate financial assistance for additional living expenses. Such assistance is generally provided under homeowners’ policies.

• Make a room-by-room list of damaged possessions, note damages to the structure (e.g., walls, foundation) of the home, and take pictures or video of the damage.

• Complete any claim forms and proof of loss forms the insurer requires.

• Give your insurer your temporary contact information, if applicable.

• Keep a written record of the date and substance of all of your communications with your insurer.

• If you live in a flooded area, check your policy for language about mold coverage. Check for mold damage, especially if you detect an earthy or musty smell in the home. Mold damage may be hidden (e.g., it may become visible when your contractor opens the walls) and you may need to contact your insurance company to report additional damage. Testing for mold is often expensive and unnecessary, and a visual inspection of the home may locate the source of the problem.

• If you have a dispute with your insurer about the amount of the claim settlement, contact your state’s insurance department for assistance and try to get an independent contractor to give you an estimate of the repair cost. You don’t have to take the first insurance settlement offer, especially if you believe that the offer does not reflect all of the covered damage, including mold and other environmental damage. If your dispute continues, file a formal written complaint with your state’s insurance department and consider consulting an attorney.

CONTACTING YOUR MORTGAGE SERVICER

Your mortgage servicer is the company that sends your monthly statements on behalf of the mortgage lender that actually owns your mortgage. Your servicer also helps you resolve your mortgage-related issues. These tips can help you negotiate a smooth process with your servicer after a disaster.

• If you have a mortgage, call and advise the mortgage servicer (the company that receives your mortgage payments) of the property damage. Follow up by sending written notice.

• Keep a written record of the date and substance of all of your communications with your mortgage servicer.

• Provide your mortgage servicer with good contact information for you, including a cell phone and email address, if available.

• Relief options, such as a limited forbearance of mortgage payments, may be available. If you need assistance, including longer term assistance due to hardship, talk to your servicer about available relief options.

• A HUD-approved housing counselor can assist you in working with the mortgage servicer to put a relief option or other foreclosure avoidance option in place.

GETTING YOUR INSURANCE MONEY

Your insurance pay-out may come in two separate checks: one for damage to the home, and the second for damage to its contents.

Money for damage to your home

If you have a mortgage, then you and your mortgage servicer) will likely be the “loss-payees” (i.e., the person to whom the check is made payable) on the check for the damage to your home. The reason this check is made payable to both the homeowner and the servicer is to give the servicer control over the money and therefore over the repair process. If you do not have a mortgage then the entire check should be made payable to you.
Some mortgage servicers may allow insurers to pay borrowers all of, or a large portion of, the insurance money directly. Factors that will affect how much, if anything, you may be entitled to receive outright are:

- Whether your mortgage was current at the time of the disaster;
- The amount of the insurance loss proceeds; and
- The extent of the damage to your home.

Keep in mind that these proceeds must still be used only for home repairs. Call your mortgage servicer for more information. You may need a feasible repair plan before the servicer will release the insurance funds to you.

**Money for damage to your personal property**

Whether or not you have a mortgage, you should be the loss-payee on the check for your personal property. If your insurance provider mistakenly pays your mortgage servicer all of the insurance money (including the money due for your personal property losses), ask your servicer to issue you a check for the amount of insurance money that you were owed for personal property losses.

**BE CAREFUL WHEN CHOOSING A CONTRACTOR!**

Many unscrupulous contractors (or individuals posing as contractors) take advantage of homeowners who are desperate to get repairs or debris removal done fast. These contractors often leave such projects incomplete, do shoddy work or no work at all, and arrange financing for repairs at terms extremely disadvantageous to the homeowners. For more information about how to spot and avoid home improvement scams, read National Consumer Law Center’s *Consumer Tips: Avoiding Home Improvement Fraud After a Natural Disaster.*

**ADDITIONAL RESOURCES**

State Insurance Commissioners (links to each state’s Department of Insurance) available at: [http://www.naic.org/state_web_map.htm](http://www.naic.org/state_web_map.htm)

FEMA individual disaster aid: [https://www.disasterassistance.gov](https://www.disasterassistance.gov)


HUD-approved housing counseling agency: [https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm](https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm)


The National Consumer Law Center’s Surviving Debt (2019), contains everything consumers, counselors, community leaders, and others should know about what to do when a family is in financial trouble. The book is available in print and as an e-book at [https://library.nclc.org/bookstore](https://library.nclc.org/bookstore). Bulk pricing is available. Read the first chapter for free at [https://library.nclc.org/sd/0102](https://library.nclc.org/sd/0102).

*More advice and materials about other consumer issues related to survivors of natural disasters can be found at [https://www.nclc.org/issues/disaster-relief-consumer-protections.html](https://www.nclc.org/issues/disaster-relief-consumer-protections.html).*

[Print in PDF](#)
Still No Relief for Massachusetts Consumers Tricked by Competitive Electric Supply Companies

October 2018

From August 1, 2017 through July 31, 2018, the Massachusetts Department of Public Utilities (DPU) reported receiving approximately 832 complaints about competitive energy supply companies. Consumers reported aggressive and deceptive marketing practices targeting vulnerable consumers, as well as excessively high electric bills and difficulty cancelling contracts with energy suppliers. These complaints echo the same problems described in the 1,198 consumer complaints to the DPU between August 1, 2015 and August 1, 2017 which the National Consumer Law Center (NCLC) reviewed when issuing its 2018 report *Competing to Overcharge Customers: The Competitive Electric Supplier Market in Massachusetts*.

MASSACHUSETTS CONSUMER COMPLAINTS

Below are a few of the consumer complaints submitted to the DPU over the last year:

**Massachusetts Consumer Complaint**

"Eligo ambushed my then 89 year old mother via telephone and switched her account over to them as suppliers. Once the initial contract time ended, in December, they doubled her rate and have raised it yet again after I phoned requesting a new quote. They promised new plan details that never came, keep raising her ""variable"" rate and have not responded to our requests to terminate our service. I feel this company is not only unethical, but is targeting senior citizens who do not fully understand the new deregulation."

*Source:* DPU complaint, March 2018

**Stoneham Consumer Complaint**

"[Customer’s] daughter called, said her mother is 84 with dementia. She is getting multiple calls per day from a rep from GREAT EASTERN ENERGY. Initially the caller represents himself as being from Eversource. He claims he will give her $100 for switching supplier. She had also been bothered by Starion and Verde, until daughter called both companies. She said she called Great Eastern, and they deny calling."

*Source:* DPU Complaint, November 2017

**Somerville Consumer Complaint**

"At 8:00 pm on Thursday, November 30th, I had a man pounding on my door telling me that he needed to speak with me about my utility rates. I told him that I was uninterested and that I would not open my door to him as it was 8:00 pm and I did not know him, but he persisted and would not
go away. He continued to tell me that I needed to open up my door and show him my utility bill. I continued to tell him that I would not open the door but he continued to yell and scream at me through my door. Finally he gave up and yelled at me ‘Enjoy paying your high rates’ before leaving my doorstep. I proceeded to call the Somerville Police Department... This man was pounding on my door so hard, I felt as though he was trying to break it down.”

Source: DPU Complaint, December 2017

Dorchester Consumer Complaint

“As an elderly homeowner living at this address for 60 years, I have never seen high utility bills like the one issued to me by Direct Energy for $2,046.97. I live on a fixed income and am unable to sustain Gas / Electricity expenses at this exhorb[it]ant rate and level given the fact that my consumption does not match this amount. I find these practices deceptive and exploitative leaving much to corporate assumptions as to rates, programs and industry pricing and costing practices. Please contact regarding removal of these charges since my consumption falls way below this bill amount.”

Source: DPU complaint, February 2018

Beverly Consumer Complaint

“Discount Power Inc. phoned my 91 year old father and enrolled him as his electric supplier. This was done without his permission. During this phone call my father asked that they send the information to the home and never agreed to change from National Grid to Discount Power. I pay his electrical bill online and did not see/notice that the supplier had changed until the Nov/Dec bill arrived. . . . When I asked for a confirmation to be sent to the home the representative stated “‘We don’t do that”’. I informed the representative that I was filling a complaint with DPU that they took advantage of an elderly gentleman and changed service without permission.”

Source: DPU complaint, January 2018

Central Massachusetts Consumer Complaint

“My elderly mother . . . who is having cognitive memory issues was tricked, duped by telephone salesmen from clearview electric company into switching from her town of Oxford community to a higher rate by Clearview electric, Dallas Tx. My sister confirmed when my mother called her a few months back that she was recieving harassing phone calls to switch to Clearview and pay 1800$ year more.”

Source: DPU complaint, July 2018

Amherst Consumer Complaint

“This company, Liberty Power Holdings, LLC, has scammed my roommates and I into pay more for our electricity. Last month, a salesperson came to the door and misled my roommate into signing an agreement that was supposedly going to lower our rates. After we received the bill, our rate had increased as well as the overall total increased by $60. We have talked to other members of our apartment community and they described similar situations that happened to them. Furthermore, as college students living in an off-campus apartment community, we believe that our community was preyed on and exploited due to our age and low-income status.”

Source: DPU complaint, Dec. 2017
THE DPU HAS TAKEN NO ENFORCEMENT ACTIONS

DPU staff helps individual consumers and in some instances helps them to obtain refunds. But the DPU has not yet acted to send a strong message that deceptive practices will not be tolerated. Despite the steady volume of complaints to the DPU, the agency reported that it has not taken any enforcement actions. The Office of the Attorney General has some overlapping enforcement authority and has taken successful enforcement actions against competitive supply companies, including Viridian and Just Energy, returning millions of dollars to Massachusetts consumers. The Attorney General also filed a lawsuit against Starion Energy, alleging violations of Massachusetts consumer protection laws. But with so many complaints and reports of bad actors, enforcement by both the DPU and the Attorney General is needed.

STATE REGULATIONS ADOPTED IN 2016 GIVE THE DPU CLEAR ENFORCEMENT AUTHORITY

Although a state law passed in 1997 empowered the DPU to suspend licenses or fine competitive suppliers who broke the law, the DPU did not adopt implementing regulations to create an enforcement process until 2016. These regulations, at 220 CMR 11.07, allow the DPU to revoke or suspend a supplier’s license, prevent a company from signing up new customers for a period of time, issue civil fines, and impose other penalties. Yet even with this clear legal authority, the DPU has not taken any licensure actions, levied civil fines, or issued any penalties against any suppliers in Massachusetts.

