

113TH CONGRESS
1ST SESSION

H. R. 1842

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

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2013

Mr. CUMMINGS (for himself, Mr. MICHAUD, Mr. SMITH of Washington, Mrs. DAVIS of California, Mr. TAKANO, and Mr. TIERNEY) 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, surviving spouses, and disabled veterans 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) MEMBERS OF THE ARMED FORCES, SURVIVING
5 SPOUSES, AND CERTAIN DISABLED VETERANS.—

6 (1) IN GENERAL.—Title III of the
7 Servicemembers Civil Relief Act (50 U.S.C. App.
8 501 et seq.) is amended by inserting after section
9 303 the following new section:

10 **“SEC. 303A. MORTGAGES AND TRUST DEEDS OF CERTAIN**
11 **SERVICEMEMBERS, SURVIVING SPOUSES,**
12 **AND DISABLED VETERANS.**

13 “(a) MORTGAGE AS SECURITY.—This section applies
14 only to an obligation on real or personal property owned
15 by a covered individual that—

16 “(1) originated at any time and for which the
17 covered individual is still obligated; and

18 “(2) is secured by a mortgage, trust deed, or
19 other security in the nature of a mortgage.

20 “(b) STAY OF PROCEEDINGS.—

21 “(1) IN GENERAL.—In accordance with sub-
22 section (d)(1), in a judicial action pending or in a
23 nonjudicial action commenced during a covered time
24 period to enforce an obligation described in sub-
25 section (a), a court—

1 “(A) may, after a hearing and on its own
2 motion, stay the proceedings until the end of
3 the covered time period; and

4 “(B) shall, upon application by a covered
5 individual, stay the proceedings until the end of
6 the covered time period.

7 “(2) OBLIGATION TO STOP PROCEEDINGS.—
8 Upon receipt of notice provided under subsection
9 (d)(1), a mortgagee, trustee, or other creditor seek-
10 ing to foreclose on real property secured by an obli-
11 gation covered by this section using any judicial or
12 nonjudicial proceedings shall immediately stop any
13 such proceeding until the end of the covered time pe-
14 riod.

15 “(c) SALE OR FORECLOSURE.—A sale, judicial or
16 nonjudicial foreclosure, or seizure of property for a breach
17 of an obligation described in subsection (a) that is not
18 stayed under subsection (b) shall not be valid during a
19 covered time period except—

20 “(1) upon a court order granted before such
21 sale, judicial or nonjudicial foreclosure, or seizure
22 with a return made and approved by the court; or

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

25 “(d) NOTICE REQUIRED.—

1 “(1) IN GENERAL.—To be covered under this
2 section, a covered individual shall provide to the
3 mortgagee, trustee, or other creditor written notice
4 that such individual is so covered.

5 “(2) MANNER.—Written notice under para-
6 graph (1) may be provided electronically.

7 “(3) TIME.—Notice provided under paragraph
8 (1) shall be provided during the covered time period.

9 “(4) CONTENTS.—With respect to a service-
10 member described in subsection (g)(1)(A), notice
11 shall include—

12 “(A) a copy of the servicemember’s official
13 military orders, or any notification, certifi-
14 cation, or verification from a servicemember’s
15 commanding officer that provides evidence of
16 servicemember’s eligibility for special pay as de-
17 scribed in subsection (g)(1)(A); or

18 “(B) an official notice using a form de-
19 signed under paragraph (5).

20 “(5) OFFICIAL FORMS.—

21 “(A) IN GENERAL.—The Secretary of De-
22 fense shall design and distribute an official De-
23 partment of Defense form that can be used by
24 an individual to give notice under paragraph
25 (1).

1 “(B) USE OF OFFICIAL FORM NOT RE-
2 QUIRED.—Failure by any individual to use a
3 form designed or distributed under subpara-
4 graph (A) to provide notice shall not make such
5 provision of notice invalid.

6 “(e) AGGREGATE DURATION.—The aggregate dura-
7 tion for which a covered individual (except a servicemem-
8 ber described in subsection (g)(1)(A)) may be covered
9 under this section is one year.

