

112TH CONGRESS
2^D SESSION

H. R. 5747

To amend the Servicemembers Civil Relief Act to improve the protections for servicemembers against mortgage foreclosures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2012

Mr. CUMMINGS (for himself, Mr. FILNER, Mr. SMITH of Washington, Mr. TIERNEY, Ms. BROWN of Florida, Mr. CONNOLLY of Virginia, Mr. MICHAUD, Mr. BRALEY of Iowa, Mr. DONNELLY of Indiana, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend the Servicemembers Civil Relief Act to improve the protections for servicemembers against mortgage foreclosures, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Family Home
5 Protection Act”.

1 **SEC. 2. MORTGAGE PROTECTION FOR MEMBERS OF THE**
2 **ARMED FORCES, SURVIVING SPOUSES, AND**
3 **CERTAIN VETERANS.**

4 (a) MORTGAGE PROTECTION.—

5 (1) IN GENERAL.—Section 303 of the
6 Servicemembers Civil Relief Act (50 U.S.C. App.
7 533) is amended to read as follows:

8 **“SEC. 303. MORTGAGES AND TRUST DEEDS.**

9 “(a) MORTGAGE AS SECURITY.—This section applies
10 only to an obligation on real or personal property that is
11 secured by a mortgage, trust deed, or other security in
12 the nature of a mortgage and is owned by a covered indi-
13 vidual as follows:

14 “(1) With respect to an obligation on real or
15 personal property owned by a servicemember, such
16 obligation that originated before the period of the
17 servicemember’s military service and for which the
18 servicemember is still obligated.

19 “(2) With respect to an obligation on real prop-
20 erty owned by a servicemember serving in support of
21 a contingency operation (as defined in section
22 101(a)(13) of title 10, United States Code), such ob-
23 ligation that originated at any time and for which
24 the servicemember is still obligated.

25 “(3) With respect to an obligation on real prop-
26 erty owned by a veteran described in subsection

1 (f)(1)(B), such obligation that originated at any
2 time and for which the veteran is still obligated.

3 “(4) With respect to an obligation on real prop-
4 erty owned by a surviving spouse described in sub-
5 section (f)(1)(C), such obligation that originated at
6 any time and for which the spouse is still obligated.

7 “(b) STAY OF PROCEEDINGS AND ADJUSTMENT OF
8 OBLIGATION.—(1) In an action filed during a covered
9 time period to enforce an obligation described in sub-
10 section (a), the court may after a hearing and on its own
11 motion and shall upon application by a covered individual
12 when the individual’s ability to comply with the obligation
13 is materially affected by military service—

14 “(A) stay the proceedings for a period of time
15 as justice and equity require, or

16 “(B) adjust the obligation to preserve the inter-
17 ests of all parties.

18 “(2) For purposes of applying paragraph (1) to a cov-
19 ered individual who is a surviving spouse of a servicemem-
20 ber described in subsection (f)(1)(C), the term ‘military
21 service’ means the service of such servicemember.

22 “(c) SALE OR FORECLOSURE.—A sale, foreclosure, or
23 seizure of property for a breach of an obligation described
24 in subsection (a) shall not be valid during a covered time
25 period except—

1 “(1) upon a court order granted before such
2 sale, foreclosure, or seizure with a return made and
3 approved by the court; or

4 “(2) if made pursuant to an agreement as pro-
5 vided in section 107.

6 “(d) MISDEMEANOR.—A person who knowingly
7 makes or causes to be made a sale, foreclosure, or seizure
8 of property that is prohibited by subsection (c), or who
9 knowingly attempts to do so, shall be fined as provided
10 in title 18, United States Code, or imprisoned for not more
11 than one year, or both.

12 “(e) PROOF OF SERVICE.—(1) A veteran described
13 in subsection (f)(1)(B) shall provide documentation de-
14 scribed in paragraph (2) to relevant persons to prove the
15 eligibility of the veteran to be covered under this section.

16 “(2) Documentation described in this paragraph is a
17 rating decision or a letter from the Department of Vet-
18 erans Affairs that confirms that the veteran is totally dis-
19 abled because of one or more service-connected injuries or
20 service-connected disability conditions.

21 “(f) DEFINITIONS.—In this section:

22 “(1) The term ‘covered individual’ means the
23 following individuals:

24 “(A) A servicemember.

1 “(B) A veteran who was retired under
2 chapter 61 of title 10, United States Code, and
3 whom the Secretary of Veterans Affairs, at the
4 time of such retirement, determines is a totally
5 disabled veteran.

