

BankBCLP

STATUTE OF LIMITATIONS ON REVERSE MORTGAGES

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In *Hayes v. Reverse Mortgage Solutions, Inc.*, No. 3D17-1603 (Fla. 3d DCA Nov. 21, 2018), a case of first impression, the Florida Third District Court of Appeals considered whether the statute of limitations for enforcing reverse mortgage loans begins on the date the note matures or upon the death of the borrower.

Defendant contended that the foreclosure action, filed in 2014, was time-barred by the Florida statute of limitation because the cause of action accrued on the date the borrower died in 2008, or alternatively, upon the mortgagee's acceleration of the reverse mortgage when a prior foreclosure action was filed in 2009. Finding that the language in the reverse mortgage at issue ("[l]ender may require immediate payment in full of all sums secured by this Security Instrument if: (i) A Borrower dies ...") confers upon the mortgagee the right, but not the obligation, to accelerate payment of the debt, the Court held acceleration of the debt based on the death of the borrower is optional and therefore does not automatically amount to accrual of the cause for purposes of the statute of limitations.

The Court further opined that if the mortgagee chose not to exercise its option to accelerate the amount due when the borrower died, accrual of the cause of action would occur upon maturation of the mortgage.

This decision should provide some clarity to entities when seeking to timely enforce reverse mortgage obligations.

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