

AN ACT

ENTITLED, An Act to revise certain provisions regarding reverse mortgages.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. For the purposes of this Act, a reverse mortgage is any nonrecourse loan secured by real property that:

- (1) Provides cash advances to a borrower based on the equity in a borrower's owner occupied principal residence;
- (2) Requires no payment of principal or interest until the entire loan becomes due and payable; and
- (3) Is made by any lender authorized to engage in business as a bank savings institution, mortgage company, or credit union under the laws of the United States or of South Dakota, or another lender authorized to make reverse mortgage loans by the Division of Banking.

Section 2. A reverse mortgage loan is governed by the following rules, without regard to the requirements set out elsewhere for other types of mortgage transactions:

- (1) Prepayment in whole or in part, is permitted without penalty at any time during the period of the loan;
- (2) All advances made under a reverse mortgage and all interest on the advances have priority over any lien filed after the closing of a reverse mortgage;
- (3) A reverse mortgage may provide for an interest rate which is fixed or adjustable and may also provide for interest that is contingent on the value of the property at closing or at maturity, or on changes in value between closing and maturity;
- (4) A reverse mortgage may include costs that are charged at closing, on a periodic basis, or upon maturity;
- (5) If a reverse mortgage provides for periodic advances to a borrower, the advances may not

- be reduced in amount or number based on any adjustment in the interest rate;
- (6) Lenders, failing to make loan advances as required in the loan documents and failing to cure the default after notice as required in the loan documents, forfeit any right to collect interest. Lenders are also subject to administrative penalty as determined by the Division of Banking;
 - (7) Any recordation tax on reverse mortgages shall be based on the net present value of credit available to the borrower at closing, which:
 - (a) May not include any financed or anticipated costs or interest;
 - (b) Shall include the dollar amount of any lump sum advance or available credit line at closing; and
 - (c) Shall include the present value equivalent of any anticipated monthly loan advances as specified by the lender;
 - (8) The mortgage may become due and payable only upon the occurrence of 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;
 - (c) Any fixed maturity date agreed to by the lender and the borrower occurs; or
 - (d) An event occurs which is specified in the loan documents and which jeopardizes the lender's security;
 - (9) Repayment is subject to the following additional conditions:
 - (a) Temporary absences from the home not exceeding sixty consecutive days may not cause the mortgage to become due and payable;
 - (b) Temporary absences from the home exceeding sixty consecutive days but less than one year do not cause the mortgage to become due and payable so long as the borrower has taken prior action which secures the home in a manner satisfactory

to the lender;

- (c) The lender's right to collect reverse mortgage proceeds is subject to the applicable statute of limitations for loan contracts. The statute of limitations commences on the date that the mortgage becomes due and payable. The lender shall prominently disclose in the loan agreement any interest or other fees to be charged during the period that commences on the date that the mortgage becomes due and payable, and that ends when repayment in full is made.

Section 3. A reverse mortgage loan payment made to a borrower is treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals. Undisbursed reverse mortgage funds shall be treated as equity in a borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals. This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state, including supplemental security income, low-income energy assistance, property tax relief, medical assistance, and general assistance.

Section 4. That § 54-12-1 be repealed.

Section 5. That § 54-12-2 be repealed.

Section 6. That § 54-12-3 be repealed.

Section 7. That § 54-12-4 be repealed.

Section 8. That § 54-12-5 be repealed.

Section 9. That § 54-12-6 be repealed.

Section 10. That § 54-12-7 be repealed.

Section 11. That § 54-12-8 be repealed.

Section 12. That § 54-12-9 be repealed.

Section 13. That § 54-12-10 be repealed.

Section 14. That § 54-12-11 be repealed.

Section 15. That § 54-12-12 be repealed.

Section 16. That § 54-12-13 be repealed.

Section 17. That § 54-12-14 be repealed.

Section 18. That § 54-12-15 be repealed.

Section 19. That § 54-12-16 be repealed.

Section 20. That § 54-12-17 be repealed.

Section 21. That § 54-12-18 be repealed.

Section 22. That § 54-12-19 be repealed.

An Act to revise certain provisions regarding reverse mortgages.

=====
I certify that the attached Act
originated in the

SENATE as Bill No. 262

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 262
File No. _____
Chapter No. _____

=====
Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

=====
The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State