

**LEGISLATIVE HEARING ON H.R. 4115, H.R. 4740,  
H.R. 3860, AND H.R. 5747**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY (EO)  
OF THE  
COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED TWELFTH CONGRESS  
SECOND SESSION

THURSDAY, JUNE 21, 2012

**Serial No. 112-69**

Printed for the use of the Committee on Veterans' Affairs



U.S. GOVERNMENT PRINTING OFFICE

75-613

WASHINGTON : 2013

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**LEGISLATIVE HEARING ON H.R. 4115, H.R.  
4740, H.R. 3860, AND H.R. 5747**  
Thursday, June 21, 2012

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON VETERANS' AFFAIRS,  
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,  
*Washington, D.C.*

The Subcommittee met, pursuant to call, at 10:09 a.m., in Room 334, Cannon House Office Building, Hon. Marlin A. Stutzman [Chairman of the Subcommittee] presiding.

Present: Representatives Stutzman, Johnson, Braley, and Walz.

**OPENING STATEMENT OF CHAIRMAN MARLIN STUTZMAN**

Mr. STUTZMAN. Good morning. I welcome each of you to the Subcommittee on Economic Opportunity of the Veterans' Affairs Committee.

Today we will take testimony on four bills, H.R. 3860, the Help Veterans Return to Work Act, introduced by the Honorable John Garamendi; H.R. 4115, the Hire at Home Act, introduced by the Honorable Steve Stivers; H.R. 4740, the Fairness for Military Homeowners Act of 2012, introduced by the Honorable Duncan Hunter; and H.R. 5747, the Military Homes Protection Act, introduced by the Honorable Elijah Cummings.

Welcome to each of you. And since we have a full set of witnesses today and we have votes coming up, I think I will just dispense with the full remarks and recognize the distinguished Ranking Member for any remarks that he has at this time.

[THE PREPARED STATEMENT OF HON. MARLIN STUTZMAN APPEARS IN THE APPENDIX]

**OPENING STATEMENT OF HON. BRUCE L. BRALEY,  
RANKING DEMOCRATIC MEMBER**

Mr. BRALEY. Thank you, Mr. Chairman, for holding this legislative hearing.

I want to welcome all my colleagues. We are delighted to have you here and we appreciate your interest in the issues that this Subcommittee deals with which is one of the most important areas that we face as a country and how we help our veterans who have done so much for us by doing more than just slapping on the back and telling them good job. Maybe it is time we all stood together and found out how we are going to provide them with good-paying jobs. So we appreciate your being here.

I know that the end of the second session is quickly approaching, so I am glad we are taking this opportunity to review important legislation that will be beneficial to veterans.

The bills included in today's hearing seek to improve employment opportunities for veterans and enhance protections under the Servicemembers Civil Relief Act.

The four bills included in today's hearing will provide for employment and training, help veterans return to work, help veterans refinance their mortgages, and improve protections against foreclosures for veterans.

I would also like to take the opportunity to congratulate Representative Cummings for the inclusion of his bill, Military Family Home Protection Act and the National Defense Authorization Act of 2013. The bill has been passed by the House of Representatives with 299 votes in support which is a great example of bipartisan work on behalf of our veterans.

As you are aware, the Committee democratic staff and your staff are working closely through that process.

I would also like to thank the Chairman of the Full Committee and his staff for including this important legislation at today's hearing. It is good to know that we can work together in the spirit of bipartisanship to provide housing protections to servicemembers, veterans, and their families.

Mr. Chairman, since the end of the second session is fast approaching, I hope we can make the most of our time. I know that some other bills that I suggest we review include the Veterans Work Study Opportunities Act, the Ensuring Quality for Education Act, the Wounded Veteran Job Security Act, the Revamp with Community Colleges Act, and the Military and Veterans Education Protection Act as well as my own Veterans Job Corps Act. So I look forward to working with you and all the Members of the Subcommittee in making that happen.

And I yield back.

[THE PREPARED STATEMENT OF HON. BRUCE L. BRALEY APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

Our first panel is composed of the Members whose bills we are reviewing today. We have with us Mr. Cummings, Mr. Garamendi, and Mr. Stivers. Welcome.

And, Mr. Cummings, I believe you are the senior Member and so we will start with you and then we will have Mr. Garamendi and then Mr. Stivers. And you will each be recognized for five minutes and your complete written testimony will be made part of the record.

With that, Mr. Cummings.

#### **OPENING STATEMENT OF HON. ELIJAH CUMMINGS**

Mr. CUMMINGS. Thank you very much, Chairman Stutzman and Ranking Member Braley and Members of the Subcommittee, for inviting me to testify here today on H.R. 5747, the Military Family Home Protection Act.

For the past several years and particularly as Ranking Member of the House Oversight Committee, it has been my number one priority to help millions of American families who have been trying to protect their homes against foreclosure during the economic crisis that has gripped our Nation.

In my opinion, nobody is more deserving of our help than our military servicemembers fighting overseas.

H.R. 5747 is a common-sense bill that would expand the Servicemembers Civil Relief Act to protect more of our brave men and women in uniform from losing their homes while they protect our freedoms abroad.

This legislation is supported by The American Legion, Veterans of Foreign Wars, Paralyzed Veterans of America, Disabled American Veterans, and the Military Officers Association of America, all of whom have written letters of support. And I respectfully ask that these letters be included in the record.

In addition, this legislation has already been passed by the House, as Mr. Braley said, as an amendment to the National Defense Authorization Act that I offered with Ranking Member Filner and Ranking Member Smith of the Armed Services Committee. It passed by an overwhelming bipartisan vote of 394 to 27 including the majority Members on this Committee.

Here is what the legislation would do. First, under current law, some home foreclosure protections for servicemembers are set to expire at the end of the year.

So, Mr. Braley, when you talk about urgency of the moment, this is rather urgent.

My legislation would fix that by eliminating the sunset provision and ensuring that foreclosure protections are extended to 12 months. We need to act this year to make sure those protections do not expire.

The legislation would also ensure that servicemembers serving in contingency operations such as Iraq and Afghanistan do not have to worry about losing their homes regardless of when they were purchased.

In addition, it would extend foreclosure protections to surviving spouses of servicemembers who are killed in the line of duty as well as to veterans who are 100 percent disabled due to service-connected injuries at the time of discharge.

Finally, the legislation would prohibit discrimination against servicemembers and their families who are covered by these protections and it would double penalties to deter future violations.

I crafted this legislation after more than a year of investigating cases in which military servicemembers and their families sadly had suffered illegal foreclosures and inflated fees.

For example, last July, I issued a staff report documenting these abuses entitled *Fighting on the Home Front, the Growing Problem of Illegal Foreclosures Against U.S. Servicemembers*. I ask that this report be included in the record.