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

16 “(g) DEFINITIONS.—In this section:

17 “(1) COVERED INDIVIDUAL.—The term ‘cov-
18 ered individual’ means the following individuals:

19 “(A) A servicemember who is or was eligi-
20 ble for hostile fire or imminent danger special
21 pay under section 310 of title 37, United States
22 Code, during a period of military service.

23 “(B) A servicemember placed on convales-
24 cent status, including a servicemember trans-
25 ferred to the temporary disability retired list

1 under section 1202 or 1205 of title 10, United
2 States Code.

3 “(C) A veteran who was medically dis-
4 charged and retired under chapter 61 of title
5 10, United States Code, except for a veteran
6 described in section 1207 of such title.

7 “(D) A surviving spouse (as defined in sec-
8 tion 101(3) of title 38, United States Code, and
9 in accordance with section 103 of such title) of
10 a servicemember who died while in military
11 service if such spouse is the successor in inter-
12 est to property covered under subsection (a).

13 “(2) COVERED TIME PERIOD.—The term ‘cov-
14 ered time period’ means the following time periods:

15 “(A) With respect to a servicemember who
16 is or was eligible for hostile fire or imminent
17 danger special pay under section 310 of title
18 37, United States Code, during a period of mili-
19 tary service, during the period beginning on the
20 first day on which the servicemember is or was
21 eligible for such special pay during such period
22 of military service and ending on the date that
23 is one year after the last day of such period of
24 military service.

1 “(B) With respect to a servicemember de-
 2 scribed in paragraph (1)(B), during the one-
 3 year period beginning on the date on which the
 4 servicemember is placed on convalescent status
 5 or transferred to the temporary disability re-
 6 tired list under section 1202 or 1205 of title
 7 10, United States Code.

8 “(C) With respect to a veteran described in
 9 paragraph (1)(C), during the one-year period
 10 beginning on the date of the retirement of such
 11 veteran.

12 “(D) With respect to a surviving spouse of
 13 a servicemember as described in paragraph
 14 (1)(D), during the one-year period beginning on
 15 the date on which the spouse receives notice of
 16 the death of the servicemember.”.

17 (2) CLERICAL AMENDMENT.—The table of con-
 18 tents in section 1(b) of such Act is amended by in-
 19 serting after the item relating to section 303 the fol-
 20 lowing new item:

“Sec. 303A. Mortgages and trust deeds of certain servicemembers, surviving
 spouses, and disabled veterans.”.

21 (3) CONFORMING AMENDMENT.—Section 107
 22 of the Servicemembers Civil Relief Act (50 U.S.C.
 23 App. 517) is amended by adding at the end the fol-
 24 lowing:

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

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
11 207, 303, or 303A 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—

1 (1) by striking “Application by” and inserting
2 “(a) APPLICATION OR RECEIPT.—Application by”;
3 and

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

6 “(b) ELIGIBILITY.—In addition to the protections
7 under subsection (a), an individual who is entitled to any
8 right or protection provided under this Act may not be
9 denied or refused credit or be subject to any other action
10 described under paragraphs (1) through (6) of subsection
11 (a) solely by reason of such entitlement.”.

12 (d) EFFECTIVE DATE.—Section 303A of the
13 Servicemembers Civil Relief Act, as added by subsection
14 (a), and the amendments made by this section, shall take
15 effect on the date that is 90 days after the date of the
16 enactment of this Act.

17 **SEC. 3. TREATMENT OF RELOCATION FOR ACTIVE DUTY**
18 **FOR PURPOSES OF MORTGAGE REFI-**
19 **NANCING.**

20 (a) IN GENERAL.—Title III of the Servicemembers
21 Civil Relief Act (50 U.S.C. App. 531 et seq.) is amended
22 by inserting after section 303A, as added by section
23 1(a)(1), the following new section:

