

TESTIMONY
OF
DANIEL FENTON
SENIOR HOUSING DIRECTOR, MONEY MANAGEMENT INTERNATIONAL
BEFORE THE
FINANCIAL SERVICES SUBCOMMITTEE ON
INSURANCE, HOUSING, AND COMMUNITY OPPORTUNITY
UNITED STATES HOUSE OF REPRESENTATIVES

REGARDING
“OVERSIGHT OF THE FEDERAL HOUSING ADMINISTRATION’S
REVERSE MORTGAGE PROGRAM FOR SENIORS”

MAY 9, 2012

Testimony of Daniel Fenton

Chairman Biggert, Ranking Member Gutierrez, and Members of the Subcommittee, my name is Daniel Fenton, and I am Senior Housing Director for Money Management International, Inc. (“MMI”). MMI is a tax-exempt, nonprofit, U.S. Department of Housing and Urban Development (“HUD”) approved housing counseling agency. MMI provides a range of financial counseling services including foreclosure prevention and reverse mortgage counseling through over 120 community-based branch offices and by telephone nationwide. MMI is the largest reverse mortgage counseling agency in the United States. We have in excess of 100 Home Equity Conversion Mortgage (or “HECM”) certified counselors, accounting for approximately 10% of all U.S. Department of Housing and Urban Development (“HUD”) certified reverse mortgage counselors nationwide.

Thank you for this opportunity to share with you the perspective of reverse mortgage counselors providing education, information and resources to senior homeowners considering the use of a reverse mortgage. Housing counseling is an important consumer protection as part of the reverse mortgage program and can serve as model for a way to protect consumers before entering into a substantial financial transaction involving debt. Mandatory housing counseling – prior to applying for a reverse mortgage – has been part of the HECM program since its inception in the 1987 Housing & Community Development Act. We believe that reverse mortgage counseling is a critical safeguard for seniors, in that it ensures that borrowers receive objective information to assist them in comparing the features of various reverse mortgage products. As unbiased third parties, reverse mortgage counselors educate homeowners about the benefits and costs of a reverse mortgage loan.

MMI counselors see firsthand the benefits of financial counseling to seniors seeking reverse mortgages. Our experience and other evidence tells us that a number of seniors seeking reverse mortgages are usually financially vulnerable, much like the millions of people who sought subprime mortgages and those that are burdened by student loan debt. And, like subprime borrowers and those that become saddled with student loan debt, people looking for a reverse mortgage are often not wealthy. While we serve a spectrum of consumers that are struggling

with debt and provide remedial counseling, the big difference here is the required counseling provided prior to the mortgage transaction.

Borrowers choose reverse mortgages for a variety of reasons; however, the majority does so in order to improve their day to day standard of living. Whether by eliminating existing first mortgage payments or to pay for in-home care services or other living expenses, the use of a reverse mortgage provides the ability to better handle day to day expenses and improves the ability of many seniors to continue living independently in their own homes. Our clients' needs and planned use of funds correspond with national findings reported by the National Coalition on Aging which indicate that 75% of seniors report incomes of less than \$40,000 per year. Further, 67% of seniors specify that their primary use of reverse mortgage proceeds is to pay off existing debt obligations.

Potential Pitfalls for Client of Reverse Mortgage Program.

The principle feature of reverse mortgages that are so attractive to seniors – the deferral of interest payments – can, if not understood fully, lead to significant problems. If seniors do not understand the terms of the mortgage up front, later they may be shocked later to discover that they have exhausted their loan proceeds earlier than expected. Moreover, when repayment of the reverse mortgage loan becomes necessary some other household members can be forced to initiate the sale of what they considered to be their family home. Similarly potential heirs to the property can be shocked to find a substantial reduction in equity that they will inherit.

Understanding repayment triggers is not only a critical part of ensuring that a reverse mortgage is economically feasible, but it is also essential so that borrowers and their families understand the future impact before and not after committing to a reverse mortgage.