In addition, Senator Jay Rockefeller, the Chairman of the Senate Commerce Committee joined me in co-hosting a congressional forum on this topic with a number of officials including Holly Petraeus, the Director of the Office of Servicemember Affairs at the Consumer Financial Protection Bureau, who appeared alongside servicemembers and others to provide recommendations.

I also want to extend my thanks to Ranking Member Braley who participated in that bicameral forum as an original co-sponsor to my legislation and has been integral to our efforts over the past year.

And I want to thank you again, Congressman.

The results of our investigation demonstrate the clear need for these improvements to the SCRA. Nobody fighting abroad to protect our country should also have to fight here at home just to keep a home and a roof over the heads of their loved ones.

I want to thank again the Members of the Committee for bringing this bill to this hearing and for supporting my legislation. Even though it has passed the House as part of the National Defense Bill, I ask that my colleagues on both sides of the aisle to continue to work together to ensure that we enact these reforms into law.

And I understand that DoD has some concerns and have some amendments. We reviewed those amendments and I have no problem with it. Of course, I leave it up to this Committee. You are the experts and I would hope that we would not allow any, you know, changes like that, concerns on DoD's part to stop this legislation. I think that the aim is so very, very important and very vital.

And I think you, Mr. Chairman, and you, Ranking Member, made it very clear that our veterans deserve the very, very best that we can give. And, again, we want to keep a roof over their heads.

And with that, I yield back.

[THE PREPARED STATEMENT OF HON. ELIJAH CUMMINGS APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

Before the Chair recognizes Mr. Garamendi, is there any objection from the Committee that the written testimony be made part of the record as well as the testimony?

Mr. CUMMINGS. Yeah. There was two documents that I also mentioned during my testimony.

Mr. STUTZMAN. Okay. No objection. So ordered.

[THE ATTACHED APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Mr. Garamendi, you are recognized for five minutes.

#### **OPENING STATEMENT OF HON. JOHN GARAMENDI**

Mr. GARAMENDI. Thank you, Mr. Chairman, Ranking Member Braley, and Members of the Committee. Thank you for the opportunity to testify on behalf of my bill 3860, Help Veterans Return to Work Act.

It is an honor to be before you today and I thank you for your continuing work to assist our veterans.

I represent the 10th district of California, home to Travis Air Force Base, the largest air mobility command in the air force. And nearby in Marysville, California is Beale Air Force Base which is the leader in intelligence, surveillance, and reconnaissance, ISR, and major weapons systems including the U2, MC-12s, and Global Hawk.

Together these two bases, Travis and Beale, employ nearly 16,000 servicemembers across the active-duty spectrum, national guard, and reserves. Over 75,000 veterans live in my district and the surrounding area.



My bill, Help the Veterans Return to Work Act, addresses a major problem not only in northern California but throughout the United States, the tragically high unemployment rate among veterans.

Specifically my bill seeks to increase the reemployment rate among veterans by amending the undue hardship provisions under the Uniformed Services Employment and Reemployment Rights Act.

Currently an employer is excused from reemploying a returning veteran if the employer's circumstances have changed in a way that it is now impossible or unreasonable to do so or imposes an undue hardship.

This undue hardship provision is too lenient in allowing employers to dismiss employed servicemembers. As a reflection of this problem, the number of USERRA complaints and inquiries reported to the Employer Support of Guard and Reserve, a Department of Defense Agency, increased 164 percent between 2008 and 2010.

The Veterans Reemployment Act of 2012 amends the basic law so that undue hardship protections apply only to small businesses, eliminating the protections that the large businesses currently have.

In May 2012, the Bureau of Labor Statistics' current population survey reported the unemployment rate among all veterans of all ages was 7.7 percent, slightly below the national unemployment rate.

This dynamic is consistent with historic trends. Traditionally veterans' unemployment rate has been lower than for nonveterans. Still 7.7 percent among veterans is far too high and represents work that we must do.

The unemployment rate among all veterans pales in comparison to the unemployment rate among veterans in the 18 to 24 year age group which is an alarming 23 and a half percent, eight percent over the national unemployment rate for that age group which is 15 percent.

Pretty clear the young men and women returning from war, those in the reserves and in the guard have a real serious reemployment problem.

VetJobs, a premier employment service for veterans and a witness before this Committee in February 2012, has estimated that the unemployment rate among young veterans will increase even more as DoD starts to furlough active-duty troops and as many of the national guard and reserve brigades start to return home from their theaters.

This unemployment gap must be closed. And as this body has made the decision to send these brave men and women to war, it is now our responsibility to ensure that they can return home to a job that enables them to support themselves and their families in the same manner as they did prior to deployment.

Amending the undue hardship protections under the current law which my bill seeks to do will bring us one step closer to fulfilling our obligation to our veterans.

Mr. Chairman, I thank you and the Committee Members. I look forward to any questions you may have.

[THE PREPARED STATEMENT OF HON. JOHN GARAMENDI APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

Mr. Stivers, you are recognized for five minutes.

**OPENING STATEMENT OF HON. STEVE STIVERS**

Mr. STIVERS. Thank you, Chairman Stutzman and Ranking Member Braley, for holding this important hearing on several pieces of legislation today, especially this piece of legislation that aims to help returning veterans receive employment, the Hire at Home Act.

I also want to thank my co-sponsor, my lead democratic co-sponsor, Representative Tim Walz of Minnesota, for his hard work on this issue and helping me tackle this important issue.

This bill is designed to improve the cooperation between the military and state agencies to more closely align specialized military training with state licensing and certification requirements.

The bill came from an idea at a veterans' roundtable in my district in Columbus, Ohio, and I am grateful to the group of local young veterans, three of whom are attending the Ohio State University and talked about the problems they had in getting back to work when they came back from Iraq and Afghanistan.

The number of soldiers returning from Iraq and Afghanistan is huge and it makes this effort that much more important.

And you may know that the unemployment rate among post-9/11 veterans is 12.7 percent according to the Bureau of Labor Statistics.

By allowing military training in a comparable field to count towards certification in the private sector will get veterans back to work more quickly and be able to help their families.

Specifically the Hire at Home Act would apply to the veterans seeking state certification or license to become a state tested nurse assistant, EMT, certified nurse assistant, registered nurse, or commercial truck driver.

This legislation simply ensures that the states consider a servicemember's experience by allowing them to skip expensive and time-consuming hurdles to employment.

For example, an army medic who administered medication to wounded soldiers and was responsible for their lives on the battlefield could not be certified as an emergency medical technician in many of our local communities without redundant schooling.

This bill would make the transition much easier and alleviate the pressures of unemployment in our veterans' communities. One of the best ways to honor the service of our veterans is to give them an opportunity to do the same job at home without the unnecessary burdens of additional redundant training.

