

**Presented by Legal
Assistance for Seniors
& HICAP
The Health Insurance
Counseling and Advocacy
Program**



**PROTECTING YOUR HOME EQUITY:
PACE LOANS, REVERSE
MORTGAGES, AND THEIR
COMMON RISKS**

Legal Assistance for Seniors

- Our mission is to ensure the independence and dignity of seniors by protecting their legal rights through education, counseling and advocacy.
- Our legal, community education, and individual Medicare counseling services are all **free** of charge.
- LAS is a 501(c)(3) agency (non-profit) that has served seniors and others in Alameda county since 1976.



LAS Helps With...

- Government Benefits
(Social Security, SSI, CAPI)
- Senior Immigrant Issues
- Elder Abuse Prevention
- Kin Caregiver Issues
- Planning for the Future
- Health Care Coverage
(Medicare & Medi-Cal)
- Housing
(limited case-by-case basis)



Health Insurance Counseling and Advocacy Program (HICAP)

- HICAP provides assistance with Medicare and related health insurance by offering **objective** information to consumers about their benefits and options.



HICAP Services



LOCAL HELP FOR PEOPLE WITH MEDICARE

- LAS receives HICAP federal and state funds through the Alameda County Area Agency on Aging
- HICAP Counselors are registered with the state of California & must fulfill continuing ed requirements
- LAS offers HICAP appointments at 30+ locations throughout Alameda County.
- LAS/HICAP provides educational presentations throughout the county to help Medicare beneficiaries know their rights and options
- Difficult cases can be referred to the legal department
- All services are free

Homeowner Education & Protection Project HEPP



What Is This Project About?



Purpose is to help senior homeowners protect equity in their homes



Model and materials developed by California Advocates for Nursing Home Reform (CANHR)



Funded by the State Bar of California

HEPP Topics



- Understanding Equity and Ownership
 - Risks and Consequences
- PACE loans
- Reverse Mortgages
 - Considerations
 - Repercussions
 - Other Options
 - Medi-Cal for Long-Term Care/Estate Recovery
 - Transfer of Death Deeds



Homes: why
are they
important?

- Sentimental value
- \$ value (equity)
- Shelter

Goals for
many older
homeowners:

- Live at home for as long as possible
- Preserve/build equity in your home
- If necessary, tap the equity in your home to Age in Place
- Pass your home to loved ones or persons you choose after you die

Bad decisions or abuse: what is at stake?

- Reducing or losing the equity in your home
- Exposing your home equity to creditors
- Losing your home through eviction (if you are no longer on title) or foreclosure (due to loan default, lien, or court judgment)
- Losing control of who gets your home after you die

In the Bay Area, your home is a very valuable asset!



How can property be owned?

Joint Tenancy

- If 2 people own the property and one person dies the survivor owns 100% of the property

Tenancy in Common


- If 2 people own the property and one person dies, the survivor still owns 50%
- The remaining 50% goes to the decedent's heirs

What is Home Equity?

Home equity is the difference between the appraised value of your home and what you owe on any mortgages or other debt against the home

$$\text{Equity} = \text{Home Value} - \text{Debt}$$



A teal-colored silhouette of the United Kingdom, including Great Britain and Northern Ireland, is positioned on the left side of the slide. The text 'What is the Title to your home?' is written in white, sans-serif font over the teal background.

What is the Title to your home?

- Title is an ownership interest, either full or partial, in your home
- Title is not a document but a legal concept that says you have the right to control the use of that property
- Title also means you can transfer the interest you own to others; but you can never legally transfer more than you own

What is a Deed to your home?

A Deed is an official legal document that shows proof of title

Used to confirm the ownership rights or transfer the ownership rights to your home

It must be in writing

Why is this important?

- Title = ownership and control of your home
- Lose title and you have lost control
- A deed is proof of who holds title
- No deed = no title*
- Warning: Transfers are immediate and binding

NO COOLING OFF PERIOD

* A lost deed can be replaced,
for a fee, in most cases



How can you lose Title and home equity?

Someone who has stolen your identity and is **pretending to be you** can

Fraud – Forgery



- forge your signature on a Deed or property transfer
- record a fraudulent Deed putting the title in their name

How can you lose Title and home equity?