In addition, in a small number of cases borrowers have taken out reverse mortgages without being able to afford property tax and homeowners' insurance payments thereby causing them to default on their reverse mortgage. It is vital that borrowers understand their ongoing financial responsibilities in order to maintain their reverse mortgage.

There is also risk of elder abuse and financial exploitation of clients seeking reverse mortgages. While there are many good players; unscrupulous salespeople can and do misrepresent the nature of the reverse mortgage, at times describing it as a government entitlement program. Others gloss over the responsibilities of repayment and the true cost of the loan in order to make a quick sale. We have also seen other attempts to couple a reverse mortgage with solicitations through a third party (e.g. home improvement contractor) to make use of the loan proceeds in such a way that the borrowers do not understand the true cost of their participation.

Uninformed seniors can be persuaded to believe that the program represents “free money” and can be tricked into the unwise use of funds. Sadly, some seniors are under undue pressure to take out a reverse mortgage to provide quick funds to a family member or other third party who may seek to “help” the senior acquire the mortgage so the third party can make use of the loan proceeds.

Role of HECM Counseling in Mitigating Consumer Risk

Congress and the Federal Housing Administration (“FHA”) anticipated these potential pitfalls, including the risk of abuse, and sought to ensure that seniors are equipped to avoid them by requiring that they participate in a reverse mortgage counseling session with an independent counselor employed by a nonprofit HUD-approved housing counseling agency prior to submitting a reverse mortgage application.

The role of a reverse mortgage counselor is not to promote or discourage the use of the reverse mortgage program, but rather to ensure that seniors considering a reverse mortgage are properly educated so that they can make an informed choice. A typical counseling session covers the following:

- Detailed education on loan characteristics, focusing especially on the rights and responsibilities of the borrower after the loan is closed.
- Individualized loan and budgeting analysis to help the senior see in practical terms how the loan will help meet current and future needs.
- Specialized web-based analysis tools to help check the senior’s eligibility for other welfare benefits.

- Review of a comprehensive set of resources and other programs which can act as a supplement or sometimes an alternative to the need to take out a reverse mortgage.

Today, MMI's typical interaction with our reverse mortgage counseling client totals two to two and a half hours, including the development of individualized loan example documents, general education on reverse mortgages, the creation of an individualized budget, and a welfare benefits analysis relating to the client's particular circumstances.

Major Steps to Strengthen Counseling and Consumer Protection

In the last three years, HUD with the support of counseling agencies and other stakeholders has strengthened the effectiveness of the reverse mortgage counseling program significantly. In a major overhaul of counseling practices, HUD introduced several requirements to ensure that reverse mortgage counseling fully meets the needs of seniors and promote consistency among counseling agencies. Major enhancements include:

- Mandatory certification of all counselors with a requirement that all counselors successfully pass a third-party administered exam before they are allowed to counsel. This certification also includes continuing education requirements and complete recertification (i.e., taking an updated exam) every three years.
- An improved, 140 page counseling protocol, updating and clarifying the educational content required within a counseling session.
- A standardized "test of understanding" which must be successfully completed as part of the counseling session. This test uses standardized questions to establish whether the senior has a basic understanding of how a reverse mortgage works. It is not presented in a "test format" but should the senior be unable to answer the majority of questions proficiently this prompts the counselor to re-review material, and, if the senior is still unable to understand the material, the counselor must withhold the certificate to provide the senior with additional opportunities to gain a better understanding of the reverse mortgage program.
- A requirement that all seniors receive a personalized loan "work up" prior to counseling to allow discussion of how a reverse mortgage is likely to work in their

case, helping to show to what extent a reverse mortgage is likely to meet their individual needs.

- An enhanced HUD review process in monitoring the work of HUD-approved housing counseling agencies. This additional layer of review and oversight focuses specifically on the work of an agency's reverse mortgage counseling program and compliance with standards outlined in HUD regulations.