CONSUMERS DESERVE BETTER THAN OVERPRICED ELECTRICITY

Despite promises of lower rates and meaningful consumer choice, benefits of the deregulated electricity market are still elusive for Massachusetts consumers. According to the Attorney General’s March 2018 report, Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts, residential consumers who switched to competitive suppliers paid an extra $176.8 million from July 2015 through June 2017 than if they stayed with their utility company. Low-income consumers, who are frequently targeted by door-to-door electricity marketers, suffered even more financial harm, according to the Attorney General’s report. Lured by deceptive promises of discounts, low-income consumers sign up for competitive supply more often than their non-low-income neighbors, and lost significantly more money than other households that are not low-income.

Residential households are not freely choosing to pay more for overpriced electric supply – they are being tricked and pressured by unscrupulous salespeople. Low-income and vulnerable consumers who already struggle to pay their rent, food, and other bills are suffering greater financial harm. Stronger consumer protections and aggressive enforcement by the DPU are necessary to rein in bad actors and halt abusive and deceptive practices. Every day that the DPU fails to act, consumers lose even more. The time to act is now.

ADDITIONAL RESOURCES


Print in PDF
Consumer Tips: Avoiding Home Repair Fraud: Lessons from Hurricane Katrina

Are you a survivor of a natural disaster? It’s likely that your home is uninhabitable or in need of repairs. Here are some tips to avoid home repair fraud.

TIP 1: PREPARATION IS KEY

- First, assess your situation and prioritize your needs. Consider your financial situation and the resources available to you before you proceed.

TIP 2: RESEARCH POTENTIAL CONTRACTORS

- It’s important to research a contractor’s previous work before hiring someone. Get referrals from friends, colleagues, and family. Have multiple contractors evaluate your home and give you an estimate to make sure you’re being offered fair, reasonable prices. Before hiring anyone, ask for current certificates of personal liability, workers’ compensation, and property damage coverage insurance, references from past customers, verify the contractor is licensed and registered with your state, and check their driver's license and work address.

TIP 3: TAKE CHARGE OF THE FINANCIAL PLAN AND CONTRACT

- Be in control of the contract and finances as this is your home and your money. Spell out every detail of the agreed upon work in the contract, including the start date and estimated end date of the contract period. Make sure any changes to the contract are initialed and signed by both parties. Make sure a final contract is agreed on and signed before any work begins.

TIP 4: LOOK FOR RED FLAGS

- If the contractor asks for a large sum, (anything over $1000 or more than 10% of the total cost) don’t pay it. Instead create a payment plan and hold on to the final check until all the work is completed and inspected.
- Avoid contracting with door-to-door solicitors, high-pressure sales, or “special offers”. You should be the one to initiate contact.
- Keep a copy of the contractor’s information (ID, contracting license, and address), the signed contract, any payments, and take photos or videos of the work as it progresses.

TIP 5: IF RIPPED OFF…..

Unfortunately you can do everything right and it still may not work out. If that happens, here are some steps you can take:

- File a complaint with your local police and state attorney general’s office.
- File a complaint with the Better Business Bureau and the state agency that licenses and enforces the rules that apply to contractors.
- Consider filing a civil lawsuit to pursue restitution or punitive damages. Find a legal-aid attorney at: https://www.lsc.gov or a National Association of Consumer Advocates attorney at: https://www.consumeradvocates.org/find-an-attorney

More advice and materials about other consumer issues related to survivors of natural disasters can be found at https://www.nclc.org/issues/disaster-relief-consumer-protections.html.

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**Consumer Tips: Weathering the Financial Storm After a Natural Disaster**

**October 2018**

In the aftermath of a natural disaster you may feel overwhelmed with the task of putting your life back in order. Here are some simple strategies for working with your creditors to rebuild your financial life.

**PRIORITIZING YOUR DEBT**

Prioritize which debts to pay first. A natural disaster will lead to unexpected expenses and may also affect your income. As a result, you may not be able immediately to keep up with all your debt obligations. You must make tough decisions about which debts to pay and which to put off, at least for a while. Review each debt to see what will happen if you don’t pay and whether the creditor will make at least a temporary exception because of the natural disaster.

**High Priority Debts**

- **Court judgment debt.** You have been sued on a debt and a court has ruled for the creditor. In most states the creditor has the right to seize part of your wages, bank accounts, and even your home or other property.
- **Criminal justice debt.** Non-payment of debt arising from a criminal proceeding (such as fines, fees, and costs) can lead to immediate loss of your driver’s license, lost income or assets, or even incarceration.
- **Automobile loans or leases** can result in the creditor repossessing your car after you miss only a few payments.
- **Rent payments for your residence** (or for the lot on which your manufactured home sits). Swift eviction can result if you do not keep up these payments.
- **Utility bills.** Non-payment of utility bills can lead to termination of gas, electric, water and other utility service. In some states, programs to help people avoid disconnection may make utility bills a somewhat more flexible priority. Check with your utility or the consumer division...
of your state utility commission to find out about bill payment assistance and protections from disconnection in your state.

- **Child support debts** will not go away and can result in very serious problems, including prison, for nonpayment.

**Debts That Quickly Become High Priority**

Other debts can be put off for a few months, but at some point soon they become just as high priority debts as those listed above, and then must be addressed immediately.

- **Home mortgage delinquencies.** Miss a month or two and you are unlikely to face foreclosure, but if you get enough months behind, you face loss of your home.
- **Federal student loans** are not in default until you are nine months behind on payments, but then you are at risk of seizure of your tax refund and your Social Security or other federal benefits, wage garnishment without a court order, the addition of collection costs to the debt, and denial of new student loans and grants.
- **Taxes owed to the IRS.** Even if you do not pay your federal income taxes when due, always file your tax return on time, or file it by the deadline set by any requested extension. Then you can delay for a time paying taxes owed without serious adverse consequences. But at some point working out an arrangement with the IRS becomes critical, because the IRS can seize your bank account, part of your paycheck and federal benefits, and even your home.

**Lower Priority Debts**

Lower priority debts should not be paid ahead of higher priority debts if this prevents you from appropriately dealing with high priority debts. Low priority debts become higher priority once you are sued in court on the debt. Some low priority debts are:

- **Medical debt,** including payments due hospitals, doctors, other medical professionals, dentists, and ambulance companies. This debt cannot be added to your credit report until it is six months past due, and is unlikely to involve high interest rates or late charges. If the debt is from a non-profit hospital, you may contact the hospital to apply for financial assistance.
- **Credit card debt.** You will not be subject to seizure of bank accounts, income, or property until you are successfully sued on the debt or there is a default judgment taken against you. Debt collection contacts can easily be stopped.
- **Private student loans.** These loans typically do not involve collateral, and special remedies available to the government to collect federal student loans do not apply to private student loans.
- **Debts you owe as a co-signer.** If you co-signed for someone else’s debt and put up your home or car as collateral for the other person’s loan, the loan is high priority. Other loans for which you are a co-signer but have put up no collateral are low priority. If others have cosigned for you, tell them about your financial problems so that they can make plans.
- **Deficiency actions after your car is repossessed.** If a creditor repossesses your car and sells it for less than the amount owed on the car loan, it may seek the difference from you, which is called a deficiency. This is a low priority debt because you have already lost the car, your credit rating has already been damaged, and the creditor can do little to you very soon.
- **Charge accounts or other debts owed to merchants,** particularly if the merchant has not taken as collateral the goods sold (meaning that the company that sold you the item can’t repossess it if you can’t pay).
- **Small loans even when they take household goods as collateral.** Non-payment is unlikely to cause you to lose household goods taken as collateral because creditors rarely seize them.

**CREDITORS WHO MAY POSTPONE YOUR REPAYMENT OBLIGATION**
Particularly where the federal government makes, insures, guarantees, or closely regulates a loan; there may be special repayment accommodations after a natural disaster.

- Contact your mortgage servicer (the entity you make your mortgage payments to) for special repayment options for your home mortgage. Pending foreclosures may also be delayed.
- Contact your federal student loan servicer about a “disaster-related forbearance” to delay payments for 90 days, or other options, such as adjusting your monthly payment based on your income. Find your servicer at https://studentaid.ed.gov/sa/ or at 1-800-4FED-AID.
- Contact your utility or the consumer division of your state utility commission to find out about any protections against utility termination. If you evacuate your home because of the disaster, be sure to contact your utility. There may be special protections for you when you return to your home and want to restore utility service.
- Negotiate with your other creditors. As soon as you are able, contact your other creditors and let them know that your finances have been affected by a natural disaster. Most lenders understand that your immediate concern will be the health and safety of your family. Many have policies that will allow you to defer or reduce your monthly payment, and waive or reduce late fees and other penalties. It may also be possible to temporarily reduce the interest rate on your credit card account or other loan. If you have been displaced by a disaster, make sure to give the creditor your current address.

Regardless of the type of deal you negotiate, be careful about offering to pay too much. Even a small amount of money to your low priority creditors is unwise if it prevents you from buying basic necessities or paying higher priority debts.

DEALING WITH DEBT COLLECTORS

Do not let debt collectors convince you to pay low priority debts (such as credit card or medical debt) ahead of your basic necessities or high priority debts. Debt collectors may try to scare you with vague threats of dire consequences if you don’t pay their debt, but there is usually little they can do to you very soon, while non-payment of high priority debts can result in immediate and serious consequences for your family. You can stop most debt collection calls and letters simply by sending the collector a letter identifying the account number and asking the collector to stop all contacts. Federal law requires third-party collection agencies to stop their collection efforts after they receive this letter. Send the letter return receipt requested and keep a copy.

STRATEGIES CONCERNING YOUR CREDIT RECORD

If you are having trouble paying your bills on time as a result of a natural disaster, your credit record will reflect this and your credit score may decrease. But this should not be a reason to suddenly pay an overdue low priority debt. By the time you receive debt collection calls, your credit rating has already suffered and paying now will not help your credit rating. On the other hand, paying the low priority debt ahead of high priority debts can really hurt both your family and your credit score.