Someone might **trick you** into signing documents giving away title or jeopardizing equity in your home by

Fraud – Trickery



- promising to care for you for the rest of your life if you transfer your home to them now
- lying about the need to transfer title
- lying about what you are signing – you thought that you were signing a Power of Attorney or bill and not a Deed

Elder Abuse/Undue Influence

“Undue Influence” may occur if someone **pressures you** into giving away title or jeopardizing equity in your home by

- Putting their name on title and telling you
 - it is so you can refinance
 - it will make things easier after you die
 - the title change is for either your benefit or their benefit
- Doing a Transfer on Death Deed (TOD) **against your wishes**
 - transferring the property to them to exclude other heirs



Bad Decision Making

You could give away title or jeopardize the equity in your home through **bad or uninformed decision-making**, such as:

- Using your Home Equity as a bank
- Taking out loans against the equity in your home for items that are not essential
- Failing to maintain the home or pay debt
- Putting someone's name on title without fully understanding the consequences

Remedies – Who Can Protect You?



Can the police and the District Attorney protect you?

- Fraud and undue influence are crimes
- Report all suspected crimes to the police or law enforcement in your jurisdiction
- The District Attorney (DA) will prosecute if their office can prove their case - high burden of proof (beyond a reasonable doubt)

- The police and the District Attorney cannot protect you from bad decision-making
- It is difficult and costly to try to rectify “botched” estate planning which does not protect the equity in your home



Your Best Protection is to be **Pro-Active** and **Informed**

- Knowing how to protect the title and equity allows you to
 - Age in Place
 - Pass your home on according to your wishes
- Be careful what you sign or agree to
 - It is OK to say no or seek legal counsel before you sign

Challenges of Maintaining Home Ownership with Age



Mobility impairment/
declining health



Lack of \$



Concerns about Medi-Cal
recovery and leaving home
to loved ones



For Mobility/Health Challenges:

- Explore Options for In-Home Care
 - in home family caregiver
 - IHSS (in home supportive services)
- Consider Home Modifications
 - install ramp
 - install grab bars
 - fall prevention assessment
- Consider Power of Attorney/
Advance Healthcare Directive

For Lack of Financial Resources:

- Identify what the \$ is for (e.g. repair the roof or go on a cruise)
- Consider alternative sources (other than home equity)
 - Loan from family member or friend
 - Some cities have programs for seniors to take out a loan for home repair
 - Local non-profits may provide free or low-cost home repair

Habitat for Humanity East Bay/Silicon Valley offers help through Renew AC
LEARN MORE & APPLY Visit RenewAC.org

Contact Program Staff with questions at 510-803-3388 or
HomeRepair@HabitatEBSV.org

Property Assessed Clean Energy Programs

— PACE Loans

PACE is a state **program** that allows for the financing of energy-efficient improvements to your property through charges, called “special assessments,” on your tax bill.

PACE loans are operated and administered by government-approved third parties, such as CA HERO Program, YGRENE and California First



Before using PACE funding for your project, get familiar with some of the pitfalls.

Conflicts of interest: PACE financing often is arranged through contractors who might have an incentive to promote expensive upgrades

- This can be convenient, but contractors don't know about your finances or what you can "afford"
- Most service providers are honest, and it's ultimately up to buyers to make smart decisions, but some contractors may make misleading statements just to get high-paying jobs
- In addition to getting paid for the job, contractors might get additional referral fees from a lender if they arrange the project's funding, so the potential for conflicts of interest is real

Payment shock: Even if you repay over an extended period, making payments can be a burden

- Property assessments often are paid only once or twice per year so you may be faced with a surprise expense when it's time to make those inflated payments
- If your home loan servicer pays property taxes through an escrow account, the PACE payment might be able to be added to your monthly mortgage payment in smaller chunks.

Pitfalls Continued...

Interest costs:

PACE funding is fairly easy to qualify for. However, interest rates can be higher than a home equity loan or line of credit — especially if you have good credit.

Getting a better deal yourself depends on numerous factors, but PACE loans are not necessarily cheap.



Costs and benefits:

Is easy approval for PACE loans worth it?

These loans make the most sense for people who cannot afford less expensive loans (often due to credit problems or limited income).

Projects like replacing your windows can add to your home's value, so you should get some of that money back when you sell.

However, you may not see a substantial change in utility costs and you'll still be making higher tax payments.



Risk of foreclosure:

PACE loans are secured by your home, so it's possible to lose your home in foreclosure if you don't make the payments.

In many cases, a PACE loan moves into "first position" (in front of your mortgage lender) which means you risk foreclosure even if you make your regular mortgage payments.

Other types of loans (unless they are also home equity loans) should not put you in that position. 26



Reverse Mortgages

What are they?

