

January 2009



## FOR THE FIRST TIME HECM – REVERSE MORTGAGE PROCEEDS CAN BE USED TO PURCHASE A HOME

### **Question: Is it true that HECMS can be used to purchase a home?**

Yes, it is. The US Department of Housing and Urban Development (HUD) has issued Mortgage Letter 2008-33 implementing this provision of the Housing and Economic Recovery Act of 2008, Public Law 110-289. All of us, including the Federal Housing Administration (FHA), are excited and proud to offer this program as part of the FHA insured reverse mortgage products (Home Equity Conversion Mortgage, HECM).

### **Question: What makes this program unique?**

Unlike other home purchase programs, there are no minimum income or credit score requirements. For qualified purchasers who want or need a different principal residence, the HECM purchase program could just be the answer. Like all other HECM programs, no monthly mortgage payments are required.

### **Question: How will it work?**

The basic HECM rules are the same, including (but not limited to):

- All homeowners must be borrowers, be at least 62 years old, and live in the home as their principal residence.
- All homeowners must receive counseling
- Available proceeds are determined from 1) the age of the youngest borrower, 2) the value of the home permitted to be used in the computation, and 3) the applicable HECM expected interest rate.
- The loan will not become due and payable for as long as the home remains the principal residence of at least one borrower.

The down payment cannot be borrowed or gifted, although certain family gifts will be exempted. Otherwise, the down payment must come from cash on hand, savings, CDs, IRAs, or from sale of assets owned by the purchaser (including the sale of the prior principle residence).

### **Question: How do the rules differ?**

First, this feature is not available until January 1, 2009. Interested readers should start shopping for a new home as early as possible. FHA and HUD are encouraging borrowers to use home inspectors in evaluating the purchase price of the desired home.

Second, for the first time HECM proceeds can be used to purchase a home.

Third, no loans whatsoever are permitted against the home other than the HECM. Subordinated debts and liens are prohibited.

Fourth, for now, co-ops will not be considered qualified property; neither will many manufactured homes.

### **Question: Please explain more about this new program.**

The purchase price of the home will have no impact on the amount of proceeds available under this program. The computation will still be based on the lower of the appraised value or the lending limit (called the maximum claim amount). However, the lower the purchase price, the lower the amount that will be needed from the borrower to purchase the home. To learn more about this new program call our reverse mortgage counselor Arthur Kohler, toll free, at 1-888-753-8135.

## **PROTECTING FROM GARNISHMENT OF SOCIAL SECURITY FUNDS DEPOSITED IN BANK ACCOUNTS**

A recent federal district court decision refuses to dismiss FDCPA and state claims against a debt buyer and its collection lawyer for garnishing a judgment debtor's bank account, after receiving the debtors' affidavit that the only Social Security funds were deposited in her account, which are exempt from garnishment. The court held that claims were stated for unfairness under the FDCPA, for unconscionability under the Iowa Credit Code, and for the tort of abuse of process.

In response to a collection lawsuit, a legal aid office representing the elderly debtor had written the collection lawyer enclosing the client's sworn affidavit that her sole source of income and the sole source of deposits in her bank account was Social Security. The letter and affidavit were also provided to the court clerk and county sheriff.

Her account was still garnished after a default judgment and the funds held until the debtor's lawyer sent copies of her bank account statements showing Social Security as the only source of income. The court was clearly upset with the collectors' callous disregard of the Social Security exemptions.

The court rejected the debt collector's arguments that state procedure did not permit it to obtain discovery before seizing Social Security deposits. The consumer contended that the collector garnished the account knowing it held only exempt funds, and demonstrating "a pattern and practice of garnishing funds that it knows, or should know, are exempt." The court could not conclude that this was not an abuse of process as a matter of Iowa law and an unfair or unconscionable practice under the FDCPA and the Iowa Credit Code.

To protect your income from the trouble described above we suggest you switch your direct deposit income accounts to the ABC Bank, which has signed an agreement with DCSD to protect our clients income from bank freezes and garnishment. Call DCSD at 1-800-992-3275 Ext 1402 and talk to Elizabeth about transferring your account.

## **LONG -TERM-CARE INSURANCE: WHEN IT MAKES SENSE**

It's not alarmist to think that you'll need long-term care in your lifetime. Among Americans who reach their 65<sup>th</sup> birthday, 45% will have to pay for some kind of long-term-care services, according to the actuarial firm Milliman. Yet the decision whether to buy a long-term-care insurance policy, which pays out for nursing-home and certain at-home care, is one of the toughest calls you'll ever have to make. Insurance could preserve your estate for your heirs and save incredible heartache. On the other hand, it's expensive and chances are you won't need it. What to consider as you weigh your comfort level with playing the odds.

### **STRICTLY BY THE NUMBERS**

There's no question that years in a nursing home can decimate your savings. The average facility now costs \$213 a day, according to a MetLife survey; based on last year's 3% yearly price increase, by 2030 you can expect to pay \$408 a day, or \$148,967 a year. For a 2 1/2-year average stay, the tab would be about \$372,000.

The chances that you'll need that much care, however, are small. Only 9% of 65-year-olds can expect a lengthy nursing-home stay, according to Milliman (another 18% will need long-term assisted-living care). But even a long-term stay could be a matter of months, not years.

### **BUT WAIT...**

What if a debilitating illness runs in your family? In that case, your odds of needing expensive long-term care increase. Or perhaps you want the peace of mind of knowing that a lengthy nursing-home stay wouldn't financially devastate your spouse or your kids.

Even if you feel that you're a candidate for this insurance, you have to confront the policies' expense. Don't buy unless you can afford a premium hike of 10% to 20% and can continue to make payments for years. A good rule of thumb: Spend no more than 7% of your income on premiums. And keep in mind that the average \$1,000-a-year policy pays \$150 a day, only 70% of the typical cost of care today. If you want to avoid a shortfall or if nursing-home costs are high in your area you may need a more expensive policy. And if you can't pay at any point, you'll likely be left with no coverage at all. Then the money would really have been wasted.

### **KEEP IN MIND**

If you want to purchase long-term-care insurance, get the maximum flexibility you can afford. To keep your premium down, pick a 90-day elimination period (the long-term-care version of a deductible). But opt for 5% yearly "compounding" inflation, which costs more but will ensure that your coverage keeps up with price hikes. And keep saving even if you have insurance, you'll wind up paying for a portion of your care.