Americans are living longer

Americans who reached age 65 in 2011 are projected to live another 21 years to age 86, on average.

Less Income Less Savings More Debt
**Median Annual Income 2012**

1999: $56,080

$51,017

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**Social Security**

Average benefit 2013 for retired workers: $1269/month

46% of single beneficiaries rely on Social Security for 90% or more of their income

---

**11x**

**85%**

**5.3**

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U.S. Census Bureau, Historical Income Tables: Households: Table H-10AR, Age of Head of Householder: All Races by Median and Mean Income: 1967 to 2012

Aon Hewitt, The Real Deal: 2012 Retirement Income Adequacy at Large Companies
Home Equity Conversion Mortgages

Eligibility  Proceeds

Repayment  Fees

Please rate your familiarity with reverse mortgages on a scale of 1-5.

1= I know nothing.
2= I’ve heard about them.
3= I know enough to be dangerous.
4= I’m comfortable discussing reverse mortgages with clients.
5= I’m an expert.
Please rate your familiarity with bankruptcy on a scale of 1-5.

1 = I know nothing.
2 = I’ve heard about it.
3 = I know enough to be dangerous.
4 = I’m comfortable counseling client in bankruptcy.
5 = I’m an expert.

ELIGIBILITY

• At least 62 years of age
• Eligible properties
• Adequate counseling
• No credit or income requirements***

PROCEEDS

• Payable as lump sum, monthly payments, line of credit or combination
• Maximum claim amount, age of youngest borrower, expected average interest rate
PROCEEDS

<table>
<thead>
<tr>
<th>Borrower’s Age at Origination</th>
<th>Expected Mortgage Interest Rate</th>
<th>Principal Limit Factor (as of Sept. 30, 2013)</th>
<th>Initial Principal Limit Based on MCA of $250,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>7.5%</td>
<td>0.484</td>
<td>$120,750</td>
</tr>
<tr>
<td>65</td>
<td>7.0%</td>
<td>0.364</td>
<td>$ 90,750</td>
</tr>
<tr>
<td>75</td>
<td>6.5%</td>
<td>0.541</td>
<td>$135,000</td>
</tr>
<tr>
<td>75</td>
<td>6.0%</td>
<td>0.439</td>
<td>$102,500</td>
</tr>
<tr>
<td>85</td>
<td>5.5%</td>
<td>0.598</td>
<td>$149,250</td>
</tr>
<tr>
<td>85</td>
<td>5.0%</td>
<td>0.515</td>
<td>$128,750</td>
</tr>
</tbody>
</table>

FEES

• Origination Fees
  • $2,500 or 2% of maximum claim amount up to $200,000, plus 1% of portion of maximum claim amount greater than $200,000. Overall cap $6,000

• Mortgage Insurance Premiums
  • Upfront MIP — .5% or 2.5% of MCA; 60% rule
  • Ongoing MIP – 1.25%

• Monthly Servicing Fee

REPAYMENT

• No payments due until maturity

• Maturity = borrower dies, borrower fails to continue to occupy the home for 12 months, or borrower sells

• No prepayment penalty

• Non-recourse
Bankruptcy

**Chapters**
- **Chapter 7**  
  "Liquidation"
- **Chapter 13**  
  Adjustment of debts  
  Plan of repayment over 3 to 5 years

**Bankruptcy Estate**

**Automatic Stay**

**Exempt Property**
BANKRUPTCY ESTATE

The estate is comprised of
“all legal or equitable interests of the debtor in property as of the commencement of the case”

11 U.S.C. § 541(a)(1)

AUTOMATIC STAY

• Triggered instantly upon the filing of a bankruptcy petition in most cases.

• Stops creditors from taking collection actions, pursuing or continuing a court case against the debtor, or seizing property of the debtor based on debts that arose before the petition was filed.

EXEMPT PROPERTY

• Property essential to a “fresh start”

• Federal exemptions or state exemptions plus federal non-bankruptcy exemptions.
  • 33 states debtors may not use federal exemptions.
  • Remaining states debtors may choose between federal and state exemption schemes.

• Exempt property is removed from the bankruptcy estate and not subject to administration by the trustee.
Reverse Mortgage Foreclosures

Property Charge Default

PROPERTY CHARGE DEFAULTS

- Taxes and insurance can be escrowed or must be paid by the borrower.
- As of June 2012, about 10% of active reverse mortgage were in default for failure to pay property charges.
PROPERTY CHARGE DEFAULTS

- Refer to third party to resolve delinquency or obtain funds to cure default.
- Refinance reverse mortgage with new reverse mortgage.
- Establish a repayment plan.

