

Part 1: Litigation and Other Strategies to Help Reverse Mortgage Surviving Spouses

Advocates representing widows or widowers that were left off of a reverse mortgage loan taken out by their spouses have been struggling to keep foreclosure at bay. While the Plunkett litigation is ongoing, HUD has long promised a solution addressing this issue for all non-borrowing spouses. With the issuance of Mortgagee Letter 2015-03, it is clear that for most surviving spouses, HUD is extending only the “Mortgagee Optional Election,” wherein the mortgage servicer may assign the mortgage to HUD only if the spouse passes the Principal Limit Factor test. However, surviving spouses who have obtained a court order declaring the HUD regulation invalid as to them have been offered the alternative “Hold Election,” where the servicer can delay foreclosure indefinitely and then assign the loan to HUD when it reaches 98% of the Maximum Claim Amount. This alternative does not require a spouse to pass the Principal Limit Factor test. Hear from attorneys who are litigating these cases about crafting pleadings, litigation strategy, and opportunities to resolve these cases in a way that keeps widows in their homes. We will also explain how to calculate the Principal Limit Factor test in order to determine whether the Mortgagee Optional Election is a viable option for your client.

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