Our bill would accomplish this objective and we are willing to work with anybody who has any amendments on the bill and look forward to addressing any concerns anybody might have. This is, I think, an important bill to help get our veterans back to work.

Again, I appreciate the Chairman and the Ranking Member holding this hearing and look forward to working with you throughout the course of getting this bill passed.

Thank you, Mr. Chairman. I yield back.

[THE PREPARED STATEMENT OF HON. STEVE STIVERS APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

And thank you to each of you for bringing these bills forward. And I think they are timely and very sensitive to the situation that so many of our veterans face today.

I do not have any questions for this panel at this time. Mr. Braley, any questions or comments?

Mr. BRALEY. Well, Mr. Chairman, I just want to make a comment.

At a time when the public perceives that we do not do much here to work together, I just want to acknowledge that I recently had the opportunity to travel to Iwo Jima with one of Mr. Stivers' constituents who is a young marine corps veteran attending Ohio State University and having some issues with disability payments that he was working on.

And when I shared that with Mr. Stivers, he could not have been more accommodating and we have been working together on making sure this young man gets everything he deserves. And I think that is one of the things that we often ignore when we talk about what is happening in Washington.

I just wanted to thank him for his great advocacy on behalf of that young man.

Mr. STUTZMAN. Mr. Walz.

Mr. WALZ. No questions.

Mr. STUTZMAN. Okay. Seeing there are no further questions, I thank each of the Members for their testimony. And at this time, I will let you all move on and I thank you for being here.

At this time, I ask the second panel to come forward. With us today is Mr. Ryan Gallucci from the Veterans of Foreign Wars; Mr. Steve Gonzalez representing The American Legion; Major General Andrew Davis from the Reserve Officers Association; and Mr. John Odom, Esquire, a former Air Force JAG officer and one of the authors of the 2003 rewrite of the Servicemembers Civil Relief Act, and now Mr. Odom is in private practice.

And we thank each of you for being here and we look forward to each of your testimony. You will each be recognized for five minutes and your complete written testimony will be made part of the record.

Is there any objection from the Committee?

[No response.]

Mr. STUTZMAN. No objection. So ordered.

We will start with Mr. Gallucci and we will move to my right. Mr. Gallucci, you are recognized for five minutes.

**STATEMENTS OF RYAN M. GALLUCCI, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES; STEVE L. GONZALEZ, ASSISTANT DIRECTOR, NATIONAL ECONOMIC COMMISSION, THE AMERICAN LEGION; ANDREW DAVIS, EXECUTIVE DIRECTOR, THE RESERVE OFFICERS ASSOCIATION; JOHN S. ODOM, JR., ESQ., JONES AND ODOM, L.L.P.**

**STATEMENT OF RYAN M. GALLUCCI**

Mr. GALLUCCI. Thank you, Chairman Stutzman.

Chairman Stutzman, Ranking Member Braley, and Members of the Subcommittee, on behalf of the more than two million members of the VFW and our auxiliaries, I want to thank you for the opportunity to testify on today's pending legislation.

With the end of the conflict in Iraq, withdrawal from Afghanistan imminent and proposals to lean on national guard and reserve personnel for future routine missions, the VFW believes discussing how to protect our servicemembers and veterans within the workforce must remain a national imperative.

Despite continuing efforts within the Federal Government and across private industry, recent unemployment numbers for veterans of the current conflicts indicate that we are not solving the problem. And the VFW is encouraged to see that this Subcommittee continues to take the situation seriously and we are honored to share our thoughts on today's bills.

The VFW understands the goal of the Help Veterans Return to Work Act is to ensure that large businesses can no longer claim undue hardship as a reason to shirk their USERRA obligations.

However, the VFW cannot support this bill which we believe would make members of the national guard and reserve unattractive employees to large companies.

This issue is truly a double-edge sword. The VFW wholly supports strong legal protections for members of the guard and reserve, but we understand that the relationship between our reserve component and civilian employers must be equitable for both parties.

We feel the current provisions through which large businesses can claim undue hardship offer both the servicemember and the employer reasonable due process in resolving reemployment disputes.

If we put so many legal constrictions on hiring members of the reserve component, our servicemembers will be perceived as a legal liability to potential employers large and small.

A recent report from the Center for a New American Security cited USERRA compliance as a key challenge for employers who would consider hiring veterans.

To the VFW, this implies that the perception of USERRA among employers may actually prevent servicemembers and veterans from ever getting in the door.

In light of this bill and other concerns over USERRA, we invite the Subcommittee to host a separate hearing or roundtable discussion on USERRA in the 21st century to better understand how this law should be implemented, how it should be enforced, and how we

can best serve the interests of our reserve component servicemembers down the road.

The VFW fully supports the Hire at Home Act. Over the last few years, we have heard growing concerns of veterans who receive years of practical work experience cannot receive state licenses without jumping through hoops when they return home.

The VFW understands that states have the right to license professionals as they see fit within their borders. However, the VFW believes that states also have an obligation to evaluate military experience once a veteran leaves active duty.

The Hire at Home Act will ensure that states critically evaluate military training when considering veterans for licensure in four key fields where we have seen high veteran unemployment.

The VFW and our partners in The American Legion successfully pushed for a Senate companion bill with some minor changes which we would like to see the Subcommittee also consider in markup. The changes detailed in my written statement outline how states would report licensing gaps to the Department of Labor and how Labor would share this information with the Pentagon to close such gaps.

The VFW believes this bill is a responsible first step in ensuring veterans can transition seamlessly into careers that the military has diligently prepared them for while preserving each state's right to license professionals within their borders.

Moving forward, this concept could prove helpful in closing the licensing gap for other MOSs.

We thank Congressman Stivers for introducing this bill and we encourage the Subcommittee to quickly pass legislation that reflects the VFW's recommendations.

The VFW also supports the Fairness for Military Homeowners Act and we believe it offers responsible financial relief to military homeowners who are forced to frequently change duty stations.

In the past, military homeowners could easily sell or rent their properties whenever they needed to move. This all changed when the housing bubble burst in 2008. This bill would offer relief to military families by allowing military homeowners to refinance the mortgage on homes at their duty stations as if the home was still a primary residence, avoiding high interest rates.

Congressman Hunter's bill is a common-sense approach that will offer reasonable relief to military homeowners which is why we encourage the Subcommittee to pass it.

The VFW also strongly supports the Military Family Home Protection Act which seeks to end predatory foreclosures on military families whose loved ones are deployed, permanent and totally disabled, or who lost their loved ones in the line of duty.

Over the last few years, we have heard horror stories about companies foreclosing on military homeowners while servicemembers are deployed. This bill seeks to end this unconscionable practice by affording specific protections for such families. This bill also strengthens penalties for persons who knowingly violate certain provisions under the Servicemembers Civil Relief Act.