PROPERTY CHARGE DEFAULTS

<table>
<thead>
<tr>
<th>Corporate Amount Advanced</th>
<th>Repayment Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 - $500</td>
<td>up to 3 months</td>
</tr>
<tr>
<td>$501 - $1,000</td>
<td>up to 6 months</td>
</tr>
<tr>
<td>$1,001 - $5,000</td>
<td>up to 12 months</td>
</tr>
<tr>
<td>$5,001 or more</td>
<td>up to 24 months</td>
</tr>
</tbody>
</table>

HUD Mortgagee Letter 2011-01

PROPERTY CHARGE DEFAULTS

- Property charge defaults may be cured through a chapter 13 bankruptcy.
- 11 U.S.C. § 1322(b)(5) permits debtors to “provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due.”
Reverse Mortgage Maturity

MATURITY

• Heirs want to keep home, but have insufficient cash on hand to pay large lump sum payment or are unable to obtain refinancing.

• In chapter 13, heirs may be able to pay off the amount due over a longer period of time, not exceeding five years.

MATURITY

• Bankruptcy allows debtors to modify the rights of holders of secured and unsecured claims, with limited exception. 11 U.S.C. § 1322(b)(2). Exception relates to real property that is the debtor’s principal residence.

• The exception to the exception: when the last payment on the original payment schedule is due before the due date of the final plan payment. 11 U.S.C. § 1322(c)(2)
MATURITY

• Courts have consistently held heirs may pay amount due on a matured reverse mortgage through a chapter 13 plan. See In re Griffin, 498 B.R. 638 (Bankr. D. Md. 2013); In re Domingue, 2012 WL 3961212 (Bankr. S.D. Tex. 2012); In re Brown, 428 B.R. 672 (Bankr. D.S.C. 2010).

Reverse Mortgage Borrowers in Financial Distress

FINANCIAL DISTRESS

• Bankruptcy is not an event of default under a HECM.

• HECM Loan Agreement provides that lender "shall have no obligation to make further Loan Advances on or following the date that a petition for bankruptcy of Borrower is filed."
EXEMPT PROPERTY?

- Federal homestead exemption - $22,975.
- State homestead exemptions vary widely
  - Florida and Texas provide an unlimited dollar amount for homestead exemptions
  - Alabama has a homestead exemption that is limited to $5,000.
- Are debtor's other assets also exempt?

MYTH OF REAFFIRMATION

- One goal of bankruptcy is the discharge, which effectively eliminates personal liability on almost all debt.
- Reaffirmation is a promise by a debtor to pay a debt despite its discharge.
- Because reverse mortgages are nonrecourse, reverse mortgage lenders should not require reaffirmation, borrowers should not sign them, and courts should not approve them.

MYTH OF REAFFIRMATION

"There is nothing here to reaffirm because there is nothing to discharge. Section 524(c) defines a reaffirmation agreement as one the consideration for which is based on a debt that is dischargeable. See 11 U.S.C. § 524(c). That section further elaborates that such an agreement is "enforceable only to any extent enforceable under applicable nonbankruptcy law." Id. As this nonrecourse debt is enforceable only as an in rem claim in any event, reaffirmation is at best a useless act." In re Rios, 2007 WL 2409547 (Bankr. W.D. Tex. Aug. 20, 2007).
MYTH OF CMI

- Speculation that monthly payments made under a reverse mortgage are “current monthly income” for purposes of the means test in chapter 7 or disposable income test in chapter 13.

- Conversion of exempt pre-petition assets from one form to another, even to cash, does not produce income. See, e.g., In re Zahn, 391 B.R. 840 (B.A.P. 8th Cir. 2008); In re Breeding, 366 B.R. 21 (Bankr. E.D. Ark. 2007).

WORKING TOGETHER

Dorothy Boxley, age 75, owns her home free and clear. Her only source of income is her social security benefits of $1270 per month. For more than a year, Mrs. Boxley has been making ends meet by charging groceries, and other necessities to her credit cards. Her outstanding credit card balance is currently $13,700. Mrs. Boxley would like to use a reverse mortgage to pay off her credit card debt, supplement her monthly income, and provide her with a line of credit for unexpected future expenses.
*The Financial Assessment Caveat*