The Preventing Foreclosures on Seniors Act of 2017

– Ranking Member Maxine Waters –

This bill is supported by: the National Consumer Law Center (NCLC) (on behalf of its low-income clients) and the California Reinvestment Coalition (CRC)

Bill Summary: This bill would make reforms to the Department of Housing and Urban Development's (HUD's) reverse mortgage program, known as the Home Equity Conversion Mortgages (HECM) program, which will help prevent unfair foreclosures on seniors.

Background: The HECM program is an important financial resource for seniors that allows elderly borrowers to convert some of the equity in their home into cash. This helps seniors achieve greater financial security in retirement by allowing them to meet unexpected medical expenses, supplement Social Security income, or make needed home improvements. HECM borrowers are still responsible for making payments for their property taxes and homeowners insurance, but they are not responsible for repaying any principal or interest on the HECM loan until they no longer use the home as their principal residence (which is usually upon sale of the home or death of the borrower). Any remaining home equity after the HECM loan is repaid through sale of the home is returned to the borrower or their estate.

The private market for reverse mortgages is virtually non-existent, so it is critical that the HECM program remain available as a resource for seniors. However, due to some gaps in HUD's rules for the HECM program, certain borrowers are left vulnerable to foreclosure proceedings. In particular, loss mitigation for HECM borrowers who are in default is only offered at the discretion of the lender or servicer and is not required. Further, for some HECM loans made prior to certain program reforms made in 2014, the borrower's spouse was not included as a co-borrower. In these situations, when the borrower died, the spouse would be subject to foreclosure proceedings if they were unable to pay off the balance of the loan. HUD sought to address this issue in 2015 by giving lenders the option to assign the HECM loan to HUD upon the death of the borrower if there was a non-borrowing spouse still living in the home. The idea was that HUD would then hold the loan until the non-borrowing spouse no longer used the home as their principal residence.

Unfortunately, HUD's response to this issue has fallen short in a number of ways, leaving non-borrowing spouses subject to unfair foreclosures. In particular, non-borrowing spouses are only eligible to have their loan assigned to HUD if they are current on their property taxes and homeowners insurance, and those who are delinquent on these payments are considered ineligible for loss mitigation because they are not co-borrowers on the loan. Advocates have also raised concerns that the current deadline by which non-borrowing spouses must obtain the proper paperwork to prove their eligibility for assignment of their loan (90 days following the death of their spouse) is not nearly long enough. Further, although it is generally in a lender's interest to assign these loans to HUD, the fact that this is an option and not a requirement could leave some non-borrowing spouses vulnerable. Lastly, although it was HUD's intent at the time that it implemented the above-mentioned reforms to ensure that non-borrowing spouses are not foreclosed upon after the loan is assigned to HUD, under a new Administration, this is not guaranteed.

The bill makes reforms to the HECM program to:

- Require loss mitigation for HECM borrowers in default (currently it is optional).
- Require that non-borrowing spouses are treated as borrowing spouses for the purposes of loss mitigation (currently they are ineligible).

- Require ***mandatory*** assignment of HECM loans to HUD if there is an eligible non-borrowing spouse living in the home upon the death of the borrower (currently it is optional).
- Require mortgagees to provide prompt notice to a surviving non-borrowing spouse of their eligibility to remain in the property if they meet certain basic requirements.
- Prevent foreclosures on non-borrowing spouses once the loan is assigned to HUD unless they fail to meet certain basic requirements.
- Grant the Secretary of HUD authority to reduce or deny insurance benefits to any mortgagee who fails to comply with loss mitigation requirements.
- Extend the deadline by which non-borrowing spouses must obtain the proper paperwork to prove their eligibility.
- Require HUD to consult with the Consumer Protection Financial Bureau (CFPB) on matters of consumer protection to ensure that HUD rules are more sensitive to these issues in the future.