Never again should a military family worry that the bank will seize their home while their loved one is serving overseas or after their loved one has made the ultimate sacrifice.

Military homeowners face unique circumstances that can often lead to financial hardship which is why they deserve these kind of reasonable accommodations.

We thank Congressman Cummings for introducing this bill and hope the Committee will move quickly on it.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions the Subcommittee may have.

[THE PREPARED STATEMENT OF RYAN M. GALLUCCI APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

Mr. Gonzalez, you are recognized for five minutes.

#### **STATEMENT OF STEVE L. GONZALEZ**

Mr. GONZALEZ. Good morning, Mr. Chairman and Ranking Member and Members of the Subcommittee. Thank you for this opportunity to present The American Legion's view on several pieces of legislation being considered by the Committee today.

The American Legion supports all four pieces of legislation, but due to the allotted time available, I will concentrate on two out of the four bills, H.R. 5747, Military Family Home Protection Act, and H.R. 4115, the Hire at Home Act.

H.R. 5747, Military Family Home Protection Act, while servicemembers fight overseas, another war has been brewing back home, foreclosures. Since the 2006 collapse of the real estate market, tens of thousands of military servicemembers have lost their homes to foreclosure. History has shown even those putting their lives on the line for their country may not be safe from foreclosure.

America simply cannot afford to have our men and women in Iraq, Afghanistan, or elsewhere distracted by concerns over whether someone is seeking a default judgment against them back home or evicting their spouse and children or selling their home at an auction sale.

H.R. 5747 would provide mortgage protection for members of the armed service, surviving spouse, and some veterans. This legislation would expand the statute covering servicemembers that are part of a contingency operation, that is anyone who is or could become involved in military actions, are called up to or retained in active-duty service.

In the past, military servicemembers and their families have been foreclosed upon illegally. Whether or not this has been due to carelessness or callousness, neither is acceptable.

H.R. 5747 seeks to strengthen the law to ensure that America's servicemembers have ample time to handle financial matters.

The American Legion applauds Representative Cummings for his leadership and efforts to tackle and address this issue.

Next I am going to go to H.R. 4115, the Hire at Home Act. In early 1996, The American Legion launched the first groundbreaking credentialing report to study those vocational skills which the armed services provide training and for which a license or certificate is required to work in their respective field in the civilian sector.

Although these outstanding servicemembers possess excellent skills, in many cases easily transferrable to civilian careers, how-

ever, the lack of official recognition of their training has hampered a smooth transition from active-duty military service to meaningful civilian employment.

Honorable military servicemembers should advance patriots' vocation opportunities rather than stymie their employability. These servicemembers and veterans have attended some of the finest technical and professional training schools in the world. They are graduates with experience in health care, electronics, computers, engineering, air traffic control, nuclear power plant operations, so on and so forth.

Many of these skills require some type of license or certificate to find a career in the civilian workforce. In all too many cases, this license or certificate requires schooling which has already been completed by attendance at an armed services training institution. Unfortunately, the agencies which issue the license or certificate do not recognize the training or experience already completed.

As an example, a medic who treated gunshot wounds in Operation Enduring Freedom is qualified as a medic, but would not be certified as an emergency medical technician in our Nation's cities without additional redundant schooling.

This is more evident as demand for qualified workers in a diverse range of occupation areas continue to grow and employers face challenges to fill these occupations because of a shortage in the skilled workforce. Employers must begin to seek elsewhere to obtain the high-level skills they need to fill in their ranks.

Servicemembers and veterans are a highly trained, skilled, disciplined, and dedicated group of men and women, moreover represent a unique labor pool that can contribute significantly to the Nation to maintain its competitive edge in the global economy.

Servicemembers and veterans receive basic skills and training during their military service. Though the veteran's career is intended for the defense of America, however, a large portion of this training has relevant and direct application to the civilian labor workforce upon transitioning from military service.

The American Legion applauds Representatives Steve Stivers and Tim Walz for their leadership and efforts to tackle and address this issue.

This Committee should also be aware of additional legislation as well as other actions Members of Congress have undertaken which will help this problem. They are as follows.

Representative Denham from California and once again Representative Walz have also introduced H.R. 4155, the Veteran Skills Work Act, which would streamline the credentialing efforts on the Federal level.

The American Legion thanks the Committee for allowing us to testify and if you have any questions, be more than happy to answer any questions.

[THE PREPARED STATEMENT OF STEVE L. GONZALEZ APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

Major General Davis, you are recognized for five minutes.

**STATEMENT OF MG ANDREW DAVIS**

Major General DAVIS. Good morning. Chairman Stutzman, Ranking Member Braley, and Members of the Committee, I am Major General Drew Davis, Executive Director of the Reserve Officers Association, and I would like to thank you for the opportunity to testify this morning.

I have also been given permission by the Reserve Enlisted Association to testify on their behalf.

The consequences of mobilization and demobilization do not solely impact on our military members. It also has an effect on their families and their employers. Families and employers play a large role in a citizen warrior's decision on whether or not to enlist or to reenlist in the reserve force.

In personnel surveys, employer pressure is listed as one of the top two reasons why reservists and guardsmen choose to quit military service. Remember that after their initial enlistment, they serve voluntarily. That is why it is paramount that we work to improve the employability of members of the reserve and guard as well as all veterans.

Unemployment in the 18 to 24-year-old cohort remains high. This group principally represents the first tour veterans returning from active duty or their initial reserve mobilization. It is my belief that despite USERRA protections, we are seeing stealth discrimination in first-time hiring because of reserve affiliation as demonstrated by about a reported eight percent higher unemployment rate for reservists than for nonaffiliated veterans.

I fear the unemployment rate is higher because employers are shying away from hiring potential employees who can be expected to be recalled to active duty one year out of every five as we execute our national defense strategy that retains an operational and strategic reserve force.

That employment discrimination can be subtle and not overt. The prospective employer sees the applicant's reserve affiliation and says thanks so much for your service, yet after the interview, the application and the resume end up in the round file.

The employer, particularly of the small business or municipality, knows that he will have to cover a one year in five absence.

H.R. 3860, the Help Veterans Return to Work Act, would help with reemployment. If enacted, it would tighten up USERRA by permitting only small business concerns to claim hardship if unable to rehire a reserve component member.

H.R. 4115, the Hire at Home Act, codifies the need to credit any such military training as one of the program functions of the assistant secretary of Labor for Veterans' Employment and Training.

Additionally, ROA and REA encourage the implementation of any means that would credit veteran employees' experience gained through their military service.

Stresses at home are the second leading factor causing reserve and guard members to drop from the ranks after their return from deployment. Financial problems are a top conflict, creating stress in military families.

Mortgage protection under the Servicemembers Civil Relief Act helps reduce this stress.



