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TitleTRACK

Reverse mortgage benefits come with planning

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Reverse mortgages for cash-strapped seniors are growing in popularity.

Last month we learned about a reverse mortgage's general terms. Today, I'd like to provide the title perspective.

Available to borrowers aged 62 or older who own their own home, a reverse mortgage provides financial options to seniors, including those whose homes are in need of repair or who wish to cover the costs associated with in-home care.

While there are no income or credit requirements, borrowers should be aware of certain issues affecting their estate plan and federal or state benefits. Seniors who put forth the effort to create an estate plan are not precluded from obtaining a reverse mortgage.

A reverse mortgage can be obtained without altering the property's title, even when it's held in the name of a living trust — or revocable trust or life estate.

Incapacitated borrowers who established a durable power of attorney also are eligible for a federally-insured reverse mortgage, along with senior borrowers who receive Social Security, Medicare or Medicaid benefits.

'Inter vivos' or revocable trusts

When title is held in the name of a living or revocable trust, a common estate planning tool, age qualified borrowers still may take advantage of the reverse mortgage program.

If title is held in an irrevocable trust, however, the property usually will not qualify.

A revocable trust is created by an individual, the settlor, generally for their benefit during their lifetime. Assets are placed in the trust, but the settlor may alter or terminate the trust at any time. The trustee holds legal title to and has a fiduciary duty to manage the trust property under the trust's provisions for the benefit of the beneficiaries.

The basic requirements for obtaining a reverse mortgage in the name of a revocable trust include:

- All beneficiaries of the trust must be age eligible;
- Beneficiaries must occupy the property as their primary residence;
- The trust must be revocable during the settlor's lifetime;

- The trustee must have the power to mortgage the trust property; and

- The trust must allow for a reverse mortgage or be amended to include such a provision.

Title remains vested in the name of the trust; however, the trustee does not need to meet any age requirements.

While the trust is not a party to the reverse loan agreement, beneficiaries may authorize the trustee to manage the payment plan and the distribution of reverse mortgage funds.

Common concerns

What if the borrower wishes to terminate or remove the property from the trust?

The lender may allow title to pass from the trust into one or more of the original age eligible borrowers. At least one of the original borrowers must continue to occupy the property as their primary residence.

Will a reverse mortgage preclude heirs from receiving a beneficial interest in the property?

While a reverse mortgage is paid upon death, the bank does not keep the mortgaged property. If the home is worth more than the balance of the mortgage, the remaining equity belongs to the beneficiaries or heirs. If the value of the property is insufficient, a reverse mortgage is a federally insured non-recourse loan, meaning that if the property's value is insufficient to pay the mortgage in full, the trustee does not need to divest other assets to repay the mortgage balance.

Is it easier to take the property out of trust?

Advising borrowers to remove property from a trust without first consulting their estate planner never is a good idea. Senior borrowers may end up losing important benefits, including Medicaid. It also is advisable to talk with borrowers about whether they considered or are planning on placing the property into trust. If so, it should be done prior to the reverse mortgage.

Life estate

Senior borrowers holding title under a life estate also are eligible for a reverse mortgage. Under a life estate, title to the property has passed via deed to another person, generally an heir, with the grantor retaining the right to occupy the property for life.



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So long as the life estate holder has the right to — and actually does — occupy the property for life, the lender will approve the reverse mortgage. Under the program the heir holding legal title must consent to the mortgage and receive reverse mortgage counseling.

The title also must remain unchanged for the duration of the reverse mortgage.

Power of attorney

If a senior borrower physically cannot sign the loan application, attend required counseling and/or execute closing documents, his or her power of attorney may stand in place. The power of attorney must meet state requirements, grant the power to enter into financial agreements and mortgage property, and be recorded prior to or at the time of closing.

Likewise, mental incapacity does not disqualify a senior borrower as long as the power of attorney is specifically a durable power of attorney designed to survive incapacity.

Social Security, Medicare and Medicaid

A senior borrower's Social Security and Medicare benefits will not be affected by a reverse mortgage. Such programs are entitlement

programs and not tested on a means base or affected by income.

Medicaid recipients should seek advice prior to signing a reverse mortgage, however. Most state Medicaid programs limit individual recipients to no more than \$623 in monthly income and no more than \$2,000 in countable resources per month; or \$3,000 for couples.

Reverse mortgage proceeds are not considered income, so Medicaid recipients can take advantage of the program with some guidance regarding disbursement of funds. If a borrower receives a lump disbursement from their reverse mortgage in the amount of \$5,000 and only spends \$2,000 during that month, for instance, the remaining disbursed funds in the amount of \$3,000 may disqualify the borrower from Medicaid eligibility. While a reverse mortgage does not automatically disqualify a borrower from Medicaid, recipients should seek advice prior to signing.

With careful planning, senior borrowers who have established comprehensive estate plans or receive state or federal benefits may reap the benefits of a reverse mortgage.

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