If your credit or rental application is turned down because of your credit rating, explain to the creditor that the natural disaster causes the low credit score and that you will soon be back on your feet. For example, if you have to evacuate your home and are looking for a new rental, explain to the landlord your circumstances.

STOP PREAUTHORIZED TRANSFERS

You may be paying off some of your debts through a pre-authorized automatic payment from your
bank account. Stopping these payments on low priority debts will provide you with extra money to pay your high priority debts. To stop these transfers, notify your bank or credit union verbally or in writing at least three business days before the date the transfer is scheduled to take place. If you gave the instruction verbally, you should confirm this instruction in writing within 14 days. Be sure to give the institution your change of address if you have moved.

BANKRUPTCY IS AN OPTION

If you are overwhelmed with debt after the disaster, filing for bankruptcy can help you get a fresh start for many but not all your debts. Seek professional advice about whether this is your best option and when is the best time to file—you want to file in time to protect your home, car, bank account, and wages from seizure, but you may want to delay if you are going deeper into debt because of the disaster, health problems, or another compelling reason. In most bankruptcies you will not lose your possessions and in many cases you can even keep your home and car.

ADDITIONAL RESOURCES

The National Consumer Law Center’s *Surviving Debt* (2019), contains everything consumers, counselors, community leaders, and others should know about what to do when a family is in financial trouble. The book is available in print and as an e-book at [https://library.nclc.org/bookstore](https://library.nclc.org/bookstore). Bulk pricing is available. Read the first chapter for free at [https://library.nclc.org/sd/0102](https://library.nclc.org/sd/0102).

Find an attorney:

- The National Association of Consumer Advocates is a network of attorneys committed to ethical representation of consumers (see Find an Attorney and search by state and practice) at: [https://www.consumeradvocates.org/find-an-attorney](https://www.consumeradvocates.org/find-an-attorney)
- Legal-aid attorney representation may be available if you are low-income, A list of local legal-aid organizations is available at: [https://www.lsc.gov/](https://www.lsc.gov/)

More advice and materials about other consumer issues related to survivors of natural disasters can be found at [https://www.nclc.org/issues/disaster-relief-consumer-protections.html](https://www.nclc.org/issues/disaster-relief-consumer-protections.html).

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**How HUD is Failing to Protect Widows and Widowers of Reverse Mortgage Borrowers**

**Case Studies and Recommendations**

November 2018

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Reverse mortgages are intended to help elders age in their homes. Yet, across the country, widows and widowers are losing their homes because of HUD’s failure to prevent foreclosures on reverse mortgages their now-deceased spouses previously obtained. HUD should take immediate action to
better inform reverse mortgage borrowers and their spouses about options to avoid foreclosure on a non-borrowing spouse, remove arbitrary and unrealistic deadlines for lenders to elect to participate in the program, and ensure that the program can work effectively to help non-borrowing spouses stay in their homes.

**HOW REVERSE MORTGAGES WORK**

Reverse mortgage loans are designed to make it easier for older homeowners to age in place by allowing them to borrow against the equity in the home without the risk of displacement. Congress authorized HUD to create an FHA-insured reverse mortgage product, known as the Home Equity Conversion Mortgage (HECM), in order to increase lenders’ willingness to extend reverse mortgages.

The proceeds of a reverse mortgage can be taken as a lump sum, a line of credit, or a stream of monthly payments. So long as the borrower continues to occupy the home as his or her principal residence, no payment of principal or interest on the loan is required. The loan balance grows over time as the interest is added on to the principal balance, unlike most mortgages, where the balance goes down over time (hence the name “reverse” mortgage). The full loan balance becomes due and payable upon a triggering event – in most cases, the death of the last remaining borrower.

Because the loan balance will grow over time, HUD requires lenders to calculate the initial amount of the loan based on the age of the youngest borrower – so that the younger the borrower, less money will be loaned, making it less likely that the balance will grow to exceed the value of the home. The FHA insurance covers the shortfall if the loan eventually does grow to exceed the value of the home.

**HUD’S STATUTORY MANDATE TO PROTECT A REVERSE MORTGAGE BORROWER’S SPOUSE FROM DISPLACEMENT WHEN THE BORROWER DIES**

When Congress authorized HUD to create the HECM program, it wanted to protect older homeowners, including their spouses, from the risk of displacement from their homes. Congress specified that HUD could only insure loans that protected both the homeowner and any spouse from displacement. However, despite this statutory requirement, HUD issued regulations and required lenders to use form loan documents that made the loans due and payable upon the death of the borrower – ignoring any spouse that was not included as a borrower on the loan. This created an incentive for some lenders and mortgage brokers to encourage married couples to leave off the younger spouse, so that more money could be borrowed on the loan. Most couples that opted to take out a reverse mortgage in the name of only one of two spouses had no idea that the non-borrowing spouse would face foreclosure and eviction because the loan would become due and payable upon the death of the borrowing spouse. Once the loan becomes due and payable, the full amount must be paid immediately or else the lender has the right to foreclose.

HUD fixed this problem prospectively for new HECMs originated after August 4, 2014, in which non-borrowing spouses are factored into the calculation of initial loan proceeds and automatically allowed to defer foreclosure if they outlive the borrower. After litigation, HUD created the Mortgagee Optional Election (MOE) for HECMs originated prior to August 4, 2014 to allow the surviving non-borrowing spouse to remain in the home until his or her death or until some other triggering event occurs. This is done through a mechanism in which servicers can elect to assign the loan to HUD when a qualifying non-borrowing spouse resides in the home, so that HUD can hold the loan and allow the non-borrowing spouse to remain in the home. Having the option to assign the loan to HUD allows the lender to be paid its insurance claim, and made financially whole, without
having to carry out a foreclosure while a non-borrowing spouse is still in the home. Then HUD can hold the loan, deferring the “due and payable” status of the loan and postponing foreclosure until the non-borrowing spouse passes away or otherwise fails to maintain the loan obligations.

To be eligible to have the loan assigned to HUD through the MOE program, there are a number of substantive eligibility requirements. The loan must not be due and payable for any other reason – meaning that the borrower and spouse must have continued to pay the required property taxes and homeowner’s insurance for the home. The spouse must have been legally married to the borrower at the time the loan was taken out, with a limited exception for same-sex couples, and must have remained married until the borrower’s death. Finally, the spouse must be able to show that he or she has “good and marketable title” or a legal right to remain in the home until his or her death. This final requirement should pose no problem for most spouses, who inherit either through a will or intestate law, but some servicers have imposed onerous documentation requirements due to a lack of clarity in HUD’s policies, creating unnecessary hurdles.

By far the biggest hurdle for non-borrowing spouses attempting to prevent foreclosure through the MOE Assignment, though, is the very strict set of deadlines HUD has imposed for a servicer to make the MOE election and initiate the assignment to HUD. As a result of these deadlines, many otherwise eligible spouses are being denied the opportunity to remain in their homes. HUD requires that the election to carry out the MOE Assignment be made within 120 days of the borrower’s death and that the assignment itself be initiated within 120 days after the election. Because spouses often do not know about these deadlines and may be overwhelmed by the many demands they face after losing a loved one, many do not meet these deadlines. Moreover, processing at the servicer often takes longer than 120 days, in part because HUD has imposed requirements that are not spelled out in its governing policy document (Mortgagee Letter 2015-15) and because servicers do not have a clear understanding of how HUD is interpreting certain requirements, such as having “good and marketable title” or a legal right to remain in the home. HUD’s MOE deadlines are arbitrary and capricious, unreasonable, and unworkable, and have resulted in a huge number of inappropriate denials for the MOE.

HUD must reform its MOE rules to provide reasonable access to the program. Instead of the current rules, when a borrower dies and leaves behind a non-borrowing spouse on a HECM originated prior to August 4, 2014, assignment of the HECM to HUD should be allowed up until a foreclosure sale has been completed. It is simply not realistic to require a recently widowed spouse, grieving and attempting to get his or her affairs in order, to obtain enough information from the mortgage servicer about the MOE and then provide the necessary information to the servicer within 120 days of the borrowing spouse’s death. Moreover, HUD should require servicers to regularly inform borrowers and their spouses of the MOE program prior to the borrower’s death. Right now, too many spouses have no idea that the program even exists until it is too late.

The problems with strict, arbitrary deadlines are exacerbated by poor distribution of information about the MOE by both servicers and HUD, as well as mistaken implementation of the MOE requirements by both. NCLC has heard from numerous advocates representing spouses where the servicer made the MOE election, but either the servicer or HUD have incorrectly applied the MOE criteria, causing delays and leading to a later rejection of the MOE Assignment as untimely. Many of these improper denials relate to misunderstandings surrounding the requirement that a non-borrowing spouse have good and marketable title or a legal right to remain in the home within 90 days of the borrowing spouse’s death.

NCLC recommends the following changes to HUD’s MOE Assignment program, in order to make it more accessible and viable for most non-borrowing spouses.
HUD should remove unnecessary deadlines for the MOE program or, at a minimum, provide waivers of deadlines in appropriate cases.

HUD should require servicers to communicate clearly with borrowers and non-borrowing spouses about the MOE program and steps needed to qualify for the program, beginning immediately, even before the borrower’s death.

To the extent any deadlines remain in place for the program, HUD should clarify that when a servicer initiates an assignment within the allowed timeframes, this is deemed timely, even if HUD asks for the servicer to take certain follow-up actions to complete the process.

HUD should explain the requirement for “good and marketable title” or a legal right to remain in the property until death. Probate need not be completed in order to demonstrate a legal right to remain in the home in situations where the spouse is an heir, has automatic rights in the home under state law, or otherwise has a legal right to remain. Subordinate liens that do not jeopardize the mortgage’s first lien priority need not be satisfied, in order to meet this standard. Yet, many servicers are requiring a probate court order and cancellation of subordinate liens, blocking spouses from accessing the MOE.

HUD should allow additional time for non-borrowing spouses to cure a default on property taxes or insurance when spouses are actively attempting to repay these charges or are eligible for help paying the charges through an assistance program, such as a Hardest Hit Funds program.

HUD should require servicers to communicate with non-borrowing spouses at every step of the process, and HUD’s Servicing Center should provide accurate, up to date information to any non-borrowing spouse who makes an inquiry into the status of their assignment.