Flawed Funding Model Poses Potential Risk to Soundness of the Counseling Program

Despite the importance and success of the reverse mortgage program, providing reverse mortgage counseling is not without some challenges. Chief among them is agencies' ability to provide services to seniors that are unable to pay for their own counseling session when government funding is not adequate to meet demand. As we are all well aware, federal financial support for reverse mortgage counseling has declined in recent years and the level of support for this coming fiscal year is uncertain.

HUD and the housing counseling sector have developed a robust process to protect consumers. The prescribed content and accountability of counseling agencies is stronger than in any other area of housing counseling. Nonetheless, we believe that in an effort to maintain the independence of counseling agencies Congress may have inadvertently created a funding model that actually undermines the ability of counseling agencies to meet seniors' needs as effectively as possible.

We are grateful for Congress and HUD's support of reverse mortgage counseling through its Housing Counseling Program grants; however, it is widely acknowledged that grant funds do not and cannot wholly fund the cost of counseling. The cost of consumer protection for reverse mortgages should not be the exclusive responsibility to the government. We believe that both the seniors acquiring reverse mortgages, when there is an ability to pay, and reverse mortgage lenders should help cover the cost of these efforts. However, the current regulatory environment makes this very problematic.

- *The Housing and Economic Recovery Act of 2008* (HERA) specifically prohibits any reverse mortgage lender or related party from funding reverse mortgage counseling. We

believe that the intention of this language was to avoid a conflict of interest, but what it actually does is force the cost of non-HUD funded counseling directly onto the clients seeking reverse mortgage counseling.

- As described earlier in my testimony, prospective reverse mortgage borrowers are usually seeking additional funds to help pay for living expenses. Therefore, requiring a client to pay a substantial fee for counseling prior to receiving the proceeds from a reverse mortgage (if they receive a reverse mortgage at all) is often a significant hardship and acts as a disincentive to seek counseling. Seniors are unwilling to participate unless they are already certain they wish to proceed with a reverse mortgage, have the funds to make the up-front payment and have likely already interacted with a lender and decided upon a specific loan product (without the benefit of counseling).

Counseling agencies may also charge a fee as part of closing costs, removing the need for an up-front payment; however, this creates a financial model where independent HUD-approved counseling organizations are paid on a “per-loan closed” basis and not a per counseling session basis. We believe this situation is less than ideal because specific agencies can become dependent on loan volumes related to specific lenders for their financial survival.

In this environment we believe that an inadequate funding model leads to a negative impact on the very seniors we are trying hardest to protect: seniors with low incomes that may or may not actually need a reverse mortgage.

Suggestion for Change

We urge that members of the Subcommittee continue the dialogue on developing a sustainable model for funding for reverse mortgage counseling. In addition to working with appropriators, we respectfully ask that members of the Subcommittee also consider ways to improve the funding model for reverse mortgage counseling.

One alternative that we suggest be considered is amending HERA to allow the establishment of a **blind trust** that will compensate counseling agencies **on a per-client counseled basis**, irrespective of whether the client enters into a reverse mortgage. The trust could be funded by a

standardized closing cost on all reverse mortgages and contributions from the reverse mortgage industry and government as needed. If Congress were to allow the pooling of funds from lenders to support reverse mortgage, the potential conflict of interest is removed and the counseling service sector can adapt to meet the capacity needs of this industry without the need to rely wholly on grant funds to meet the needs of the seniors they serve.

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MMI believes that financial counseling is a necessary consumer protection and that it protects not only the interests of the seniors it seeks to serve but also the financial integrity of the reverse mortgage program. We commend HUD for its efforts to strengthen the counseling program and to ensure it is properly meeting the needs of seniors. We urge action to increase counseling funding so seniors of every income level can receive the education they need as they evaluate their financial options.

Thank you for the opportunity to present my testimony; I would be pleased to respond to any questions you might have.