

ACT 63

H.B. NO. 2005

A Bill for an Act Relating to Reverse Mortgages.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 506-10, Hawaii Revised Statutes, is amended to read as follows:

“~~[[]§506-10[]]~~ **Reverse mortgage loan.** (a) Prior to accepting an application for a reverse mortgage loan, a lender shall refer every borrower to counseling from an organization that is a housing counseling agency approved by the United States Department of Housing and Urban Development, and shall receive certification from the counselor that the borrower has received counseling. The certificate ~~[must]~~ shall be signed by the borrower and the counselor and include the date of counseling, the name, address, and telephone number of both the borrower and the organization providing counseling, and shall be maintained by the holder of the reverse mortgage throughout the term of the reverse mortgage loan.

(b) A lender that fails to comply with the requirements of subsection (a) shall be deemed to have engaged in an unfair method of competition or unfair or deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2.

(c) ~~[Reverse]~~ As used in this section, “reverse mortgage loan” means a loan ~~[made to a]~~ that:

- (1) Is a nonrecourse loan [borrower] wherein the committed principal amount is secured by a mortgage on residential property owned by the borrower [and which is due].;
- (2) Is due upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the real property as [the] a principal residence, or upon the borrower’s default[.];
- (3) Provides cash advances to the borrower based upon the equity or the value in the borrower’s owner-occupied principal residence;
- (4) Requires no payment of principal or interest until the entire loan becomes due and payable; and
- (5) Is made by a lender licensed or chartered under state or federal law.

For purposes of this section, “reverse mortgage loan” ~~[does]~~ shall not include ~~[loans:]~~ a loan:

- (1) Insured by the United States Department of Housing and Urban Development;

- (2) Intended for sale to the Federal National Mortgage Association (also known as “Fannie Mae”) or to the Federal Home Loan Mortgage Corporation (also known as “Freddie Mac”); or
- (3) For which mortgage counseling is required under other state or federal laws.

(d) No person other than a state chartered or licensed, or federally chartered or licensed, lender shall offer reverse mortgage loans.”

SECTION 2. This Act shall apply to any transaction made after April 25, 1999.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 27, 2000.)