HUD should expand the MOE program to allow lenders to elect to assign loans to HUD when a loan has become due and payable due to a borrower permanently moving out of the home, for health or other reasons, if there is a non-borrowing spouse still residing in the home.

The following cases studies demonstrate why these recommended policy changes are so important in order to prevent unnecessary foreclosures that would dispossess non-borrowing spouses.

CASE STUDIES

These case studies were provided to NCLC by advocates around the country representing non-borrowing spouses (NBS’s) facing the risk of foreclosure due to their inability to access the MOE program.

1. HUD should make the MOE Assignment program viable by removing unreasonable deadlines or granting waivers of the deadlines.

   A. Deadline problems have arisen because of servicers’ failures to communicate clearly about the requirements and failure to clearly understand the requirements for the MOE. HUD’s failure to provide clarity in the requirements, at least initially, caused many servicers to miss the deadline despite a desire to make the MOE election.

P.B., Philadelphia, PA
Submitted by: Michael Froehlich, Community Legal Services of Philadelphia
Servicer: Reverse Mortgage Solutions (RMS)

P.B., aged 68, married Mr. B in 1976 and moved into her mother’s house. Mrs. B purchased the home from her mother in 2007. The home needed repairs. Someone came to the home in 2010 and
advised them that if Mrs. B (then 60 years old) transferred the house to Mr. B (then 62 years old), they could get a reverse mortgage. Both Mrs. B and her husband were told that if he died first, she would still be able to remain in the home. Mrs. B transferred her home to her husband, and they received $35,000 from a HECM loan to do home repairs.

Mr. B died on April 4, 2016. RMS sent a notice dated April 22, 2016, about a means for Mrs. B to stay in her home, and requested certain documents, including “a copy of the deed.” Mrs. B promptly sent in all the documents requested, including a copy of the 2010 deed transferring the property to Richard. She did not know—and was not told—that RMS in fact wanted a deed transferring the property back to Mrs. B. RMS made at least two more requests for a copy of the deed, and in response to each of these requests, Mrs. B mailed in copies of the 2010 deed.

In September 2016, RMS sent Mrs. B a Notice of Intent to Foreclose. Mrs. B then contacted a housing counselor. In October 2016, the housing counselor called RMS to find out what was needed to obtain the MOE Assignment for a NBS. Only then did RMS explain to the housing counselor that it needed a deed in Mrs. B’s name. Mrs. B probated Richard’s estate and, with the help of the housing counselor and the Senior Law Center, recorded a deed transferring the house to Mrs. B on August 29, 2017.

RMS told Mrs. B that it could not complete the MOE Assignment because it was now past the applicable deadlines. Beth Shay, Esq., from the Senior Law Center reached out to HUD’s National Servicing Center on July 3, 2018. HUD responded that it had no control over RMS’s decision not to continue with the MOE Assignment, ignoring the fact that RMS was willing to proceed with the MOE Assignment if only HUD would agree to waive the deadlines. Mrs. B has continued to maintain the home, pay her property taxes, and stay current on her hazard insurance, in order to keep herself eligible for the MOE Assignment in the event that HUD may allow it.

J.P., Annapolis, MD
Submitted by: Susan Cook, Attorney and Bronwyn Belling, Housing Counselor
Servicer: Reverse Mortgage Solutions (RMS)

J.P. and her advocates notified RMS within 30 days of her husband’s death. They received no response until almost 5 months after the death (and then only after initiating contact through a connection her advocates had). Meanwhile, the date for RMS to Elect the MOE Assignment (10/10/2015) had passed; RMS did not upload the Notice of Election until 12/22/2015. RMS then sought multiple extensions of time from HUD. Ms. P is eligible for the MOE in every respect except for the deadline issue. RMS’s conduct makes it clear that RMS wants to make the assignment, and would do so, if HUD would agree to accept it.

Ms. P’s advocates contacted HUD’s National Servicing Center (NSC) by email for assistance. On 4/20/2018 they advised that RMS did not meet the required deadlines, including failing to upload the assignment into HUD’s servicer communication system, HERMIT, therefore precluding a HECM assignment. According to HUD, the only option was for RMS to foreclose, or to determine whether the NBS might be eligible for other types of relief (such as a deed in lieu of foreclosure). When RMS finally responded to inquiries from Ms. P in 2018, it incorrectly claimed that she had failed to provide proof of title.

Ms. P’s advocates are still attempting to negotiate with the attorney representing RMS. They have not heard anything for over 30 days and fear the lender may be moving forward with foreclosure.

Mrs. J., Chicago, IL
Submitted by: LAF (Legal Assistance Foundation) of Chicago
Mrs. J reached out to RMS within 120 days of her husband’s death. She provided the documentation that RMS requested. However, RMS failed to make the MOE election within the 120 day deadline, and also never informed Mrs. J of this deadline. HUD denied the MOE Assignment because of RMS’s failure to meet the deadline. Even though RMS had indicated a desire to avoid foreclosure and recognizes Mrs. J as an eligible surviving spouse, RMS is now planning to move forward with the foreclosure because of the denial it received from HUD. Mrs. J is 74 years old and has been in the home since 1978. She is current on her property taxes and her insurance.

Mrs. Y., Oliver Springs, TN
Submitted by Janet Mynatt, Legal Aid Society of Middle Tennessee and the Cumberlands
Servicer: Reverse Mortgage Solutions, Inc.

Mrs. Y and her husband purchased their home in 2006. In May 2009, they entered into a reverse mortgage loan with Mr. Y as the sole borrower. He was age 70 and she was age 66 at the time. Mr. Y passed away on March 19, 2015. He did not leave a will, but Ms. Y was an heir under intestate law.

On April 24, 2015, Mrs. Y submitted documentation per her servicer’s instructions (Champion Mortgage) to establish that she met the eligibility criteria for the MOE Assignment of the loan to HUD for deferral of due and payable status until her death. Under Tennessee law Mrs. Y automatically, as a spouse, has the legal right to remain in the property for life. RMS began servicing the loan on May 1, 2015. Mrs. Y submitted documentation to show she met all requirements for the MOE Assignment to RMS multiple times after they began servicing the loan. RMS notified HUD of its intent to utilize the MOE Assignment on October 9, 2015, within the applicable deadline. Mrs. Y then heard nothing from RMS for about six months. Mrs. Y executed and returned a Forbearance and Tolling Agreement prepared by counsel for RMS, upon request, on April 27, 2016.

RMS last requested additional documentation for its assessment of eligibility on November 3, 2016 to be submitted to RMS by November 30, 2016. Mrs. Y again provided RMS the requested documentation along with legal authority supporting her legal right to remain in the property on November 20, 2016. On April 20, 2018, a different law firm (not the Trustee firm) notified Legal Aid that HUD had declined the MOE Assignment. Legal Aid contacted the HUD National Servicing Center by e-mail on May 2, 2018, and learned from HUD that RMS never made the MOE Assignment and that if RMS made the assignment now, it would be declined as untimely. On June 12, 2018, the firm representing RMS acknowledged that RMS never made the MOE Assignment and advised that it now must pursue foreclosure or a short sale by the terms of the HECM Deed of Trust and in order to maximize the amount of FHA insurance reimbursement RMS will be eligible to receive for the loan. Mrs. Y faces the risk of imminent foreclosure and is desperate to save her home.

B. Even when servicers do initiate the assignment within the applicable deadline, issues have arisen with HUD asking for additional documentation and then rejecting the assignment as untimely.

Mrs. S., Stone Mountain, GA
Submitted by Rachel Scott, Atlanta Legal Aid Society
Servicer: RMS

Mrs. S is 85 years old and has lived in her home for 38 years. She was married to Mr. S for more than 57 years when he passed away. At the time the reverse mortgage loan was originated in 2009,
Mrs. S was 76 years old. It is unclear why the lender did not give Mrs. S the option of being included as a borrower on the HECM with her husband. Mrs. S was only eight months younger than her husband, so her inclusion as a borrower would have had a negligible effect on the available loan proceeds and would have been feasible.

Mr. S passed away in January 2014. Mrs. S was awarded full title to the property by the Probate Court on August 12, 2014. She has also continued to maintain the property taxes and homeowner’s insurance on her home. Following HUD’s 2015 creation of the MOE program, RMS began working with Mrs. S to assign her loan pursuant to the MOE program. RMS advised that it timely made the election to pursue the MOE Assignment on October 9, 2015 (within 120 days of ML 2015-15). Mrs. S’s legal aid attorney also understands that RMS timely initiated the MOE Assignment to HUD less than 120 days from the date of election.

However, despite Mrs. S’s eligibility as a qualifying non-borrowing spouse under the MOE criteria, and despite RMS’s compliance with the deadlines to make the MOE election and initiate the assignment, Mrs. S’s attorney was informed that HUD denied the assignment for reasons other than those set forth in Mortgagee Letter 2015-15.

HECM servicers report that in many cases, as in this one, HUD has denied the MOE Assignment with instructions that the servicer can correct the denial reasons and then resubmit the loan for assignment. However, once the servicer corrects the issues and resubmits, HUD then denies the assignment as being submitted more than 120 days after the date of election (referred to herein as the 240-day deadline). Ms. S faces imminent foreclosure and loss of her home of 38 years unless HUD agrees to waive the MOE deadline or acknowledges that RMS met the relevant deadlines by “initiating” assignment within 120 days of the election.

C. The strict deadlines to make the election and initiate the assignment are sometimes unrealistic because there are complicated issues to resolve, including title issues and property charge defaults.

Mr. M., Queens Village, NY
Submitted by: Jennifer Levy, JASA Legal Services for the Elderly in Queens
Servicer: Champion

Mr. M is 67 years old. He is a non-borrowing spouse whose terminally ill wife took out a reverse mortgage in her name only because she was the older spouse. Mr. M’s name was removed from the deed. Shortly after, Mrs. M passed away and the reverse mortgage loan was immediately called due and payable. Around the same time, the servicer advanced funds to pay for property taxes and insurance, which had gone into default.

