

# Federal Reverse Mortgage Program Results in Widows Losing Their Homes After Death of Spouse

March 12, 2018

New information from the U.S. Department of Housing and Urban Development demonstrates that widows and widowers are being kicked to the curb after the death of a spouse, due to insufficient guidelines, servicer discretion, and uneven implementation of a program that was supposed to keep widowed Non-Borrowing Spouses in their homes. Better guidelines are needed to make this program accessible to all Non-Borrowing Spouses and enable them to remain in their homes.

The California Reinvestment Coalition and Jacksonville Area Legal Aid have released the latest response by the U.S. Department of Housing and Urban Development to a Freedom of Information Act (FOIA) request filed by the two organizations in order to help the public better understand the extent of foreclosures under the federal Home Equity Conversion Mortgage (HECM) reverse mortgage program, as well as the efficacy of a new program meant to keep widowed Non-Borrowing Spouses in their homes after the death of their loved ones.

“We can all agree that we should do everything we can to keep widowed seniors in their homes and to prevent all unnecessary foreclosures,” said Kevin Stein of the California Reinvestment Coalition. “It is not acceptable that any senior should fall through the cracks into homelessness due to inadequate public policy. We must fix this problem.”

“One can think of few things more heart wrenching than the passing of a long-time companion other than to learn that this very emotional event is the very trigger for your loss of your home, memories and all,” said Lynn Drysdale of Jacksonville Area Legal Aid.

The FOIA response from HUD indicates that fewer than 600 widows or widowers (referred to as Non-Borrowing Spouses) sought assistance under the program, though it was believed that many more would need this kind of assistance (the Washington Post noted there may be an estimated 12,000 Non-Borrowing Spouses). And of these few widowed seniors who sought help, over 22% were denied. Out of 591 applicants who sought help, only 317 received it. 132 widowed seniors were denied assistance, and another 142 have pending requests.

HUD listed the top three reasons for denying widowed seniors’ requests for assistance:

1. The request for assistance was submitted more than 120 days from the borrower’s date of death.
2. The Loan Balance and Net Principal Limit did not meet FHA’s tolerance levels.
3. Deficient Documentation.

Each of these reasons are based on policies that are arbitrary, unnecessary, burdensome, or based on factors outside the spouse’s control.

- The 120 day application deadline is too restrictive for elderly borrowers attempting to handle burial, probate, and other affairs after the death of a spouse.
- Due to insufficient outreach, many do not learn about the program until that deadline has passed.
- Loan balance limits are arbitrary, since the spouse has no control over, and no knowledge of, HUD's loan limits. Loan balance limits are not even listed as an eligibility criteria in HUD's guidance.
- Non-Borrowing Spouses have every incentive to provide the necessary documentation so they can remain in their homes; burdensome requirements and unclear communication from servicers cause these documentation-related denials.

"HUD should immediately send a Notice Letter to all Borrowers and Non-Borrowing Spouses, in plain language, listing all requirements for the Non-Borrowing Spouse to remain in their home for life," said Sandy Jolley, Executive Director of CAARMA. "That way when the Borrower dies the Non-Borrower will have a complete package prepared for the lender to approve the application and HUD to accept assignment of the loan for the remainder of the Non-Borrowing Spouse's life."

The response comes as the Administration's budget proposal acknowledges the issue of foreclosures on Non-Borrowing Spouses. And yet, Congress is poised to further mask trends in reverse mortgage lending. The Bank Lobbyist Act - otherwise known as S. 1255, the Economic Growth, Regulatory Relief, and Consumer Protection Act - would exempt up to 85% of bank lenders from new Home Mortgage Disclosure Act (HMDA) home loan reporting requirements which would have for the first time included reporting on whether loans are reverse mortgages and whether borrowers are seniors.

The FOIA response also comes as reverse mortgages are making headlines. An Inside the CFPB analysis found that while mortgage complaints by seniors were generally down, older borrowers were having more issues with reverse mortgages than in the past.

To protect innocent widows and widowers from unnecessary foreclosures, advocates urge:

- HUD should mandate that servicers contact all households where a spouse is not on the HECM loan, and inform them that Non-Borrowing Spouses are at risk of losing the home after the borrower passes away unless action is taken, that there is a process for Non-Borrowing Spouses to remain in their homes, and that the safest way to protect themselves is to add the spouse on title to the property. HUD should also provide a phone number for such households to call with questions and receive information.
- Where a borrower passes away, HUD should clearly require all servicers to reach out to the surviving spouse to explain their rights to remain in the home, and to help them complete necessary documentation. HUD should do away with the 120 day limit, which seems designed to frustrate the ability of widows and widowers to remain in their homes.
- Servicers must adopt notices that are easy to read and understand, and which explain the rights and responsibilities of surviving spouses. Servicers should provide a single point of

contact to assist widowed seniors seeking to stay in their homes.

- Congress should pass H.R. 4160, the Preventing Foreclosures on Seniors Act, introduced by Rep. Maxine Waters, which would improve outcomes by taking away servicer discretion to offer, or not offer, widowed homeowners assistance to stay in the home.

“Low-participation in the surviving spouse program, and the foreclosure rate in general, reflects out-of-touch policies and procedures,” said Alys Cohen of the National Consumer Law Center. “HUD must revise its rules to align them with the goals of the program and the directive of the court, to help older homeowners age in place, even when they have faced the tragic loss of a spouse.”

Advocates agree that HUD must act in order to keep widows and widowers in their homes. All eligible borrowers should be told about this program, informed of their rights, and approved for assistance if they qualify. No one should be forced out of their own home because they are not listed on a loan document, especially in light of abundant anecdotal reports of problematic sales practices where brokers encouraged younger spouses to remain off of the loan and deed.

“The Center for NYC Neighborhoods has seen a dramatic increase in reverse mortgage foreclosures throughout New York State in recent years. It is deeply concerning how few widows are able to take advantage of protections intended to allow them to stay in their home. These surviving spouses deserve extra protection from homelessness during what is already an immensely difficult period of their lives, which is why we support strengthening outreach to surviving spouses and expanding protections available to them,” said Caroline Nagy, Deputy Director for Policy and Research at the Center for NYC Neighborhoods.

CRC and JALA previously reported on an initial FOIA response in November 2017, which highlighted a 646% increase in foreclosures against seniors with these federally insured reverse mortgages in 2016, as compared to the previous seven years. At the time, CRC, JALA and other advocates made a number of recommendations, but have yet to see those recommendations implemented effectively.

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