H.R. 4740, Fairness for Military Homeowners Act of 2012, protects serving members from being denied refinancing should they no longer reside in their premises because of relocation caused by a permanent change of station or a deployment of 18 months or longer.

As a number of selected reservists are also full-time members of the active reserve or active guard, ROA and REA support this bill.

H.R. 5747, the Military Family Home Protection Act, while noble in intent, has some inconsistencies in how it defines mobilization. The mortgages of servicemembers deploying out of the continental United States are protected, while those serving on CONUS duty are not.

A message that ROA and REA always take to Capitol Hill is the need for parity as often the reserve and guard do the mission without receiving the same benefits.

As stated in our written testimony, ROA and REA can endorse the intent of H.R. 5747, but feel that if mortgage protections are going to be expanded under SCRA, the language needs to be revised to not inadvertently exclude a group that should be included.

ROA is willing to work with the Committee on this legislation.

Reserve Officers Association established the Servicemembers Law Center with retired navy captain Sam Wright as director. This service is provided to all members of the uniformed services. Captain Wright receives on average 500 calls a month and 800 last month from veterans facing legal problems on USERRA and SCRA issues.

ROA would like to share our garnered knowledge with the Committee as we see trends and problems facing our serving members. Leading the list are USERRA enforcement issues followed by problems with financial institutions and health care access.

ROA would like to thank the Committee and its staff for its attention to this critical issue, which has become increasingly more important and a concern for both veterans and their families.

We look forward to continuing to work with the Committee and staff.

[THE PREPARED STATEMENT OF MG ANDREW "DREW" DAVIS APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

Mr. Odom, you are recognized for five minutes.

#### **STATEMENT OF JOHN S. ODOM, JR.**

Mr. ODOM. Thank you.

Chairman Stutzman and Ranking Member Braley and Members of the Subcommittee, I am John Odom. I am an attorney at law from Shreveport, Louisiana.

I have listened to the other panel members and let me just tell you I am the guy that comes along and sues the banks when they do not follow the act. So this is what I do for a living. This is my area of practice.

The vast majority of my practice is representing veterans and current servicemembers against individuals and banks and credit institutions that have violated their rights under the SCRA.

I was lead counsel for Sergeant James Hurley in the big suit against Deutsche Bank and Saxon Mortgage Services in Michigan that led to Congress actually reenacting a new provision or enacting a new provision to clarify that there is a private cause of action to sue people who violate their rights.

So I teach at all three of the service judge advocate schools. I have authored books on this. I have written extensively on it. So I come to you with a practical viewpoint of the two bills on which I am testifying this morning.

H.R. 4740, first of all, I fully support the concept that a servicemember should be able to refinance a home during a period of active duty even though they may not be residing in the residence as a result of military orders.

I understand from legal assistance attorneys who call me dozens of times a month from around the world that certain mortgage companies take the policy position that a mortgagor may only refinance the home if they are currently residing in the home.

Obviously if the absence from the home is as a result of military orders, whether it is a mobilized guardsman or reservist who is stationed away from his primary residence or if it is a permanent party or an active-duty member who is stationed away from her home because she got PCS orders and had to move before she could sell the house, it is manifestly unfair to not allow servicemembers to refinance their homes.

However, the Servicemembers Civil Relief Act protects pre-service mortgages from nonjudicial foreclosure in Section 303 of the act. Under 4740 as drafted, a refinancing of a mortgage while a servicemember is on active duty would cause the servicemember to lose the protections of Section 303 because the new mortgage would no longer be a pre-service obligation.

I do not think you wanted to do that. I suggested additional language could be added to 4740 to provide that any refinancing accomplished pursuant to the section would not alter the status of the mortgage as a pre-service mortgage. Again, this is what happens when you trigger the dreaded law of unintended consequences.

As a final comment on 4740, I also question why the proposed amendment requires that a deployment be for a period of not less than 18 months. The period of deployment concurrently provided for lease cancellations under Section 305, for example, is not less than 90 days.

I know that a lot of our guard and reserve units do not deploy for 18 months, so why would you want to give the protection only to those people for whom I do not think we are going to be seeing deployment orders for that length of time? So I suggest that you might want to look at that.

Turning to 5747, while the goals are truly laudable, it presents a significant expansion of the SCRA and I think you need to evaluate it very closely for two primary reasons.

First, with regard to foreclosures, the amendment simply cannot be realistically implemented as it is drafted and, secondly, it does not fully accomplish what I think Mr. Cummings meant to do with his bill.

I agree completely with Mr. Cummings and the bill's co-sponsors that the home of any servicemember who is deployed should simply never be subject to foreclosure. Judicial or nonjudicial, regardless of when the mortgage was incurred, before service or during service, there are simply too many factors that cannot be anticipated when a servicemember deploys and communication is too difficult from war zones for banks and mortgage companies to be seizing and selling servicemembers' homes while they are off in harm's way.

While we agree on that fundamental position, I am equally concerned that this Congress not change Section 303 which places the onus on creditors to ascertain the military status of an individual before they begin a nonjudicial foreclosure action.

Under the current Section 303, the servicemember does not have to give any notice to the creditor. The best way to accomplish the proposed expansion of mortgage foreclosure protections contemplated by 5747 would be to insert a completely new Section 303A into the act.

If you want to protect deployed individuals, regardless of whether they live in a nonjudicial foreclosure state which is 27 of our states or a judicial foreclosure state which is 23 of our states, and if you want to protect them from both judicial foreclosure, nonjudicial foreclosure, and foreclosures on both pre-service and during service mortgages, do it, but write it in a separate section that is clearly titled as such.

If you want to expand the protections to wounded warriors and to surviving spouses, that is a policy decision that the Congress will have to make and that is certainly a good goal. But there is no searchable database now in which a proposing mortgage foreclosure creditor could ascertain whether someone is a surviving spouse or whether someone is a wounded warrior.

I find it really ironic that I am sort of taking the side of industry, but fair is fair here. If you enact this bill as written, it is unfair. It is unfair to the banks and although I make a lot of money off of certain banks, I have to tell you I do not think this one is practical.

I think it could be changed if you either amended 5747 or did an entirely new act. My written remarks, I have drafted a proposed Section 303A that I think would work, but as drafted, I cannot support 5747 and suggest to you that you are making compliance unreasonably complicated for the banks in that regard.

As for the remaining protections in 5747, I wholeheartedly endorse and recommend approval. You need to eliminate the sunset provision on the extension of nonjudicial mortgage foreclosures. The addition of a prohibition against credit discrimination for persons who may become protected by the act, that is a great idea. And the requirement for SCRA compliance officers, all of those are good ideas.

I would only caution the Subcommittee about this and I will quit. Just because a person may be designated as an SCRA compliance officer at a large bank does not mean that he or she has the foggiest idea of what the SCRA is or how it is supposed to be implemented.