When Mr. M came to JASA/LSEQ, Champion had already scheduled a foreclosure sale. JASA/LSEQ was able to get Champion to agree to postpone the sale, but after that it was a long and arduous process to obtain relief. After over a year of opposing counsel refusing to have Mr. M considered for the HUD deferral program as a non-borrower surviving spouse and refusing to provide JASA/LSEQ authorization to speak directly with JASA/LSEQ’s contacts at Champion, we were finally able to speak with Wendy Stewart at Champion. It was Champion’s position that Mr. M was not eligible for the MOE Assignment because his name was not on the deed. Unfortunately, the attorneys who helped the M’s take out the reverse mortgage also drafted a deathbed will for Mrs. M that disinherited her husband. Although a probate proceeding was commenced and Mr. M was named the executor of Mrs. M’s estate, Champion still took the position that Mr. M could show no legal interest in the property. JASA/LSEQ explained that regardless of what the will stated, Mr. M as her spouse could not be disinherited under New York law, and so retained a legal interest - therefore
qualifying him to be able to remain in his home for the rest of his life as required for the MOE Assignment. During all that time, the HUD rules were still being developed after federal litigation and other national advocacy, resulting in new a Mortgagee Letter being published by HUD in June 2015. JASA/LSEQ assisted Mr. M in obtaining a grant of over $17,000 to bring the property charges current. Champion ultimately approved Mr. M’s status as a non-borrowing spouse and discontinued its foreclosure action. The loan was successfully assigned to HUD. However, if the borrower’s death had occurred after June 2015, HUD’s very strict deadlines would likely have barred Mr. M from accessing the MOE, because proving Mr. M’s interest in the home under state law required a lengthy period of advocacy.

D. HUD’s refusal to grant any waivers of the MOE deadlines leads to unnecessary foreclosures harming eligible non-borrowing spouses.

Ms. B., Philadelphia, PA
Submitted by: Michael Froehlich, Community Legal Services of Philadelphia
Servicer: Celink

Ms. B’s attorney notified Celink’s attorneys that Ms. B wanted to pursue the MOE Assignment on June 20, 2015, while her case was in mortgage foreclosure proceedings. Ms. B submitted all of the necessary documents showing that she is an eligible non-borrowing spouse on August 24, 2015, well within 120 days after issuance of Mortgagee Letter 2015-15. Celink then, within its 120-day deadline, informed HUD that it was electing to assign the loan under the MOE program. Its foreclosure attorneys then failed to initiate the assignment in a timely manner. The servicer notified Ms. B that there was an escrow deficit, giving her until December 18, 2015 to cure it, which she did. Then, on December 22, the servicer told Ms. B that there were other outstanding liens. Ms. B agreed to pay the liens she was responsible for, on the condition that the servicer would make the MOE election. The servicer refused to make that promise and said that, instead, it would no longer consider her for the assignment. In December 2017, Celink asked HUD to make an exception to the timelines and accept the assignment. HUD refused (even after the intervention of Senator Bob Casey of Pennsylvania. The case went to trial in May on the foreclosure and the parties are awaiting a decision from the judge. Ms. B is eligible for the MOE in all respects except for the deadline issues, and it is clear that if HUD would accept the assignment, Celink would again attempt to assign the loan.

Ms. G., Jamaica, NY
Submitted by Stacey Woods, Queens Legal Services
Servicer: Reverse Mortgage Solutions (RMS)
*Foreclosure lawsuit pending

Reverse Mortgage Solutions (“RMS”) began to evaluate Ms. G for the MOE on October 8, 2015. By that time, the only barrier to assignment of the loan to HUD was past due property charges in the amount of $7,295.51. (The borrower was behind on his property taxes at the time of his death on June 18, 2014, and the arrears continued to accrue after his death.) On January 28, 2016, RMS sent Ms. G a notice informing her that she was an eligible non-borrowing spouse and that she had 30 days to submit payment for the property taxes advanced by RMS. Mrs. G was unable to come up with the $7,295.51 in a lump sum. RMS notified HUD on March 8, 2016 that it was calling the loan due and payable. RMS notified Ms. G on April 25, 2016 that she did not qualify for the MOE and that it would commence foreclosure proceedings. RMS commenced the foreclosure action on July 8, 2016. Mrs. G is represented by Queens Legal Services in the foreclosure proceedings. Mrs. G was approved for a loan from the local department of social services in August of 2016, and checks totaling $7,295.51 were sent to RMS. RMS rejected the payment. RMS’s counsel represented to QLS during settlement negotiations that it had asked HUD to waive the MOE Assignment deadlines
imposed by Mortgagee Letter 2015-15 and to accept assignment of the loan, but that HUD refused. QLS asked HUD to waive the deadlines on July 17, 2017 via email and phone, and HUD has again refused. Ms. G has lived in her home since 1975. Her husband was a World War II veteran. If HUD does not grant an exception to the MOE deadline, Ms. G will face foreclosure, eviction, and displacement from her longtime home.

E. Non-borrowing spouses are often unaware of the status of an MOE Assignment, and may not even realize there is a problem.

Ms. R., Nashau, NH
Submitted by: Stephanie Bray, New Hampshire Legal Assistance
Servicer: Reverse Mortgage Solutions (RMS)

Ms. R. is 53 years old. The reverse mortgage in question was originated in February 2014. Ms. R meets all eligibility criteria for the MOE Assignment. She is current on taxes and insurance. RMS initially sent a “Tolling, Release and Forbearance Agreement” to her probate counsel on or about March 7, 2016. This agreement specifically referenced HUD Mortgagee Letter 2015-15. RMS agreed that Ms. R qualified for the MOE Assignment, but apparently took a very long time to send the required documents to HUD. After March 7, 2016, there followed a long period of silence from RMS, during which Ms. R and her counsel assumed that RMS was moving the process along with HUD. On May 2, 2018, Ms. R’s attorney got a call from an attorney for RMS. He indicated that HUD was saying that RMS was out of compliance (with HUD’s MOE deadlines), and that this put RMS in a bind with HUD. The attorney wanted to know if Ms. R would be interested in a deed in lieu or other non-retention solution. Ms. R said no, she wanted to remain in her home. Neither Ms. R nor her counsel have heard anything since May 2, 2018. There is a serious concern that RMS may initiate foreclosure unless HUD will agree to take assignment of the loan.

P.K., Philadelphia, PA
Submitted by: Michael Froehlich, Community Legal Services of Philadelphia
Servicer: James B. Nutter & Company

P.K. met all eligibility requirements to be considered an eligible non-borrowing spouse, and requested the MOE Assignment from her lender on August 17, 2015, well within 120 days of the issuance of Mortgagee Letter 2015-15. Her servicer requested additional information in October of 2016, which Ms. K provided promptly. The servicer eventually confirmed that it would assign the reverse mortgage to HUD on January 11, 2017. As of June 2018, Ms. K was still waiting on confirmation of this transfer actually occurring, and public records do not reflect that the transfer took place. Her story illustrates the degree to which non-borrowing spouses are at the mercy of the reverse mortgage servicer to make the timely election to HUD, and the difficulty spouses are having getting information regarding the status of the assignment.

2. HUD should require servicers to communicate with borrowers about the MOE regularly prior to the borrower’s death and to explain the MOE option to non-borrowing spouses promptly after receiving notice of a death.

One reason the MOE deadlines are often missed is that spouses don’t know about the program at all. Servicers should be required to notify borrowers and spouses of the program routinely during the life of the loan (perhaps along with the annual occupancy certification) and to notify spouses promptly after learning of a borrower’s death.

G.R., Philadelphia, PA
Submitted by: Michael Froehlich, Community Legal Services of Philadelphia
Servicer: Champion Mortgage
Date of Death: January 31, 2016

G.R., age 70, didn’t know that her husband had executed a reverse mortgage and only found out at the time of his death. Though she was eligible for the MOE Assignment, the 120 day window to elect the MOE Assignment expired before she knew about the option. After her husband’s death, Ms. R stopped paying the property taxes and insurance because she assumed that she was going to lose their family home—purchase in 1969—but if she had been advised that there was a way to save the home via the MOE Assignment, she would have continued to pay taxes and insurance and again applied for the assignment program.

Mrs. W., Chicago, IL
Submitted by: LAF (Legal Assistance Foundation) of Chicago
Deceased Borrower’s Name: W.W., Jr.
*Pending foreclosure action and related litigation against HUD

On January 5, 1979, Mr. and Mrs. W were married. The property was purchased by Mr. and Mrs. W in 1993. Mr. W took out a reverse mortgage in 2009 when he was 65 years old. Mrs. W’s name was taken off the title in order to obtain the reverse mortgage because she was only 54 years old at the time. Mr. W passed away on November 22, 2015. Mrs. W was unaware that she needed to report Mr. W’s death to the lender until July 2016 when Mrs. W received the annual occupancy certification from RMS in the mail. She then immediately informed RMS of Mr. W’s passing. In August 2016, RMS told Mrs. W to send in information to remain in the property, including Mr. W’s death certificate, the Ws’ marriage license, and Mrs. W’s identification. She immediately complied. However, in October 2016, RMS told Mrs. W that she did not have a right to remain in the property as a non-borrowing spouse, since the 120-day deadline had already passed before RMS could make the election.

Mrs. W, now 63 years old, has always paid her property taxes, paid homeowner’s insurance, and made home repairs. Mrs. W has lived in the property for 25 years. Mrs. W would like HUD to waive the 120-day requirement to allow her to elect to remain in the property. Mrs. W believes that the statutory protection for non-borrowing spouses gives her a right to remain in the property as a surviving spouse, who is not a borrower on the reverse mortgage. She was married to Mr. W when he took out the reverse mortgage, and she remained married to Mr. W continuously until his death. Mrs. W also continued to live in the property as she did before Mr. W had obtained the reverse mortgage and has continued living in the property until the present time. Mrs. W has an inherited interest in the home and the legal right to remain in the home until her death. The only impediment to the MOE Assignment is HUD’s 120-day deadline.