1 **“SEC. 303B. TREATMENT OF RELOCATION FOR ACTIVE**
2 **DUTY FOR PURPOSES OF MORTGAGE REFI-**
3 **NANCING.**

4 “(a) TREATMENT OF ABSENCE FROM RESIDENCE
5 DUE TO ACTIVE DUTY.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 if, at any time that a servicemember who is the
8 mortgagor under an existing mortgage does not re-
9 side in the residence that secures the existing mort-
10 gage because of relocation described in subsection
11 (c)(1)(B), such servicemember inquires about or ap-
12 plies for a covered refinancing mortgage, such serv-
13 icemember shall be, for all purposes relating to the
14 covered refinancing mortgage, including such inquiry
15 or application and eligibility for and compliance with
16 any underwriting criteria and standards regarding
17 such covered refinancing mortgage, considered to oc-
18 cupy the residence that secures the existing mort-
19 gage to be paid or prepaid by such covered refi-
20 nancing mortgage as the principal residence of the
21 servicemember during the period of any such reloca-
22 tion.

23 “(2) LIMITATION.—Paragraph (1) shall not
24 apply with respect to a servicemember at any time
25 if, during the five-year period preceding such time,

1 the servicemember entered into a covered refi-
2 nancing mortgage pursuant to this section.

3 “(b) MORTGAGES ORIGINATED BEFORE PERIOD
4 MILITARY SERVICE.—If a covered refinancing mortgage
5 is entered into pursuant to this section with respect to
6 an existing mortgage that originated before the period of
7 the servicemember’s military service, such covered refi-
8 nancing mortgage shall be deemed to be an obligation that
9 originated before the period of the servicemember’s mili-
10 tary service and for which the servicemember is still obli-
11 gated for purposes of section 303(a)(1).

12 “(c) DEFINITIONS.—In this section:

13 “(1) EXISTING MORTGAGE.—The term ‘existing
14 mortgage’ means a mortgage that is secured by a 1-
15 to 4-family residence, including a condominium or a
16 share in a cooperative ownership housing associa-
17 tion, that was the principal residence of a service-
18 member for a period that—

19 “(A) had a duration of 13 consecutive
20 months or longer; and

21 “(B) ended upon the relocation of the serv-
22 icemember caused by the servicemember receiv-
23 ing military orders for a permanent change of
24 station or to deploy with a military unit, or as
25 an individual in support of a military operation,

1 for a period of not less than 90 days that did
 2 not allow the servicemember to continue to oc-
 3 cupy such residence as a principal residence.

4 “(2) COVERED REFINANCING MORTGAGE.—The
 5 term ‘covered refinancing mortgage’ means any
 6 mortgage—

7 “(A) that is made for the purpose of pay-
 8 ing or prepaying, and extinguishing, the out-
 9 standing obligations under an existing mortgage
 10 or mortgages; and

11 “(B) that is secured by the same residence
 12 that secured such existing mortgage or mort-
 13 gages.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
 15 for such Act is amended by inserting after the item relat-
 16 ing to section 303A the following new item:

“Sec. 303B. Treatment of relocation for active duty for purposes of mortgage
 refinancing.”.

17 **SEC. 4. REQUIREMENTS FOR LENDING INSTITUTIONS THAT**
 18 **ARE CREDITORS FOR OBLIGATIONS AND LI-**
 19 **ABILITIES COVERED BY THE SERVICEMEM-**
 20 **BERS CIVIL RELIEF ACT.**

21 Section 207 of the Servicemembers Civil Relief Act
 22 (50 U.S.C. App. 527) is amended—

23 (1) by redesignating subsections (d) and (e) as
 24 subsections (e) and (f), respectively; and

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

3 “(d) LENDING INSTITUTION REQUIREMENTS.—

4 “ (1) COMPLIANCE OFFICERS.—Each lending in-
5 stitution subject to the requirements of this section
6 shall designate an employee of the institution as a
7 compliance officer who is responsible for ensuring
8 the institution’s compliance with this section and for
9 distributing information to servicemembers whose
10 obligations and liabilities are covered by this section.

11 “(2) TOLL-FREE TELEPHONE NUMBER.—Dur-
12 ing any fiscal year, a lending institution subject to
13 the requirements of this section that had annual as-
14 sets for the preceding fiscal year of \$10,000,000,000
15 or more shall maintain a toll-free telephone number
16 and shall make such telephone number available on
17 the primary Internet website of the institution.”.

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