I would urge if you enact that portion to have appropriate oversight for any compliance efforts imposed on the financial services industry because in my past experience, to put it charitably, many of them know not of what they speak.

Thank you for your time. I am happy to work with Committee or staff on any amendments and I am open to any questions. Thank you, sir.

[THE PREPARED STATEMENT OF JOHN S. ODOM APPEARS IN THE APPENDIX]

Mr. STUTZMAN. Thank you.

It sounds like if you run out of any lawsuits, you have the ability to do a lot of consulting to the banking industry if need be. But thank you for your testimony.

I just want to make this comment. They have called the votes at eleven o'clock and I would like to get everybody's testimony in, but we do want to make sure we have time for questions because we are going to be going until—votes will be going until about 1:30 and I know folks have flights to catch. So I would like to try to adjourn by the time we are done.

So I have got two questions and the first one is for Mr. Gallucci. Can you go into detail on the potential impact of H.R. 3860? What kind of impact could that have on servicemembers' ability to be employed by large employers?

Mr. GALLUCCI. Absolutely. I am glad you asked that question, Chairman.

The concern that we have really has to do with the veteran's ability to get through the door. When you look at the unemployment statistics for veterans even in the age group 18 to 24, it is our belief that we are not necessarily talking about veterans who are asking for reemployment. These are veterans who are looking for first-time employment.

And what we saw in the report from the Center for a New American Security was that one of the top concerns for potential employers when considering hiring a servicemember or a reserve component servicemember or a veteran was the perpetual threat of a military obligation.

Now, one of our concerns beyond this, beyond reserve component servicemembers is that within the civilian military disconnect, there is a general misunderstanding of the difference between a reserve component servicemember and a veteran.

Myself, I have been asked on job interviews when discussing my military service whether or not I would have to go back. I left the military in 2007. That is absolutely not a concern that I would be recalled to active duty.

So our concern is that when we are talking about these daunting unemployment figures for Iraq and Afghanistan veterans that we run the risk of making them even more unattractive to large employers if we do away with the due process through which an employer could demonstrate that there may have been a hardship, there may have been a reduction in force, and it may be necessary to let a certain employee go.

Now, what we do support is stronger enforcement of USERRA policy. This is where we see the major gap, when state attorneys

general are only prosecuting eight percent of the USERRA complaints that come through their offices, when we hear from Department of Labor that they are running up against major defenses from the legal teams of these major corporations. That is not necessarily because of the undue hardship clause. That will continue. They will continue to fight for why they do not need to live up to their USERRA obligation. So we are concerned that this on the front end would impact veterans in their ability to land a job to begin with.

Mr. STUTZMAN. Thank you.

Mr. Braley.

Mr. BRALEY. Mr. Gallucci, I just want to follow-up briefly on that last comment because when we did field hearings last summer, it was obvious that a lot of the larger employers because they have more sophisticated human resources department have a greater understanding of how MOS qualifications can translate into civilian work requirements.

And we talked about the fact that those larger employers, many of whom hire a large number of veterans, can do a lot to help educate medium and small size employers understand how to make that Rosetta Stone translation which is a big mystery to many of them.

But the other side of that sword is that they also have a lot more sophistication in how to use a doctrine of reduction in force to justify almost any termination of employment.

And so I think when we talk about the benefits of wanting to make sure that those employers have incentives to hire unemployed veterans, also have to realize that they have much more sophisticated practices sometimes as saying, as General Davis said, a stealth discrimination in how you resolve a back-end resolution of somebody's employment status. So I appreciate your comments.

And one of the things you talked about, Mr. Odom, was this concern about Section 303 and the ability of creditors to ascertain military status of mortgagors prior to nonjudicial foreclosures.

When J.P. Morgan testified recently about their practices, they talked about using the Defense Manpower Data Center as a way of trying to address that concern.

What experience do you have with that data center and what problems or solutions need to be addressed before it can truly be a searchable database that addresses the concerns that you raised?

Mr. ODOM. Thank you, sir.

I do not think you need to change the DMDC database at all. It is one of the most effective and efficient departments of any executive agency of the government. It is amazing what those people can do.

But you would actually be asking their computer system to talk to the VA's computer system because those are the folks that declare the wounded warriors and issued those hundred percent disability letters. Those systems do not talk to one another.

And then I actually think on the surviving spouse thing, I want you all to consider there might be a force protection issue here. I mean, a surviving spouse may not go into default and a surviving spouse may not want his or her name in a searchable database.

If I was the surviving spouse of a member who had been killed in a particularly sensitive military operation, I would not want my name in a database. And I think we have to remember that.

Mr. BRALEY. Sure.

Mr. ODOM. But the database is not the big issue. The big issue can be completely solved. If you want to expand it into these three additional categories of people who now are not in a searchable database, simply establish in a separate section a requirement that those people give notice to J.P. Morgan or Citi or Wells or whoever. It is a simple notice.

Okay. Now I am in a newly protected category and I demand protection for the 12 months that I am entitled to it. That is a completely different thing, sir, than saying that we are going to put that in 303.

With all due respect, and, again, I sue banks, this is what I do, they cannot get 303 straight now. If you make it infinitely more complicated, well, I will just have more business. But we need to be thinking about how we can protect the people instead of whether I can make money for them on the back end.

Once you have lost your home, it is gone.

Mr. BRALEY. Sure.

Mr. ODOM. And that is a terrible thing for these folks that they come home and their home is gone. And it is years to straighten these messes out.

So my recommendation, sir, is that you not change the DMDC database. It is working quite well for what it is intended for. If you want to expand, do it in a separate section, denominate it as such, and make those additionally protected people who want this protection give written notice to the creditor. That seems fair to me.

Thank you, sir.

Mr. BRALEY. You are welcome.

Just before I wrap up, one of the things that Mr. Gallucci raised was the whole issue of licensure and how that impacts people's attempt to get unemployment when they have already gone through extensive training.

I am curious what your organizations, General Davis, Mr. Gonzalez, Mr. Gallucci, have done with state legislators because it seems to me that we have seen a solution in some ways where when you have got these licensing codes and there are specific requirements of education, training, and work experience to get a license that you include language, kind of catch-all language to the end of those descriptions that says or other equivalent education, training, and work experience.

Have you had any experience in trying to get the legislators to move to make it easier for military occupation specialties to translate into civilian employment?

Mr. GONZALEZ. Mr. Braley, speaking on behalf of The American Legion, we have taken a couple of different initiatives to address this issue.

One has been on June 12th, we had a meeting with credentialing boards at The American Legion with the army training and doctrine to start looking at and reevaluating some of the actual programs of instruction and how high-demand jobs, of course, we selected eight different MOSs or military occupations within the

army to look at the program of instruction, how they are training the individual soldiers at the what they call schoolhouses of training venues and locations to start actually having the credentialing body who, first of all, does not require state nor Federal legislation to have these particular industries to start certifying and credentialing the servicemembers which, of course, to transition into not just employable jobs but also with jobs that actually contribute back to the economy where the servicemember is not employed and not taken away from the economy per se.