Ms. S., Staten Island, NY
Submitted by: Jessica Scholes, NYLAG Consumer Protection Unit
Servicer: Champion Mortgage
*Pending foreclosure action

Ms. S, 68, has lived in her home for eleven years. Her husband, Mr. S, took out a reverse mortgage on the property in 2008. Ms. S’s name was taken off the deed so that her husband could secure the reverse mortgage. When Mr. S passed away in 2014, Champion Mortgage called the reverse mortgage due and payable and commenced foreclosure proceedings. At this time, Ms. S contacted Champion and informed them that she wanted to stay in her home. Champion failed to inform her of any options she might have as a non-borrowing spouse. In the following years, Ms. S attended court multiple times as part of the foreclosure case and communicated with Champion’s representatives over the phone. She repeatedly asked to keep the property, but Champion’s representatives and
attorneys never provided her with the information on how to do so. She was never informed about the existence of Mortgagee Letter 2015-15 or given any options for property retention. In 2016, Champion’s representatives claimed that Ms. S could not be added to the reverse mortgage as a non-borrowing spouse because she had failed to notify Champion within the appropriate timeframe after her husband’s death. This was incorrect, as Ms. S had notified Champion promptly and well before Champion’s deadline to make the election (which would have been 120 days after the issuance of Mortgagee Letter 2015-15). Ms. S meets all criteria for the MOE Assignment and had been asking Champion to help her stay in her home well before the 120-day deadline. Ms. S’s case illustrates how the timeframes provided in Mortgagee Letter 2015-15 are too short, especially because borrowers often are not given correct information about the MOE option by the servicer or its attorneys. As a result of this situation, Ms. S now faces foreclosure and, if HUD is unwilling to grant a waiver of the deadlines in her case, she will likely lose her home.

Ms. O., South Ozone Park, NY
Submitted by: Jennifer Levy, JASA Legal Services for the Elderly in Queens
Servicer: Celink
*Pending foreclosure action

Ms. O found JASA Legal Services for the Elderly in Queens after she had been scammed by an attorney who charged her $5,000 and never filed a motion to stop the foreclosure sale. JASA/LSEQ successfully filed and argued a motion for a stay of the sale, resulting in an order that granted permission to file a late answer and vacated all prior orders including the Judgment of Foreclosure and Sale which the lender had obtained prior to JASA/LSEQ becoming involved in the matter. Opposing counsel has since refused to provide the default balance due on the account and the servicer, Celink, has refused to even speak to Ms. O. Celink claims that Ms. O’s estranged daughter is the executor of Ms. O’s husband’s estate and therefore is the only authorized person on the account. Ms. O has a legal right to remain in her home under the NBS HUD deferral program because she has a legal interest in the home (at the minimum, a 1/3 share of the estate as the spouse, regardless of what is provided in the will). Therefore, she is entitled to receive information about the HECM and to be reviewed for the MOE Assignment. If JASA/LSEQ were to have authorization to speak directly with Celink to obtain the default balance, the advocates could assist Ms. O in obtaining a grant to bring the account into good standing – which is a requirement for the MOE Assignment. However, despite efforts to obtain the default balance amount due, Plaintiff’s counsel also claims that HUD will not allow any waiver of the MOE deadlines. However, the servicer never provided Ms. O with the opportunity to apply within the timeframes, because all correspondences were allegedly sent to her daughter who lives in New Jersey. No notices were ever sent to the non-borrowing spouse. This is problematic because Ms. O and her daughter are not on good terms. Furthermore, the letters the servicer allegedly sent to Ms. O’s daughter at the New Jersey address were sent about 3 years after Ms. O’s husband had passed – when HUD deadlines has passed already. Plaintiff’s counsel has failed to provide proof that the servicer sought a waiver of the deadlines.

3. HUD should clarify the MOE rules, especially with respect to good and marketable title or a legal right to remain in the home.

Too many servicers still misunderstand this eligibility requirement, and tell non-borrowing spouses that they must have full legal title to the home (rather than a partial ownership interest), must have completed probate, or must pay off any liens, even those that are subordinate to the HECM.

Ms. T., Chicago, IL
Submitted by: LAF (Legal Assistance Foundation) of Chicago
Servicer: CIT Bank, N.A. (and Financial Freedom)
*Pending foreclosure action

In 2008, Mr. T took out a reverse mortgage. Ms. T was taken off title at that time because she was too young to be on the reverse mortgage. She was told she could be put back on title once she was old enough. However, she never was. After Mr. T died, Ms. T was denied the MOE Assignment program by the lender for allegedly not showing proof of title or the right to remain in the home within 90 days of her husband’s death. However, under Illinois law, Ms. T inherited a one-half interest in the home immediately upon her husband’s death, so she had a legal right to remain in the home until her death within 90 days. Mrs. T is 66 years old and has been in the home since 1983. She is current on her property taxes and her insurance.

Ms. C., Atlanta, GA
Submitted by Rachel Scott, Atlanta Legal Aid Society
Servicer: Financial Freedom

Ms. C and her husband purchased their home together in 1971. At the time Mr. C took out a reverse mortgage in 2002, the lender assured the couple that Ms. C would be able to stay in the home until her death, so long as she kept paying the taxes and insurance. However, when her husband passed away on November 3, 2017, Ms. C faced the risk of foreclosure. She informed her servicer immediately of Mr. C’s passing, and Financial Freedom made the election to assign the loan to HUD under the MOE program a mere ten days after his death.

However, Ms. C was later told by Financial Freedom that her request for assignment of her loan pursuant to the MOE program was denied as untimely. After making the MOE election, Financial Freedom imposed an improper requirement on Ms. C, stating that she had to have a subordinate lien canceled. This requirement was justified as being necessary for “good and marketable title,” although she was already on the deed to the property and had a legal right to remain for her life. As a result of this improper demand, Financial Freedom did not initiate the assignment to HUD within 120 days of making the election. Financial Freedom informed Ms. C that HUD would not accept the assignment due to the missed deadline. Ms. C is 78 years old and was scheduled for foreclosure on July 3, 2018. Although apparently the sale was postponed, Ms. C has not been given any pathway to save her home of 47 years, and therefore moved out in preparation for the impending foreclosure.

4. HUD should allow eligibility for the MOE to be triggered by borrower non-occupancy, even when the borrower has not yet passed away.

P.S., Trussville, AL
Submitted by: Rhonda Hood, Attorney
Servicer: Reverse Mortgage Solutions, Inc. (RMS)

P.S. is a non-borrowing spouse on a 2012 reverse mortgage with RMS. She was under age 62 at the time the loan was taken out. On January 23, 2017, her husband Mr. S was admitted to the Alzheimers/Dementia Unit of the State Veterans Hospital. February 25, 2017, a letter was sent to RMS purportedly drafted and signed by Mr. S, stating he was walking away from the home. It appears this letter was drafted by Mr. S’s son; Mr. S would not have had the mental capacity at the time to understand what he was signing.

April 12, 2017, RMS sent an acceleration letter notifying Mr. S that the reverse mortgage was in default and loan was being accelerated and demanded payment of $203,699.67 from Mr. S because “the Property is no longer your principal residence” and stating “[w]e have determined you do not occupy the property as your principal residence.” At the time of the letter, Mr. S was merely
temporarily absent from the home due to mental illness. He was not violating the occupancy requirement of his reverse mortgage, had been out of the home for less than three months, and had no intention of being outside of the home for more than twelve months.

RMS then began dealing with Mrs. S as a non-borrowing spouse before Mr. S’s death based on the non-occupancy acceleration. Ms. S provided all documents requested by RMS. Mr. S passed away on June 8, 2017. RMS made the MOE Assignment election on September 29, 2017, well within the 120-day deadline.

On January 11, 2018, RMS sent Mrs. S a letter saying she failed to meet all of the eligibility requirements of Mortgagee Letter 2015-15 because the loan became due and payable due to non-occupancy. Mrs. S’s case shows that there is an urgent need for HUD to allow servicers to initiate the MOE Assignment after a borrowing spouse becomes unable to reside in the home, and not just after a death. Moreover, because the non-occupancy acceleration was improper in this case, Mrs. S should be eligible to have her loan assigned to HUD, but HUD’s 120-day deadline poses an insurmountable barrier. Mrs. S was forced to litigate in an attempt to save her home from foreclosure. She has recently been told that HUD has reconsidered its prior position and will accept the assignment of her loan, but only after she found an attorney to represent her in litigation and administrative appeals to HUD.

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2 C.F.R. § 206.27(c); see also Plunkett v. Castro, 67 F. Supp. 3d 1 (D.D.C. 2014).

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**Model Law: Safer Cars at the Point of Sale Act**

**December 2018**

Unsafe cars, whether caused by prior wreck or flood damage, or other causes, are a danger to drivers, passengers, and other road users. Serious flood damage to vehicles is a regular and growing occurrence. In 2017, Hurricanes Irma and Harvey flooded almost one million cars in a two week period. And estimates are that about half of those vehicles will end up back in the consumer market.\(^1\) Approximately 12 to 14 percent of all crashes result in a car being declared a total loss.\(^2\) Many of these cars are returned to the road. These unsafe cars represent a danger to drivers, passengers, and everyone else on the road.

This Act seeks to keep unsafe cars off the road by requiring dealers to disclose prior to sale if a federal database or the state department of motor vehicles shows that a used vehicle has suffered serious damage.

The Act places minimal burdens on dealers. Dealers must simply review the vehicle’s title and go
online to check a federal database that reports on a vehicle’s wreck, flood, and other history of defects, and disclose this information to prospective buyers. Since dealers can easily comply with this requirement, it is unreasonable to instead require each individual vehicle purchaser to know to and perform these investigations.

SAFER CARS AT THE POINT OF SALE ACT

§ 1 Purpose:

The purpose of this Act is to assist consumers in avoiding unsafe cars by requiring dealers to inform consumers of reported vehicle history information available through the National Motor Vehicle Title Information System and brands on certificates of title.


§ 2 Definitions

- **NMVTIS** means the National Motor Vehicle Title Information System as established by 49 U.S.C. § 30502.
- **NMVTIS vehicle history report** means a report obtained from an entity authorized by the NMVTIS operator as an access portal provider for NMVTIS that contains:

  1. The date of the report.
  2. Any disclaimer required by the operator of NMVTIS.
  3. If available from NMVTIS, information establishing the following:
  4. Whether the vehicle is titled in a particular state.
  5. Whether the title to the vehicle was branded by a state.
  6. The validity and status of a document purporting to be a certificate of title for the vehicle.
  7. Whether the vehicle is or has been a junk automobile or a salvage automobile.
  8. The odometer mileage disclosure required pursuant to Section 32705 of Title 49 of the United States Code for that vehicle on the date the certificate of title for that vehicle was issued and any later mileage information.
  9. Whether the vehicle has been reported as a junk automobile or a salvage automobile pursuant to Section 30504 of Title 49 of the United States Code.