6 “(C) A surviving spouse of a servicemem-
7 ber who—

8 “(i) died while serving in support of a
9 contingency operation if such spouse is the
10 successor in interest to property covered
11 under subsection (a); or

12 “(ii) died while in military service and
13 whose death is service-connected if such
14 spouse is the successor in interest to prop-
15 erty covered under subsection (a).

16 “(2) The term ‘covered time period’ means the
17 following time periods:

18 “(A) With respect to a servicemember,
19 during the period beginning on the date on
20 which such servicemember begins military serv-
21 ice and ending on the date that is 12 months
22 after the date on which such servicemember is
23 discharged from such service.

24 “(B) With respect to a servicemember
25 serving in support of a contingency operation,

1 during the period beginning on the date of the
2 military orders for such service and ending on
3 the date that is 12 months after the date on
4 which such servicemember redeploys from such
5 contingency operation.

6 “(C) With respect to a veteran described in
7 subsection (f)(1)(B), during the 12-month pe-
8 riod beginning on the date of the retirement of
9 such veteran described in such subsection.

10 “(D) With respect to a surviving spouse of
11 a servicemember described in subsection
12 (f)(1)(C), during the 12-month period begin-
13 ning on the date of the death of the service-
14 member.”.

15 (2) CONFORMING AMENDMENT.—Section 107
16 of the Servicemembers Civil Relief Act (50 U.S.C.
17 App. 517) is amended by adding at the end the fol-
18 lowing:

19 “(e) OTHER INDIVIDUALS.—For purposes of this sec-
20 tion, the term ‘servicemember’ includes any covered indi-
21 vidual under section 303(f)(1).”.

22 (3) REPEAL OF SUNSET.—Subsection (c) of
23 section 2203 of the Housing and Economic Recovery
24 Act of 2008 (Public Law 110–289; 50 U.S.C. App.
25 533 note) is amended to read as follows:

1 “(c) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect on the date of the enact-
3 ment of this Act.”.

4 (b) INCREASED CIVIL PENALTIES FOR MORTGAGE
5 VIOLATIONS.—Paragraph (3) of section 801(b) of the
6 Servicemembers Civil Relief Act (50 U.S.C. App.
7 597(b)(3)) is amended to read as follows:

8 “(3) to vindicate the public interest, assess a
9 civil penalty—

10 “(A) with respect to a violation of section
11 303 regarding real property—

12 “(i) in an amount not exceeding
13 \$110,000 for a first violation; and

14 “(ii) in an amount not exceeding
15 \$220,000 for any subsequent violation; and

16 “(B) with respect to any other violation of
17 this Act—

18 “(i) in an amount not exceeding
19 \$55,000 for a first violation; and

20 “(ii) in an amount not exceeding
21 \$110,000 for any subsequent violation.”.

22 (c) CREDIT DISCRIMINATION.—Section 108 of such
23 Act (50 U.S.C. App. 518) is amended—

24 (1) by striking “Application by” and inserting

25 “(a) Application by”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(b) In addition to the protections under subsection
4 (a), an individual who is eligible, or who may likely become
5 eligible, for any provision of this Act may not be denied
6 or refused credit or be subject to any other action de-
7 scribed under paragraphs (1) through (6) of subsection
8 (a) solely by reason of such eligibility.”.

9 **SEC. 3. REQUIREMENTS FOR LENDING INSTITUTIONS THAT**
10 **ARE CREDITORS FOR OBLIGATIONS AND LI-**
11 **ABILITIES COVERED BY THE**
12 **SERVICEMEMBERS CIVIL RELIEF ACT.**

13 Section 207 of the Servicemembers Civil Relief Act
14 (50 U.S.C. App. 527) is amended—

15 (1) by redesignating subsections (d) and (e) as
16 subsections (e) and (f), respectively; and

17 (2) by inserting after subsection (c) the fol-
18 lowing new subsection (d):

19 “(d) LENDING INSTITUTION REQUIREMENTS.—

20 “(1) COMPLIANCE OFFICERS.—Each lending in-
21 stitution subject to the requirements of this section
22 shall designate an employee of the institution as a
23 compliance officer who is responsible for ensuring
24 the institution’s compliance with this section and for

1 distributing information to servicemembers whose
2 obligations and liabilities are covered by this section.

3 “(2) TOLL-FREE TELEPHONE NUMBER.—Dur-
4 ing any fiscal year, a lending institution subject to
5 the requirements of this section that had annual as-
6 sets for the preceding fiscal year of \$10,000,000,000
7 or more shall maintain a toll-free telephone number
8 and shall make such telephone number available on
9 the primary Internet Web site of the institution.”.

○