

By Mr. DeFilippi of West Springfield, petition of Walter A. DeFilippi for legislation to further define reverse mortgage loans. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT AMENDING THE REVERSE MORTGAGE LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 167E of the General Laws is
2 hereby amended by deleting paragraph 14A and inserting in its
3 place the following paragraph:—

4 14A. Reverse Mortgage Loans.

5 (a) Definitions. In this paragraph, the following definitions
6 apply:

7 (1) "Reverse mortgage loan" means a nonrecourse loan for a
8 definite or indefinite term secured by a mortgage on the principal
9 residence of the mortgagor, which provides payments to the mort-
10 gator, either directly or through purchase of an annuity, in one or
11 more lump sums or in equal or unequal installments and which
12 requires no partial or other payment of principal or interest until a
13 future time, upon the occurrence of one or more events specified
14 in the loan contract.

15 (2) "Borrower" means a natural person sixty years of age or
16 older who occupies and owns, individually or with another bor-
17 rower, an interest in residential real property securing a reverse
18 mortgage loan, and who borrows money under such a loan.

19 (3) "Lender" means a bank as defined in section 1 of chap-
20 ter 167E, or an insurance company as defined in section 1 of
21 chapter 175, or a person, firm, or corporation authorized by the
22 commissioner of banks as in subparagraph (b) of this paragraph,
23 to make reverse mortgage loans.

24 (4) "Shared appreciation" means an agreement by the borrower
25 and the lender that the lender may collect, in addition to interest
26 accruing on the outstanding balance of a reverse mortgage loan,
27 an additional amount equal to a percentage of the net appreciation
28 in value of the property during the term of the reverse mortgage
29 loan.

30 (b) Authority. Lenders other than banks or insurance compa-
31 nies shall apply to the commissioner for authorization to make
32 reverse mortgage loans. The application shall include affirmation
33 of financial solvency and capitalization requirements specified by
34 the commissioner. Before a lender makes reverse mortgage loans,
35 it shall submit to the commissioner for his approval a general
36 plan, and subsequent amendments, describing the loans and the
37 procedure for making the loans. The submitted plan shall include
38 a copy of the form of the note and mortgage deed that the lender
39 will use for the loans, a detailed description of how the plan will
40 function, and other information as the commissioner may require.
41 The plan shall provide that a loan contract shall not bind a loan
42 applicant for seven days after a lender commits to make a loan.
43 Where the lender is a bank, the aggregate balance of reverse
44 mortgage loans made or acquired by the lender shall not exceed
45 five percent of the deposits of the lender.

46 (c) Loan to value ratio. Where the lender makes a reverse mort-
47 gage loan for a definite term, the principal amount shall not
48 exceed eighty percent of the value of the real estate to the owner.
49 Where the lender makes a reverse mortgage loan for an indefinite
50 term, the commissioner of banks shall decide the permitted loan
51 to value ratio.

52 (d) Interest. A reverse mortgage loan contract may provide for
53 a fixed or variable interest rate and may also provide for shared
54 appreciation where the appreciation in value of the home securing
55 the reverse mortgage loan determines the amount of a portion of
56 the interest. If a reverse mortgage loan contract provides for
57 periodic payments to a borrower, the amount or number of such
58 payments shall not decrease based on a variation in the interest
59 rate for the loan.

60 (e) Repayment. A reverse mortgage loan may become due and
61 payable upon the occurrence of one of the following events:

62 (1) Where the borrower and lender have agreed to a definite
63 term for the loan and the agreed maturity date for the loan arrives.

64 (2) The borrower sells the home securing the reverse mortgage
65 loan.

66 (3) The borrower ceases to occupy the home as a principal
67 residence.

68 (4) The borrower dies.

69 (5) An event occurs which jeopardizes the lender's security and
70 which under the terms of the reverse mortgage loan contract trig-
71 gers the lender's right to demand repayment of the loan.

72 When the occurrence of one of events (1) through (5) triggers
73 the borrower's obligation to repay the reverse mortgage loan, in
74 addition to rights conferred upon owners and borrowers under
75 chapter 183 of the General Laws, the lender shall give the
76 borrower not less than 90 days' notice of its intent to initiate fore-
77 closure proceedings. If the contract so provides, interest will
78 continue to accrue during the 90-day period.