- “Junk automobile,” “operator,” and “salvage automobile” shall have the same meanings as defined in § 25.52 of Title 28 of the Code of Federal Regulations.

Comment: Because many states already include definitions for terms such as dealer, title brand, motor vehicle, and used motor vehicle in their motor vehicle dealer licensure and consumer protection statutes, this Model Act does not provide such definitions here. States may wish to insert cross-references to those definitions, or to define the terms here if no other statutes provide appropriate definitions. Because this act addresses data from both NMVTIS and certificates of title, the definition of motor vehicle should be as broad as possible to capture the variety of vehicles for which such records might exist.
§ 3 Dealer Requirements

- A motor vehicle dealer, before selling, displaying, or offering for sale at retail any used vehicle, must perform an inquiry of a NMVTIS data provider and, if the NMVTIS system has information on the vehicle, must obtain a NMVTIS vehicle history report from a NMVTIS data provider. A copy of such report shall be provided to a used vehicle purchaser prior to the consummation of a vehicle sale.
- If the NMVTIS vehicle history report for the vehicle indicates the vehicle has been reported as a junk automobile or a salvage automobile or if the certificate of title contains a brand, the dealer shall post the following disclosure on the vehicle while it is displayed for sale at retail in at least 18-point bold black type, except for the title "Warning" which shall be in at least 24-point bold black type, on at least a 8 x 5.5 inch red background in close proximity to the Federal Trade Commission’s Buyer's Guide:

  "WARNING
  This vehicle has been reported as a total-loss, salvage, or junk vehicle, or has a title brand which may materially affect the value, safety, and/or condition of the vehicle. You may ask the dealer to show you the title or a copy of the report. You may independently obtain the report by checking the vehicle identification number (VIN) at www.vehiclehistory.gov."

Comment: This model law incorporates some substantive changes from the California statute. One change is that it requires disclosure of any report from NMVTIS that a vehicle is junk or salvage, rather than just a report from a junk yard, salvage yard, or insurance carrier. NMVTIS includes data not just from junk and salvage yards and insurance carriers, but from states and other entities.

§4 Enforcement

- Any person aggrieved by a violation of §3 may recover the greater of two thousand five hundred dollars ($2,500) or three times the actual damages sustained, together with costs and reasonable attorney’s fees.3
- A violation of §3 is a violation of [the state unfair and deceptive practices statute].
- A violation of §3 is grounds for revocation of a motor vehicle dealer’s license under [the revocation provision of the state motor vehicle dealer licensing statute].
- It is a misdemeanor subject to a minimum fine of one thousand dollars ($1,000) for any person or entity to knowingly violate [§3 or §4].3
- A civil penalty may be imposed on any person or entity who violates [§3 or §4] in an amount not to exceed the greater of one thousand dollars ($1,000) per violation.

For more information, please contact National Consumer Law Center attorney John Van Alst: jvanalst@nclc.org

3 Adapted from Ind. Code § 9-32-9-27.
4 Copied from Tenn. Code Ann. § 55-3-203(d).
New Report Finds 90 Million Americans Exposed to Larger, Longer Triple-Digit Interest Predatory Loans

For Immediate Release: October 18, 2018

National Consumer Law Center contact: Jan Kruse, jkruse@nclc.org or (617) 542-8010

NCLC 50-State Review of Consumer Protection Laws for a $10,000 Five-Year Installment Loan

Download the full report, including summaries of the laws of 50 states and Washington, D.C., plus a map, charts, and tables, complete list of recommendations, and a summary of the laws in each state and the District of Columbia that apply to a $10,000 five-year non-bank loan. http://bit.ly/2QOp6AG

Boston – Everything that is wrong with a high-cost loan is only made worse when the loan is larger and longer. Yet, 12 states place no numerical cap at all on the annual percentage rate (APR) for a $10,000 five-year non-bank installment loan, leaving 90 million people in the United States subject to triple-digit annual percentage rates (APR) on predatory installment loans, according to a new report from the National Consumer Law Center. These high-cost installment loans can trap people in a cycle of debt that can be nearly impossible to escape.

“Our analysis shows a general consensus among the states that APR caps should be well below 36% for these larger, longer-term loans,” said National Consumer Law Center Deputy Director Carolyn Carter, the primary author of the report.

A Larger and Longer Debt Trap? Analysis of States’ APR Caps for a $10,000 Five-Year Installment Loan examines the maximum APR, including both interest and fees, allowed in each state and the District of Columbia for a $10,000 five-year loan. The report finds that, for a $10,000 five-year loan, 7 states (Alabama, California, Idaho, New Mexico, South Carolina, Utah, and Wisconsin) impose no numerical rate cap other than a prohibition of rates that shock the conscience, and the lending laws in Delaware, Missouri, North Dakota, Ohio, and Virginia impose no limit at all.

In comparison, for a $10,000 five-year loan, 39 jurisdictions have APR limits in place, at a median rate of 25%, protecting 236 million people. Nearly 70% (27 of these jurisdictions) cap APRs at 27% or less. Only two states have APR limits above 36%: Nevada allows APRs as high as 40%, and Georgia allows a 60% APR.

Twenty jurisdictions (Alaska, Arkansas, Colorado, Connecticut, the District of Columbia, Florida, Hawaii, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New York, Oklahoma, Rhode Island, Vermont, and Wyoming) limit the maximum APR for a $10,000 five-year loan to 25% or less. Arkansas, Maine, and Vermont have APR limits of 17%, 18%, and 18%, respectively.

Eleven states (Arizona, Louisiana, Michigan, Mississippi, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, Washington, and West Virginia) have an APR limit between 26% and 30%. Most of these states—seven of them—are at the low end of this range, capping APRs at 26% or 27%. Iowa,
permits a 32% APR, and five states (Illinois, Montana, New Hampshire, Oregon, and South Dakota) allow 36%.

**Key Recommendations for States**

- **Limit APRs.** An APR cap is the single most effective step states can implement to deter abusive lending—protecting consumers from excessive costs and giving lenders an incentive to ensure ability to repay. An APR cap of about 25% is at the high end of what is reasonable for larger, longer-term loans such as a $10,000 five-year loan, and represents the median among the 39 jurisdictions that cap the APR for such a loan. States with caps of 25% or less should preserve their caps, states that have higher caps should reduce them, and states that do not have a numerical cap should impose one.

- **Ban or strictly limit junk fees for credit insurance and other add-on products.** States should place strict limits on add-on products and should require their cost to be included in the APR cap.

- **Ensure that the consumer can afford to repay the loan.** States should impose a duty on lenders to meaningfully evaluate whether the consumer can afford to repay the loan while covering other expenses without re-borrowing.


This report builds on NCLC’s extensive work on predatory lending. For more information, please visit: [https://www.nclc.org/issues/usury.html](https://www.nclc.org/issues/usury.html).

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**Grupos de Interés Público Aplauden a la FHFA por Ampliar Recursos para Prestatarios con Conocimientos Limitados del Inglés**

**FOR IMMEDIATE RELEASE:** Oct. 16, 2018

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WASHINGTON – Hoy, un grupo de organizaciones por los derechos civiles y en defensa de los consumidores, incluyendo Americans for Financial Reform Education Fund, the Center for Responsible Lending, Connecticut Fair Housing Center, Consumer Action, Empire Justice Center, National CAPACD, National Consumer Law Center, National Fair Housing Alliance, and UnidosUS, reunidos por el grupo de trabajo Americans for Financial Reform Language Access Task Force, aplaudieron a la Agencia Federal de Financiamiento a la Vivienda (FHFA, por sus siglas en inglés) por lanzar el repositorio de traducciones de hipotecas (Mortgage Translations, por su nombre en inglés). Varias de nuestras organizaciones son miembro del grupo de trabajo de acceso a idiomas de
la FHFA y han trabajado con la FHFA para desarrollar este repositorio.

El repositorio es un recurso valioso que mejorará el proceso de adquisición de viviendas para prestatarios con Conocimientos Limitados del Inglés (LEP, por sus siglas en inglés) al hacer disponible en un mismo sitio toda la documentación en un mismo idioma, incluyendo traducciones de documentos de préstamos, glosarios, y otros materiales educacionales. El repositorio será de utilidad para prestamistas, asesores de vivienda, abogados, y otros ayudando a prestatarios con conocimientos limitados del inglés.

Mientras que la primera fase del repositorio se enfocó en la compilación de recursos en idioma español, en los próximos años esperamos colaborar con la FHFA para asegurar la traducción de documentos y la compilación de recursos en lenguajes adicionales. Como resultado, muchos más prestatarios con conocimientos limitados del inglés podrán comprender sus transacciones hipotecarias.

Elogiamos además la reciente ampliación, de 300 a 2000 palabras, del glosario inglés-español de la Oficina para la Protección Financiera del Consumidor (CFPB, por sus siglas en inglés), y también por el desarrollo del sitio web Preparase. Ambos recursos ampliarán el acceso a oportunidades de adquisición de viviendas a más prestatarios hispanohablantes, ayudándolos además a entender mejor el proceso de compra. Miembros del grupo de trabajo AFR Language Access Task Force hicieron las siguientes declaraciones:

“La combinación de un repositorio central para todos los documentos en un mismo idioma y la expansión del glosario de términos aumentarán el acceso al mercado hipotecario y mejorará el proceso de adquisición de viviendas para prestatarios hispanohablantes ya que ahora tendrán mejor acceso a los formularios y materiales en su idioma preferido. Exhortamos a la FHFA y al CFPB a continuar publicando más documentos y en lenguajes adicionales para ofrecerle estos recursos a prestatarios con conocimientos limitados del inglés que persiguen el sueño americano de tener una vivienda propia.” (Linda Jun, Senior Policy Counsel, AFR)

“El National Consumer Law Center aplaude a la FHFA, Fannie Mae y Freddie Mac por dirigir al mercado hipotecario hacia una mayor transparencia y accesibilidad para los consumidores con conocimientos limitados del inglés. Esperamos que la industria crediticia siga a la FHFA utilizando estos documentos y traduciendo otros materiales. El repositorio es un paso de avance crucial para hacer de la propiedad de vivienda sostenible una realidad para esta población vital y en crecimiento.” (Sarah Mancini, Of Counsel to the National Consumer Law Center.)

