

Kansas Legal Services

A non-profit law firm and community education organization helping low and moderate income people in Kansas



www.kansaslegalservices.org

All About Reverse Mortgages

What is a reverse mortgage?

A reverse mortgage is a loan that allows homeowners to access a portion of their home equity as cash. A homeowner can receive payments as a line of credit, monthly payment, or lump sum. The amount a homeowner can receive is based on the value of the home.

As the homeowner receives payments over the time, the amount of the loan grows. It also grows as monthly interest and fees are added. When the loan becomes due and payable, the full amount of the payments, interest, and fees must be repaid.

Most reverse mortgages are called Home Equity Conversion Mortgages (HECM) and are federally insured.

Who qualifies for a reverse mortgage?

In order to qualify for a reverse mortgage, an individual must:

- Be 62 years old or older;
- Own the home; and
- Occupy the home.

When do I have to repay the loan?

A homeowner must repay a loan when they:

- Move out,
- Sell the home, or
- Pass away.

The loan will also become due and payable if a homeowner defaults on the mortgage, such as failing to pay property taxes or purchase hazard insurance.

Reverse mortgages are usually repaid by selling the property. When the property is sold, either by the homeowner or as the result of a foreclosure legal action, then the loan is repaid from the proceeds of the sale. If there are proceeds of the sale after the loan is repaid, then the remaining proceeds will be used to satisfy any other liens on the property (e.g. a contractor's lien). If there are any sale proceeds left after all the outstanding encumbrances on the property have been paid, those proceeds go to the borrower.

How does someone default on a reverse mortgage?

The most common ways an individual defaults on a reverse mortgage is by:

- Not occupying the property, or
- Not paying the property charges.

A homeowner must occupy the property. Your servicer will send you a form every year that you must complete and return to prove that you are occupying the property.

A homeowner is responsible for property charges, including property taxes and hazard insurance. There are several ways to do this. A homeowner can pay the property taxes and insurance themselves. Or they can use proceeds from the reverse mortgage to pay them. But if a homeowner doesn't make sure the taxes and insurance are paid, then it is a default.

If a homeowner defaults on a reverse mortgage, the whole amount outstanding becomes due and payable. This includes all the payments the homeowner has received during the loan, as well as the interest and servicing fees.

As soon as you default on your reverse mortgage, you should consult with an attorney. You may be able to avoid foreclosure by curing the default or pursuing another loss mitigation option. But many of these options are time sensitive and will require you or your attorney to take action quickly.

If you do not cure the default, then the loan servicer will seek to foreclose. If you have been served with a notice that your loan servicer has filed a foreclosure action, you should consult an attorney immediately.

If I die, can my spouse continue to occupy the home?

If your spouse is a borrower on the reverse mortgage, your spouse will be able to continue to occupy the home.

If your spouse is not a borrower on the reverse mortgage, then they may or may not be able to continue to occupy the home after your death. There are special provisions that allow a non-borrowing spouse to continue to occupy a property, but it will require your spouse to take action.

For example, your spouse may need to obtain good and marketable title to the property within 90 days of the borrower's death in order to remain.

If you have a reverse mortgage and your spouse is not a borrower on the loan, you should consult with an attorney to discuss what actions you can take to protect your spouse's right to reside in the home after your death.

If are the non-borrowing spouse on a reverse mortgage, you should consult with an attorney immediately after the death of the borrowing spouse to protect your right to remain in the home.

Who can I talk for more advice about a reverse mortgage?

If you are considering a reverse mortgage, you should consult with a housing counselor. You can visit HUD's website or call the HUD housing counselor referral line to find a qualified mortgage counselor near you at 1-800-569-4287.

*If you need legal advice or representation in a reverse mortgage case, you can apply for assistance from Kansas Legal Services **online** or by calling **1-800-723-6953**.*



Printed: October 21, 2019

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