So that is one avenue that The American Legion has taken. The other one has been working very closely with Congressman Walz's office as well as Congressman Denham's office from California who also sits on not this Committee but the overall Committee on addressing the Federal issue.

As it currently stands, you have 82 licensures that are issued by the Federal Government, so FAA, FCC, Homeland Security issue specific licenses within their respective civilian counterpart jobs.

This particular legislation should it pass, it will require that the Federal Government per se have the authority to look at, and when I say relevant, it is more of even though you are not trained in a particular, say, the front end in the schoolhouse, what ends up happening is through your time in the military, you will end up gaining some other experiences that could be documented.

And once it is documented and you transition out of the service, that documentation can be presented to these authorities that can evaluate and also by evaluation take that particular evaluation and marry it up with what they have in their particular system and how they train the civilian counterparts to issue a license where in return, you actually—I mean, last year, the DoD spent roughly almost a billion dollars in unemployment benefits. I mean, you have the DoD spending hundreds of thousands of dollars to training servicemembers only to come out and the servicemember has to go and get retrained again, spending additional taxpayers' dollars.

In this economic environment, I am pretty sure we can minimize that usage of taxpayers' dollars and actually have the servicemember be contributing back to the economy and strengthening America's economy.

So these are some of the things that The American Legion has taken up, not just legislation, but also—and as far as the state level goes, we are in contact with the National Governors Association, so we can work with State Government Association to hopefully present state legislation that will also address some of these issues. And this is pretty much the next step that The American Legion has taken.

Mr. BRALEY. Thank you very much.

Mr. GONZALEZ. Thank you, sir.

Mr. STUTZMAN. Thank you.

Mr. Walz.

Mr. WALZ. I am good.

Mr. STUTZMAN. Good?

I have got just one quick follow-up question to Mr. Odom. Could you discuss the difficulties that banks would have ascertaining if the homeowner is deployed, if they are medically retired or have

a hundred percent VA rating or a surviving spouse, how difficult is that for the banking industry?

Mr. ODOM. Right now they cannot. I mean, there is no searchable database whereby they, the banks, would be able to ascertain that. It simply cannot be done. That is the reason why it—my suggestion, sir, is if you want to provide these protections for these expanded groups, then it only seems to me to be fair to put the burden on these newly protected people to give notice to the financial institution when they claim credit for—when they claim protection as this newly expanded classification because there is no way for the banks to comply.

They can search every known database known to mankind now and they would never find out that someone has a 100 percent disability rating. They would never find out that she or he is a surviving spouse of a service-connected death. It cannot happen.

That is the big problem that I have with 5747. It is a great idea, but you cannot implement it as it is now. My experience as a litigator is if a judge or a jury sees a defendant who is being sued for noncompliance with something that they could not comply with, you are not going to win. You are just not going to get any damages for these people. So there I go talking about lawsuits again, but it is what I do, Mr. Chairman.

But I am simply suggesting that I do not think, and I do not speak for the DMDC, I know those people, they are unbelievably technically capable, but these are databases that they do not have, and I do not think they can create and I do not think you want some of these names in that database.

But be that as it may, I think you can change all of that and you can rectify the problem. If you expand it to these new areas, require those newly protected people to claim their rights by written notice and then you are going to get into the problem of, well, who do I give that notice to.

I send my payment to a payment center in Flagstaff, Arizona and my mortgage is part of a tranche that has \$200 million worth that is held by Deutsche Bank in some offshore bank. I mean, you know, good grief. Who do you give the notice to because let me just predict that when somebody gives that notice and after the foreclosure takes place and I sue them, they are going to say we never got the notice. Gee whiz.

You know, you cannot communicate with these folks. They are too big. And I do not mean to be hard on the financial services industry. I know they are trying and probably, you know, there are millions of mortgages out there and they do a good job on a lot of them. The only ones I see, however, are the horror stories where somebody has spent every minute of his or her 30 minutes a week telephone time on hold with some customer service center in no name nowhere arguing with somebody who has never seen this act about whether or not they can or cannot proceed to foreclose on their home.

We are able to stop a lot of them. Some of them we have not. But that is my problem, Mr. Chairman. 5747 puts an unworkable burden out there with no real solution that I can see.

Mr. STUTZMAN. Okay. Thank you, sir.



Mr. Braley, I think we are probably going to run out of time and instead of going to the third panel, I will just have the third panel submit their testimony for the record.

Do you have any further questions for this panel?

Mr. BRALEY. No.

Mr. STUTZMAN. Okay. Well, thank you very much each of you for being here. We definitely appreciate your input and asked for your input.

Mr. Odom, you have got a lot of experience with this and so any suggestions are welcome and we could definitely keep that under consideration because I think it is important that we do get this right. We want to make sure that we do not create another problem in lieu of trying to find the solution.

So with that, thank you for your testimony and you all are dismissed.

Actually, I will just close the hearing if there are no further questions. I thank each of you for being here.

Yes. I would like to just recognize the third panel which was going to testify. Let's see. Let me make sure I get the right notes.

Actually, our last panel would have been Mr. Mike Frueh, I believe. Is that how—

Mr. FRUEH. Frueh.

Mr. STUTZMAN. Frueh from the VA and he is accompanied by Mr. John Brizzi.

And, Mr. Brizzi, I was told that your family and your son has been dealing with some issues. I want to wish you the best and keep them in our thoughts and prayers. All of us have family and we all know the difficulties that we all have. Mr. Brizzi, thank you, and wish you all the best and hope all goes well.

Also, we had Mr. Frederick Vollrath from the Department of Defense. Representing the Department of Labor's Veterans' Employment and Training Service is Mr. John Moran and he is accompanied by Ms. Gerri Fiala.

So thank you for being here, and I apologize for the situation with votes, but we do have your testimony. And, again, always look for information from all interested parties with that. So thank each of the witnesses for being here today.

Without objection, Members have five legislative days in which to revise and extend their remarks. Hearing no objection, so ordered.

This hearing is adjourned.

[THE PREPARED STATEMENT OF MIKE FRUEH APPEARS IN THE APPENDIX]

[THE PREPARED STATEMENT OF JOHN K. MORAN APPEARS IN THE APPENDIX]

[THE PREPARED STATEMENT OF FREDERICK E. VOLLRATH APPEARS IN THE APPENDIX]

[THE PREPARED STATEMENT OF THOMAS E. PEREZ APPEARS IN THE APPENDIX]

[Whereupon, at 11:08 a.m., the Subcommittee was adjourned.]

