Reverse Mortgages

By the GWAAR Legal Services Team (for reprint)

You may have seen Tom Selleck, Mr. Magnum PI himself, on TV selling reverse mortgages, but what is a reverse mortgage, and are they a good idea? A reverse mortgage is a financial product available to individuals at least 62 years old that turns your home's equity into a lump sum of cash or regular income. Unlike a home equity loan or line of credit, you do not have to make payments on the loan as long as you live in the home, and any interest accrued is added to the amount you owe. When you die, sell your home, or move out, you, your spouse, or your estate would repay the loan. Usually that means selling the home to get money to repay the loan. Here are some things to consider about reverse mortgages:

• **There are fees and other costs.** Reverse mortgage lenders generally charge an origination feeand other closing costs, as well as servicing fees over the life of the mortgage. In some cases, these fees can be very high. Some may also charge mortgage insurance premiums.

• **You owe more over time**. As you get money through your reverse mortgage, interest is added onto the balance you owe each month. That means the amount you owe grows as the interest on your loan adds up over time. Interest rates may change over time. Most reverse mortgages have variable rates, which are tied to a financial index and change with the market. Variable rate loans tend to give you more options on how you get your money through the reverse mortgage. Some reverse mortgages offer fixed rates, but they tend to require you to take your loan as a lump sum at closing. Often, the total amount you can borrow is less than you could get with a variable rate loan.

• **Interest is not tax deductible each year.** Interest on reverse mortgages is not deductible on income tax returns until the loan is paid off, either partially or in full.

• **You have to pay other costs related to your home and keep it in a good state of repair**. In a reverse mortgage, you keep the title to your home. That means you are responsible for property taxes, insurance, utilities, fuel, maintenance, and other expenses. And, if you don't pay your property taxes, keep homeowner's insurance, or maintain your home, the lender might require immediate payment of your loan and initiate a foreclosure if you're unable to pay, which most people in this situation are not. A financial assessment is required when you apply for the mortgage. As a result, your lender may require a "setaside" amount to pay your taxes and insurance during the loan. The "set-aside" reduces the amount of funds you can get in payments.

• **What happens to your spouse?** If you signed the loan paperwork and your spouse didn't, your spouse may NOT be able to continue living in the home after you die. This could be incredibly devastating because the lender will foreclose or force your spouse to sell the home to pay the loan in full as soon as 30 days after you pass away. If the loan contract language allows, your spouse may be able to live in the home after you die if they continue to pay taxes and insurance and continue to maintain the property. However, your spouse will stop getting any money from the reverse mortgage, since they weren't part of the loan agreement. These rules are complex and different depending on whether you took the loan out before or after August 4, 2014. The most important takeaway from this is that your spouse might NOT be able to remain in the home after you die, so you will want to be very careful that the loan is set up properly if you want your spouse to be able to remain in the home.

- **What can you leave to your heirs?** Reverse mortgages can use up the equity in your home, which means fewer assets for you and your heirs. Most reverse mortgages have something called a "non-recourse" clause. This means that you, or your estate, can't owe more than the value of your home when the loan becomes due and the home is sold. With most reverse mortgages, generally, if you or your heirs want to pay off the loan and keep the home rather than sell it, you would not have to pay more than the appraised value of the home.

What happens if the borrower moves to another residence or a skilled nursing facility? With most reverse mortgage loans, the borrower can be away from the home, for example, in a skilled nursing facility, for up to 12 consecutive months; however, if the absence is longer, and the property is not the principal residence of at least one other borrower, then the loan becomes due and payable. Again, to resolve the debt, you can correct the matter, pay the balance in full, sell the home for the lesser of the balance or 95% of the appraised value and put the proceeds toward paying off the loan, or complete a deed in lieu of foreclosure. Otherwise, the lender will foreclose. Note that none of these are desirable options for most individuals in this situation. Most people would not have the funds on hand to pay off the loan, nor would most people wish to sell their home in this situation, especially if a spouse or other individual is still living in the home.

Medicaid and SSI eligibility may be affected. Reverse mortgage proceeds, either a lump sum or a monthly payment, are not considered income for Medicaid and SSI; however, those funds are considered an asset or a resource in the month received and thereafter. This could affect eligibility for any means-tested program that has an asset limit. For more information, visit: https://www.consumer.ftc.gov/articles/0192-reverse-mortgages