A homeowner age 62 or older can borrow against the home equity

When is the loan due?

Upon the death of the homeowner or moving out of the home

What happens if the homeowner can't meet financial obligations of the loan: maintaining the home; paying property taxes; paying insurance?

The loan will go into default and foreclosure

About how many reverse mortgages go into default?

Over 18% of reverse mortgage loans taken out from 2009-2016 are expected to go into default. (According to HUD)

Those Enticing Sales Pitches

- Pay off debts
- Make gifts to grandkids
- Remodel your home
- Take your dream vacation
- Get in the stock market
- It's your money to play with



Beware of Misleading Ads

Financial Obligations to Worry About



PROPERTY TAXES



INSURANCE



**MAINTENANCE OF
THE HOME**

Failure to meet these obligations will put the loan into default and the home will be subject to foreclosure.

When Considering a Reverse Mortgage Think Through:

- 1) What happens to others in your home after you die or move out?
- 2) What will happen if you default on a reverse mortgage?
- 3) Have you fully explored other options?
- 4) Are you intending to use the reverse mortgage to purchase a financial product?
- 5) The impact of reverse mortgages on your eligibility for government assistance programs.

- http://www.canhr.org/factsheets/abuse_fs/PDFs/fs_RevMortSuitabilityWorksheet.pdf

Every Borrower Should Ask

- Who is currently living with you and what will become of them?
- Have you discussed your plan to get a loan with everyone living with you?

If you default:

- Can you find the funds to catch up and stay current with your taxes, insurance and home maintenance?
- If you get foreclosed on, will you have enough money to finance a new home, apartment or assisted living?





A Resource for Other Options

Keep your Home California

www.keepyourhomecalifornia.org

- Unemployment Mortgages
- Mortgage Reinstatement Assistance
- Principal Reduction Program
- Reverse Mortgage Assistance Program

An Inter-Family Loan

Benefits

- Preserves Equity
- Flexibility
- Can accommodate different kinds of family contributions (such as in-kind care contracts)

Download the HEPP Toolkit

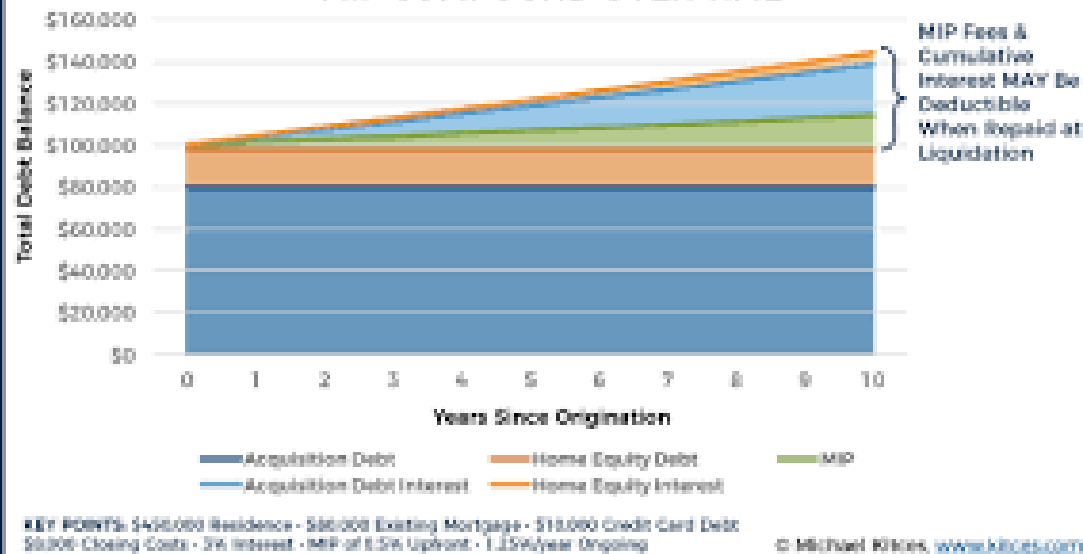
**Reverse Mortgage Suitability
Worksheet**