79 Temporary absences from the home not exceeding sixty con-
80 secutive days shall not cause the reverse mortgage loan to become
81 due and payable. Temporary absences from the home exceeding
82 sixty days but not exceeding one year shall not cause the reverse
83 mortgage loan to become due and payable so long as the borrower
84 has taken prior action which secures the home in a manner satis-
85 factory to the lender.

86 (f) Prepayment. The lender shall permit the borrower to prepay
87 the reverse mortgage loan, in whole or in part, without penalty
88 during the term of the loan.

89 (g) Lender default. A lender who fails to make loan advances
90 under a reverse mortgage loan contract, and who fails to cure
91 such a default as required by the contract, shall forfeit the right to
92 collect interest or service charges upon the reverse mortgage loan.
93 At loan maturity, the lender shall have the right to recover the
94 outstanding balance as of the date of default, minus interest or
95 service charges.

96 (h) Limit on borrower liability. The lender shall enforce the
97 debt only through the sale of the property and shall not obtain a
98 deficiency judgment against the borrower.

99 (i) Disclosure. A lender shall provide to prospective borrowers
100 and to the commissioner for dissemination to counselors under
101 subparagraph (j) the following materials written in plain
102 language:

103 (1) A schedule and explanation of payments to the borrower
104 and indication of whether the borrower or the lender will be
105 responsible for paying property taxes and property insurance
106 premiums.

107 (2) A statement of the projected total loan costs over time.
108 Total loan costs include the origination fee, closing costs,
109 servicing premium, mortgage insurance premium, the annual
110 interest rate charged on the reverse mortgage loan balance, and
111 contingent interest based on appreciation if the reverse mortgage
112 loan contract provides for shared appreciation. The statement
113 shall include a chart or table containing projections of the total
114 loan costs at a series of dates beginning at the end of year two and
115 then every four years to year twenty. If the loan contract provides
116 for shared appreciation, the chart or table must present projections
117 based upon annual average home value appreciation of zero, two,
118 six, and ten percent.

119 (3) A statement of the projected total loan cost rate, which
120 means the total of all loan costs expressed as a single annual
121 average rate of interest. The statement shall include a chart or
122 table of the type described in clause (2) of this subparagraph.

123 (4) Information about repayment, prepayment, and lender
124 default as specified in subparagraphs (e), (f), and (g) of this para-
125 graph. The lender shall obtain a statement signed by the borrower
126 acknowledging disclosure of all contractual contingencies speci-
127 fied in subparagraph (e) which could force a sale of the mort-
128 gaged real estate.

129 (j) Counseling. A lender shall not make a reverse mortgage
130 loan subject to this paragraph until the prospective borrower has
131 completed a counseling program offered by a counselor who shall
132 be approved by the executive office of elder affairs. The execu-
133 tive office of elder affairs shall maintain a current list of all
134 approved counselors and shall periodically provide a copy of this
135 list to the commissioner and to all approved lenders and shall
136 make this list available to the public. The commissioner shall pro-
137 vide to counselors the information from lenders specified in sub-
138 paragraph (i).

139 (k) Inapplicability of related statutes. A lender may make a
140 reverse mortgage loan without regard to the following provision
141 for other types of mortgage transactions set out in the following
142 statute:

143 Payments upon principal required of the borrower on loans
144 made by insurance companies under chapter 175, Section 63,
145 paragraph 7.

The first part of the paper is devoted to a general discussion of the problem. It is shown that the problem is equivalent to the problem of finding a function which satisfies certain conditions. This is done by using the method of characteristics.

The second part of the paper is devoted to the construction of a function which satisfies the conditions. It is shown that such a function exists and is unique. This is done by using the method of successive approximations. The function is shown to be continuous and to have the desired properties.

The third part of the paper is devoted to the study of the properties of the function. It is shown that the function is bounded and that it has a certain regularity. This is done by using the method of estimates. The function is shown to be the limit of a sequence of functions which are easier to handle.

The fourth part of the paper is devoted to the study of the asymptotic behavior of the function. It is shown that the function has a certain asymptotic expansion. This is done by using the method of asymptotic expansions. The function is shown to be the sum of a series of terms which are easier to handle.

The fifth part of the paper is devoted to the study of the applications of the function. It is shown that the function has certain applications in the theory of differential equations. This is done by using the method of applications. The function is shown to be useful in the study of certain types of differential equations.

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Amendments to the Constitution

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