



SERVICING

When the Last Surviving Borrower Dies

By Jason Perez



How recent policy change has impacted the servicing process

I regularly receive questions about what happens when the last surviving borrower dies, and when I think back to my responses just a few years ago, I realize they were once very simple. But in the wake of major product change these past two years—like so much within our product and industry—it has gotten complicated! I'll do my best to simplify what has become a more layered, complex and ultimately rewarding process for borrower's heirs and estates.

Informing HUD and Heirs

One constant in this end-phase of reverse mortgage loan servicing is the necessity of communicating with HUD and the heirs or estate. When the last borrower passes away, news of the borrower's passing must be communicated to HUD and the loan is

called Due & Payable without requiring further approval from HUD. Once this is completed, a Demand Letter or Notification to the Borrower must be sent to the property and all other mailing addresses on file. This letter notifies any heirs or the estate of their options, which are outlined in HUD Handbook (sections 4330.1 and 13.33).

These options include:

- ✓ [Paying the loan balance in full](#)
- ✓ [Completing a short sale for a minimum of 95 percent of the appraised value, less customary closing costs](#)
- ✓ [Completing a deed in lieu of foreclosure](#)
- ✓ [Walking away and allowing the foreclosure process to commence](#)

After this notification letter is sent, monthly property inspections are completed and an appraisal is ordered. If no response is received from the heirs or the estate, the foreclosure process begins.

Foreclosure Timeline: Then and Now

In years past, servicers could allow a full six months from the date of the last borrower's death before starting the foreclosure process. Within this timeframe, it was possible for the servicer to apply for and receive up

to two 90-day extensions to delay foreclosure to allow the heirs or estate to satisfy the loan. In rare exceptions, a third 90-day extension could be granted by providing HUD with documentation for review and approval if satisfaction of the loan was imminent. With these extensions in place, an "Auto Servicer Extension" of 90 days was provided to the servicer to complete the required First Legal Action of Foreclosure, after all applicable extensions expired, or after the initial six-month timeframe if no further extensions were applied for or granted.

This process changed in 2012, when HUD clarified that the Auto Servicer Extension was no longer "automatic" for servicers. This 90-day extension to complete the required First Legal Action of Foreclosure for servicers would be available if and when servicers were able to provide proof of the heirs/estate efforts to satisfy the loan. If this proof could not be obtained, then the required First Legal Action of Foreclosure's deadline would be at the six-month mark from the date of death.

This new timeline accelerates the servicer's need to acquire documentation from the estate or heirs. When documentation is not obtained, loans move to the foreclosure process more quickly and servicer responsibility increases. Loans now begin the foreclosure process within 60 to 90 days from the date of the last borrower's death, not the six-month window previously provided. If a loan was in the foreclosure process, and the heirs provided the required documentation, it was still possible to apply for and receive the two 90-day extensions, and sometimes the rare third extension to delay foreclosure proceedings. With this documentation in place and extensions granted, the servicer was then able to proceed with what is the equivalent of the 90-day Auto Servicer Extension to

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allow for completion of the First Legal Action.

Another major change came with the issuance of HUD ML 2015-10. This mortgagee letter clarified the notification requirements that must be completed to properly inform HUD of events pertaining to the Due & Payable process. It created additional extensions that servicers might apply for in order to meet requirements for taking First Legal Action. It also eliminated the previously allowed third extension to delay foreclosure.

Non-Borrowing Spouse

The biggest change is the addition and consideration for a remaining Non-Borrowing Spouse (NBS). Per Mortgage Letter 2014-07, for reverse mortgages with FHA case numbers issued on or after August 4, 2014, an

NBS “identified before the loan is taken” can be on deferral status as long as they meet additional HUD requirements. They cannot withdraw any remaining funds, but they are allowed to remain in the property they shared with the deceased borrower.

With the issuance of Mortgage Letter 2015-15, and also for reverse mortgages with FHA case numbers issued on or after August 4, 2014, servicers can elect to assign the loan to HUD and the agency will grant a similar deferral period for the NBS while it services the loan. This assignment has many requirements that need to be met before it is accepted.

What Will Never Change

What will never change in this process is the need for servicer and industry sensitivity to the grief and

all-too-common confusion harbored by the heirs of a deceased borrower. Celink COO Ryan LaRose shared one particularly poignant story:

“I recall an instance where a borrower’s daughter was thrown into complete and devastating grief over the sudden loss of her mother. She was emotionally paralyzed for months, although almost daily she was faced with the daunting task of dealing with the loss of her mother, and undertaking the necessary actions to finalize her estate. We worked closely with the daughter, counseling her through the entire process until she was able to sell the home and pay off the reverse mortgage balance. Reverse mortgage servicers spend a great deal of important and extended time with these grieving family members as they coach them through this process.”

While it’s essential to follow HUD’s updated protocol, it is equally essential to remember that the end of a reverse mortgage loan signals the end of the life of a cherished father, mother, grandparent or partner. ■



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