Family Equity Lending Guide

**Sample Secured Promissory
Note Agreement**

www.canhr.org/hepp

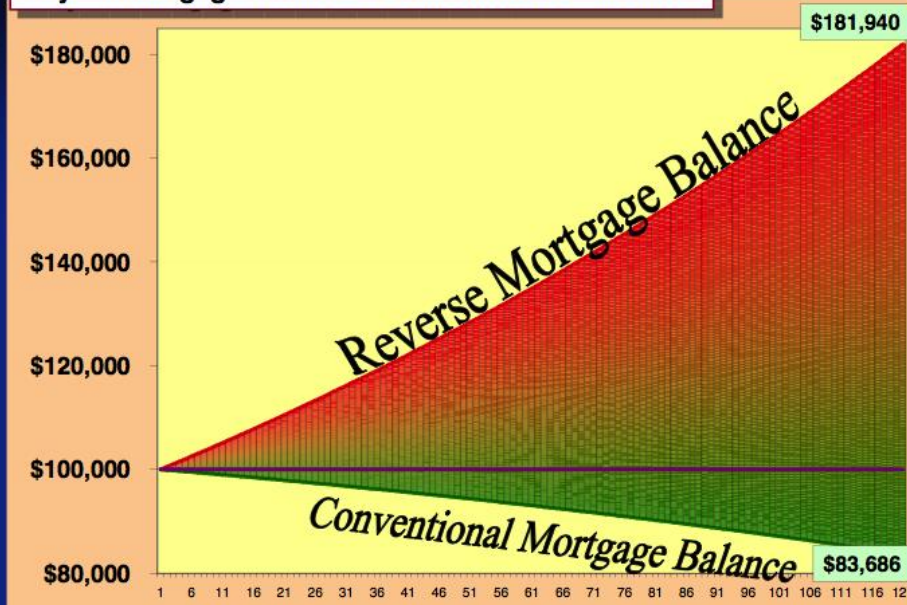
HOW REVERSE MORTGAGE INTEREST AND MIP COMPOUND OVER TIME



Financial Products

The debt of a reverse mortgage loan will more than likely outpace any interest generated by any legitimate financial product.

10 year Mortgage Balance: Conventional vs. Reverse



How liquid is the financial product you're considering?

Long-Term Care Concerns



If you move into a nursing home for an extended period, the reverse mortgage loan becomes due and your house probably will have to be sold in order to pay off the loan.



Proceeds from the sale of the home may disqualify you from getting Medi-Cal.



When a Medi-Cal recipient dies, the State of California can seek repayment for the cost of certain services received, including payments to managed care plans.



A reverse mortgage loan interferes with the ability to transfer the home and avoid a Medi-Cal recovery claim.

Medi-Cal Estate Recovery

After January 1, 2017, only those receiving nursing home or home and community-based services will have their estates subject to recovery.

Property Exempt from Medi-Cal Estate Recovery Claim:

- Property transferred prior to death
- Property not subject to probate
- Homestead of modest value (fair market value of 50% or less of average home in county)
- Life insurance
- Retirement accounts





More Medi-Cal Estate Recovery Exemptions

If the Medi-Cal recipient is

- Survived by a spouse or registered domestic partner, OR
- Survived by a minor or disabled child

THEN

- The estate recovery claim is **prohibited** and **forever** barred



Transfer On Death Deeds

A TOD is a way for homeowners to transfer, upon death, residential property to named beneficiaries (effective 1/1/16)

Positives

- Simple to use
- Less expensive than creating a living trust
- Eliminates the time and expense of probate
- Remains revocable during the lifetime of the grantor
- Simplifies the transfer process at death



Negatives

- There can't be any contingent beneficiaries
- TODs may encourage elder abuse
- No protection from creditors
- Restricted to certain types of residential properties
- The forms must be completed properly or the transfer is voided
- If a botched form ends up in probate court, there may be a Medi-Cal estate recovery claim



Additional Resources

Consumer Financial Protection Bureau - CFPB

Call 1 (855) 411-2372 or visit www.consumerfinance.gov

Homeowner Education & Protection Project - HEPP

Call 1 (800) 474-1116 or visit www.canhr.org

Housing and Economic Rights Advocates - HERA

Call 1 (510) 271-8443 or visit www.heraca.org

Contact Us:

Legal Assistance for Seniors

- (510) 832-3040
- www.lashicap.org
- 333 Hegenberger Road, Suite 850
Oakland, CA 94621



For a HICAP Appointment

- (510) 839-0393
- Statewide: 1 (800) 434-0222

If you would like us to present this information to a group or organization you know, please call our office and ask for the community education department or speak to us before you leave.

*LAS-HICAP is a non-profit organization.

Please consider making a donation so that we may continue to offer our legal and counseling services to seniors in Alameda county. You can talk to the presenter or go to our website for more information about how to make a tax-deductible donation.