“Estamos orgullosos de apoyar a la FHFA por dar este importante e inclusivo paso hacia el fortalecimiento de nuestro mercado hipotecario donde los prestatarios ya no están en desventaja por conocimientos limitados del inglés. Comprar una vivienda con una hipoteca es una de las transacciones financieras más importantes que familias e individuos pueden hacer en sus vidas. En sí mismo, el proceso de la hipoteca es técnico y retador para los prestatarios nativos de habla inglesa. CRL apoya la eliminación de barreras para prestatarios que el idioma inglés no es su lengua nativa que buscan alcanzar el sueño americano de ser propietarios de una vivienda. El consumidor informado no puede ser defraudado.” (Aracely Panameño, Directora de Asuntos Latinos de CRL.)

“Connecticut Fair Housing Center elogia a la FHFA por innovar y lanzar el repositorio Mortgage Translations. Esta nueva herramienta demuestra el compromiso de la FHFA con los préstamos justos, y servirá como un recurso invaluable para prestatarios con conocimientos limitados del inglés y sus defensores, tanto en el proceso de compra de vivienda como en el complicado proceso de
mitigación de pérdidas.” (Loraine Martinez Bellamy, Staff Attorney, Foreclosure Prevention, Connecticut Fair Housing Center.)

“La nueva herramienta de la FHFA para acceder a documentos hipotecarios en español—incluyendo el glosario ampliado del CFPB—es un primer paso sólido para ayudar a desmitificar los procesos de compra de viviendas y de administración de hipotecas para los consumidores con un inglés limitado que dependen en el español para sus transacciones financieras más importantes. Esperamos ver crecer este sitio web para incluir muchos otros idiomas para ayudar a la mayor variedad de consumidores posible.” (Linda Sherry, directora de prioridades nacionales de Consumer Action.)

“Empire Justice Center felicita a la FHFA por tomar la iniciativa de organizar el repositorio de documentos en español y los cinco idiomas principales en el país. Antes de firmar los documentos, es fundamental tener la capacidad de comprender la compleja terminología que se utiliza para realizar un préstamo o adquirir un producto financiero para el consumidor. Este paso por la FHFA conducirá a que prestatarios con conocimientos limitados del inglés tomen decisiones más informadas sobre los prestamos ya que podrán leer los documentos en sus propios idiomas.” (Maria DeGennaro, Staff Attorney, Empire Justice Center.)

“Nos complace ver a la FHFA tomando pasos importantes para abordar el problema crítico del acceso al idioma, el cual representa una barrera importante para los hogares de AAPI. Los hogares con conocimientos limitados o nulos del inglés están en desventaja en su capacidad para comprender los términos de las hipotecas, las declaraciones y otros productos financieros relacionados con la vivienda. Un número desproporcional de prestatarios de bajos ingresos de AAPI se enfrenta a barreras de idioma cuando persiguen ser propietarios de una vivienda. Esperamos continuar este trabajo con FHFA, especialmente a medida que en el 2020 se publiquen las traducciones en chino, vietnamita, coreano y tagalo.” (Lauri Ng, Sr. Policy Advisor, National CAPACD.)

“National Fair Housing Alliance elogia a la FHFA por crear este importante recurso para prestamistas, asesores de vivienda y abogados que trabajan con compradores y propietarios de viviendas que no hablan inglés. Con demasiada frecuencia, el lenguaje ha sido una barrera que ha impedido a estas familias comprender completamente las transacciones hipotecarias que realizan, o que les ha impedido obtener la asistencia que necesitan de su administrador de hipoteca. Estos recursos ayudarán a la industria a servir a este mercado de manera más justa y eficaz, y esperamos verlos ampliados a otros idiomas en el futuro.” (Debby Goldberg, Vice President for Housing Policy, National Fair Housing Alliance.)

“Estamos complacidos con el lanzamiento del repositorio Mortgage Translations de la FHFA hoy. Durante los últimos años, UnidosUS ha trabajado para proponer y promover formas para que prestamistas mejoren las oportunidades de propiedad de vivienda para latinos con conocimientos limitados del inglés. Hacer que estos recursos estén disponibles es un invaluable primer paso y herramienta para asesores y defensores de la vivienda asistiendo a prestatarios latinos e inmigrantes.” (Lot Díaz, Vice President, Housing and Financial Empowerment, UnidosUS.)

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Public Interest Groups Applaud FHFA Move to Expand Resources for LEP Borrowers

FOR IMMEDIATE RELEASE: Oct. 16, 2018

CONTACTS:
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Public Interest Groups Applaud FHFA Move to Expand Resources for LEP Borrowers (Leer en Español)

WASHINGTON, D.C.- Today, a group of civil rights and consumer advocacy organizations, including Americans for Financial Reform Education Fund, the Center for Responsible Lending, Connecticut Fair Housing Center, Consumer Action, Empire Justice Center, National CAPACD, National Consumer Law Center, National Fair Housing Alliance, and UnidosUS, convened by the Americans for Financial Reform (AFR) Language Access Task Force, applauded the Federal Housing Finance Agency (FHFA) for launching the Mortgage Translations clearinghouse. Many of our organizations are members of FHFA's Language Access Working Group and have worked with FHFA on developing the clearinghouse.

The clearinghouse is a valuable resource that will improve the homeownership experience for Limited English Proficient (LEP) borrowers by making available all in-language resources in one centralized place, including translated loan documents, glossaries, and other educational materials. The clearinghouse will be helpful to lenders, housing counselors, attorneys, and other advocates assisting LEP borrowers.

While the first phase of the clearinghouse focused on gathering Spanish-language resources, we look forward to working closely with the FHFA to ensure the translation of documents and compilation of resources in additional languages in the coming years. Many more LEP borrowers will be able to understand their mortgage transactions as a result.

We also commend the recent expansion of the Consumer Financial Protection Bureau’s Spanish-English glossary from 300 words to 2,000 words and its development of the Preparase website. Both resources will help more Spanish-speaking borrowers access homeownership opportunities, and better understand the homebuying process.

The following are statements from members of the AFR Language Access Task Force:

“The combination of a central repository for all in-language documents and an expanded glossary of terms will increase access to the mortgage market and improve the homeownership experience for Spanish-speaking borrowers because they now have improved access to forms and materials in their preferred language. We encourage the FHFA and CFPB to continue to make more documents available in more languages to provide more LEP borrowers with these resources as they pursue the American dream of homeownership.” (Linda Jun, Senior Policy Counsel, AFR.)

“The National Consumer Law Center applauds FHFA, Fannie Mae, and Freddie Mac for leading the mortgage market towards greater transparency and accessibility for consumers with limited English proficiency. We hope the lending industry will follow suit by using these documents and translating
other materials. The clearinghouse is a crucial step forward in making sustainable homeownership a reality for this vital and growing population.” (Sarah Mancini, Of Counsel to the National Consumer Law Center.)

“We’re proud to support FHFA for taking this important, inclusive step forward in strengthening our mortgage marketplace where borrowers are no longer disadvantaged by limited English proficiency. Buying a house with a mortgage is one of the most significant financial transactions that families and individuals can make in their lifetime. In and of itself, the mortgage process is technical and challenging for native English-speaking borrowers. CRL supports the removal of barriers for non-native English-speaking borrowers seeking to reach for the American dream of homeownership.” (Aracely Panameño, CRL’s Director of Latino Affairs.)

The Connecticut Fair Housing Center commends FHFA for innovating and launching the Mortgage Translations clearinghouse. This new tool demonstrates FHFA’s commitment to fair lending and will serve as an invaluable resource for limited English proficient borrowers and their advocates both in the home purchasing process and in the sometimes complicated loss mitigation process. (Loraine Martinez Bellamy, Staff Attorney, Foreclosure Prevention, Connecticut Fair Housing Center.)

“The FHFA’s new tool to access mortgage documents in Spanish – including the CFPB’s expanded glossary – is a solid first step in helping to demystify the home buying and mortgage servicing process for limited English consumers who rely on Spanish for their most consequential financial transactions. We look forward to seeing this website grow to include many other languages to help as wide a variety of consumers as possible.” (Linda Sherry, Consumer Action’s director of national priorities.)

Empire Justice Center commends FHFA for taking the initiative to organize a clearinghouse of documents in Spanish and the 5 top languages throughout the country. The ability to understand the complex terminology when making a loan or purchasing any consumer financial product before signing the documents is critical. This move by FHFA will lead to limited English proficient borrowers making more informed borrowing decisions because they will be able to read the documents in their own language. (Maria DeGennaro, Staff Attorney, Empire Justice Center.)

We are pleased to see the FHFA taking important steps to address the critical issue of language access, which poses a significant barrier for AAPI households. Households with limited or no proficiency in English are disadvantaged in their ability to understand mortgage terms, statements and other housing-related financial products. A disproportionate number of low-income AAPI borrowers confront language barriers when pursuing home ownership. We look forward to continuing this work with FHFA, especially as the Chinese, Vietnamese, Korean, and Tagalog translations roll out in 2020. (Lauri Ng, Sr. Policy Advisor, National CAPACD.)

“The National Fair Housing Alliance commends FHFA for creating this important resource for lenders, housing counselors, and attorneys who work with non-English speaking homebuyers and homeowners. Too often, language has been a barrier that has prevented these families from fully understanding the mortgage transaction they’re entering into, or being able to get the assistance they need from their mortgage servicers. These resources will help the industry serve this market more fairly and effectively, and we look forward to seeing them expanded to other languages in the future.” (Debby Goldberg, Vice President for Housing Policy, National Fair Housing Alliance.)

“We are pleased with the launch of FHFA’s Mortgage Translations clearinghouse today. For the past several years, UnidosUS has worked to propose and promote ways for home lenders to improve...
homeownership opportunities for Latinos with limited English proficiency. Making these resources available is both an invaluable first step and tool for housing counselors and advocates assisting Latino and immigrant borrowers.” (Lot Diaz, Vice President, Housing and Financial Empowerment, UnidosUS.)