

WAC 208-620-820 What specific loan terms and conditions are allowed or required in the proprietary reverse mortgages I make to Washington residents? (1) Loan prepayment.

(a) Prepayment, in whole or in part, or the refinancing of a reverse mortgage loan, must be permitted without penalty at any time during the term of the reverse mortgage loan. For the purposes of this subsection, penalty means an amount of money charged to the borrower in addition to any fees, payments, or other charges, not including interest, that would have otherwise been due upon the reverse mortgage being due and payable. However, when a reverse mortgage lender has paid or waived all of the usual fees or costs associated with a reverse mortgage loan, a prepayment penalty may be imposed, provided the penalty does not exceed the total amount of the usual fees or costs that were initially absorbed or waived by the reverse mortgage lender.

(b) You may not impose a prepayment penalty under this subsection if the prepayment is caused by the occurrence of the death of the borrower.

(c) If a prepayment penalty is imposed under the circumstances described in (a) of this subsection you must disclose the prepayment penalty to the borrower.

(2) Interest rate. A reverse mortgage loan may provide for a fixed or adjustable interest rate or combination thereof, including compound interest, and may also provide for interest that is contingent on the value of the property upon execution of the loan or at maturity, or on changes in value between closing and maturity.

(3) Late advances. A late advance is a scheduled monthly advance that you do not mail or electronically transfer to the borrower on or before the first business day of the month, or within five business days of the date you receive the borrower's request, or such other regularly scheduled contractual date.

(a) If you make a late advance you must pay a late charge of ten percent of the entire amount that should have been advanced to the borrower.

(b) For each additional day you fail to make the advance, you must pay interest on the late advance at the interest rate stated in the loan documents. If the loan documents provide for an adjustable interest rate, the rate in effect when the late charge first accrues is used. You must pay late charges from your funds and they may not be added to the unpaid principal balance of the borrower's loan or in any other way collected from the borrower.

(c) You forfeit the right to interest and monthly servicing fees for any months you fail to make a timely advance.

(4) Loan acceleration. The reverse mortgage loan may become due and payable upon the occurrence of any one of the following events:

(a) The home securing the loan is sold or title to the home is otherwise transferred;

(b) All borrowers cease occupying the home as a principal residence, except as provided in subsection (5) of this section; or

(c) A defaulting event occurs which is specified in the loan documents.

(5) Repayment. Repayment of the reverse mortgage loan is subject to the following additional conditions:

(a) Temporary absences from the home not exceeding one hundred eighty consecutive days do not cause the mortgage to become due and payable;

(b) Extended absences from the home exceeding one hundred eighty consecutive days, but less than one year, do not cause the mortgage to

become due and payable if the borrower has taken prior action that secures and protects the home in a satisfactory manner, as specified in the loan documents;

(c) Your right to collect reverse mortgage loan proceeds is subject to the applicable statute of limitations for written loan contracts. Notwithstanding any other provision of law, the statute of limitations commences on the date that the reverse mortgage loan becomes due and payable as provided in the loan agreement;

(d) If the borrower mortgaged one hundred percent of the full value of the house, the amount owed will be the lesser amount of:

(i) The fair market value of the house, minus the sale costs; or

(ii) The outstanding balance of the loan.

(e) If the borrower mortgaged less than one hundred percent of the full value of the house, the amount owed by the borrower must not be greater than the outstanding balance of the loan or the percentage of the fair market value (minus sale costs, as provided in the contract), whichever amount is less;

(f) The lender must enforce the debt only through the sale of the property and must not obtain a deficiency judgment against the borrower.

(6) Fee disclosure. Using conspicuous, bold sixteen-point or larger type, you must disclose in the loan agreement any interest rate or other fees to be charged during the period that commences on the date that the reverse mortgage loan becomes due and payable, and that ends when repayment in full is made.

(7) Deed of trust disclosure. The first page of any deed of trust securing a reverse mortgage loan must contain the following statement in sixteen-point boldface type: "This deed of trust secures a reverse mortgage loan."

(8) Ancillary products. You or any other party that participates in the origination of a reverse mortgage loan must not require an applicant for a reverse mortgage to purchase an annuity, insurance, or other financial product as a condition of obtaining a reverse mortgage loan. You or the broker of a reverse mortgage loan must not:

(a) Offer an annuity, insurance, or other financial product to the borrower prior to the closing of the reverse mortgage or before the expiration of the borrower's right to rescind the reverse mortgage agreement;

(b) Refer the borrower to anyone for the purchase of an annuity, insurance, or other financial product prior to the closing of the reverse mortgage or before the expiration of the borrower's right to rescind the reverse mortgage agreement;

(c) Provide marketing information or sales leads to anyone regarding the prospective borrower or receive any compensation for such an annuity, insurance, or other financial product sale or referral; or

(d) You or any other party that participates in the origination of a reverse mortgage loan must maintain safeguards, acceptable to the department of financial institutions, to ensure that you do not provide reverse mortgage borrowers with any other financial or insurance products and that individuals participating in the origination of a reverse mortgage loan have no ability or incentive to provide the borrower with any other financial or insurance product.

(9) Borrower counseling. Prior to accepting a final and complete application for a reverse mortgage loan or assessing any fees, you must refer the prospective borrower to an independent housing counseling agency approved by the federal department of Housing and Urban Development for counseling. The counseling must meet the standards and

requirements established by the federal department of Housing and Urban Development for reverse mortgage counseling. You must provide the borrower with a list of at least five independent housing counseling agencies approved by the federal department of Housing and Urban Development, including at least two agencies that can provide counseling by telephone. Telephone counseling will only be used for counseling at the borrower's request. You must create and maintain a form that includes the borrower's signature for telephone counseling requests.

(10) Counseling certification. You must not accept a final and complete application for a reverse mortgage loan from a prospective applicant or assess any fees upon a prospective applicant without first receiving a certification from the applicant or the applicant's authorized representative that the applicant has received counseling from an agency as described in subsection (9) of this section. The certification must be signed by the borrower and the agency counselor, and must include the date of the counseling and the names, addresses, and telephone numbers of both the counselor and the borrower. Electronic facsimile copy of the housing counseling certification satisfies the requirements of this subsection. You must maintain the certification in an accurate, reproducible, and accessible format for the term of the reverse mortgage plus three years.

(11) Minimum age. You may not make a reverse mortgage loan to any Washington state resident unless that resident is a minimum of sixty years of age as of the date of execution of the loan.

(12) Advances. Except for the initial disbursement of moneys to the closing agent, you must issue advances directly to the borrower, or his or her legal representative, and not to an intermediary or third party.

(13) Rescission rights. The borrower in a proprietary reverse mortgage transaction has the same right to rescind the transaction as provided in the Truth in Lending Act, Regulation Z, 12 C.F.R. Part 1026.

(14) Property appraisals. Prior to execution of the loan and at the end of the loan term, you must obtain an independent appraisal of the property value, or use the current year's tax assessment valuation of the property. You must provide copies of these appraisals to the borrower within five days of the borrower's written request, provided the borrower has paid for the appraisal.

[Statutory Authority: Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-820, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 12-18-047, § 208-620-820, filed 8/29/12, effective 11/1/12. Statutory Authority: RCW 43.320.040, 31.04.165, 2009 c 120, and 2009 c 149. WSR 09-24-090, § 208-620-820, filed 12/1/09, effective 1/1/10.]