## A P P E N D I X

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### **Prepared Statement of Hon. Marlin Stutzman, Chairman**

Good morning. Today, we will take testimony on four bills; H.R. 3860, The Help Veterans Return to Work Act, introduced by the Honorable John Garamendi, H.R. 4115, the HIRE at Home Act, introduced by the Honorable Steve Stivers, H.R. 4740, the Fairness for Military Homeowners Act of 2012, introduced by the Honorable Duncan Hunter, and H.R. 5747, the Military Homes Protection Act, introduced by the Honorable Elijah Cummings.

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### **Prepared Statement of Hon. Bruce L. Braley, Ranking Democratic Member**

Thank you, Mr. Chairman, for holding this legislative hearing today.

I know that the end of the second session is quickly approaching, so I am glad that we are taking this opportunity to review important legislation that will be beneficial to veterans.

The bills included in today's hearing seek to improve employment opportunities for veterans and enhance protections under the Servicemembers Civil Relief Act. The four bills included in today's hearing will provide for employment and training, help veterans return to work, help veterans refinance their mortgage, and improve protections against foreclosures for veterans.

I would also like to take this opportunity to congratulate Rep. Cummings for the inclusion of his bill, H.R. 5747, the *Military Family Home Protection Act in the National Defense Authorization Act of 2013*. This bill has been passed by the House of Representatives with 299 votes in support.

As you are aware the Committee Democratic staff and your staff worked closely through that process. I also would like to thank the Chairman of the Full Committee and his staff for including this important legislation in today's hearing. It's good to know we can work together in the spirit of bipartisanship to provide housing protections to servicemembers, veterans, and their families.

Mr. Chairman since the end of the second session is fast approaching, I hope we can make the most of our time. Some other bills that I suggest we review include the *Veterans Work Study Opportunities Act*, *The Ensuring Quality for Education Act*, the *Wounded Veteran Job Security Act*, the *REVAMP with Community Colleges Act*, and the *Military and Veterans Education Protection Act*, as well as my *Veterans' Job Corps Act*.

I do not expect us to agree on all bills but I would respectively recommend, Mr. Chairman, that we take the opportunity to review more bills at each of our legislative hearings. This in turn would give us more choices for legislative markups.

Thank you Mr. Chairman and I yield back.

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### **Prepared Statement of Hon. Elijah E. Cummings, Ranking Member, Committee on Oversight and Government Reform**

Thank you Chairman Stutzman, Ranking Member Braley, and Members of the Subcommittee for inviting me to testify today on H.R. 5747, the Military Family Home Protection Act.

For the past several years, and particularly as Ranking Member of the House Oversight Committee, it has been my number one priority to help millions of American families who have been trying to protect their homes against foreclosure during the economic crisis that has gripped our nation. In my opinion, nobody is more deserving of our help than our military servicemembers fighting overseas.

H.R. 5747 is a common-sense bill that would expand the Servicemembers Civil Relief Act (SCRA) to protect more of our brave men and women in uniform from losing their homes while they protect our freedoms abroad.

This legislation is supported by the American Legion, Veterans of Foreign Wars, Paralyzed Veterans of America, Disabled American Veterans, and the Military Officers Association of America, all of whom have written letters of support. I respectfully ask that these letters be included in the record.

In addition, this legislation has already been passed by the House as an amendment to the National Defense Authorization Act (NDAA) that I offered with Ranking Member Filner and Ranking Member Smith of the Armed Services Committee. It passed by an overwhelmingly bipartisan vote of 394–27, including the majority of Members on this Committee.

Here is what the legislation would do. First, under current law, some home foreclosure protections for servicemembers are set to expire at the end of this year. My legislation would fix that by eliminating this sunset provision and ensuring that foreclosure protections are extended to 12 months. We need to act this year to make sure those protections do not expire.

My legislation also would ensure that servicemembers serving in contingency operations, such as in Iraq and Afghanistan, do not have to worry about losing their homes, regardless of when they were purchased.

In addition, it would extend foreclosure protections to the surviving spouses of servicemembers who are killed in the line of duty, as well as to veterans who are 100% disabled due to service-connected injuries at the time of discharge.

Finally, the legislation would prohibit discrimination against servicemembers and their families who are covered by these protections, and it would double penalties to deter future violations.

I crafted this legislation after more than a year of investigating cases in which military servicemembers and their families had suffered illegal foreclosures and inflated fees.

For example, last July, I issued a staff report documenting these abuses entitled “Fighting on the Home Front: The Growing Problem of Illegal Foreclosures Against U.S. Servicemembers.” I ask that this report be included in the record.

In addition, Senator Jay Rockefeller, the Chairman of the Senate Commerce Committee, joined me in co-hosting a congressional forum on this topic with a number of officials, including Holly Petraeus, the Director of the Office of Servicemember Affairs at the Consumer Financial Protection Bureau, who appeared alongside servicemembers and others to provide recommendations.

I also want to extend my thanks to Ranking Member Braley, who participated in that bicameral forum, is an original co-sponsor to my legislation and has been integral to our efforts over the past year.

The results of our investigation demonstrate the clear need for these improvements to the SCRA. Nobody fighting abroad to protect our country should also have to fight here at home just to keep a roof over the heads of their loved ones.

I thank the members of this Committee for supporting my legislation, and even though it has passed the House as part of the NDAA, I ask my colleagues on both sides of the aisle to continue to work together to ensure that we enact these reforms into law.

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### **Prepared Statement of Hon. John Garamendi**

Chairman Stutzman, Ranking Member Braley, and Members of the House Veterans Affairs Committee Subcommittee on Economic Opportunity, thank you for the opportunity to testify on behalf of my bill, H.R. 3860, the Help Veterans Return to Work Act. It’s an honor to be before you today.

I represent the 10th District of California, home to Travis Air Force Base, the largest Air Mobility Command unit in the Air Force. Nearby in Marysville, California, is Beale Air Force Base, which is the leader in Intelligence, Surveillance and Reconnaissance (ISR) with major weapon systems including the U2, MC–12 and Global Hawk. Together, Travis and Beale employ nearly 16,000 servicemembers across active duty, National Guard, and the Reserves, and over 75,000 veterans live in my district and the surrounding area.

My bill, the Help Veterans Return to Work Act, addresses a major problem not only in Northern California, but throughout the U.S. —the tragically high unemployment rate among veterans. Specifically, my bill seeks to increase the reemployment rate among veterans by amending the undue hardship provision under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Currently,

an employer is excused from reemploying a returning veteran if the employer's circumstances have changed in a way that it is now impossible or unreasonable to do so, or imposes an "undue hardship." This undue hardship provision is too lenient in allowing employers to dismiss deployed servicemembers. As a reflection of this problem, the number of USERRA complaints and inquiries reported to the Employer Support of Guard and Reserve, a Department of Defense (DoD) agency, increased 164 percent between 2008 and 2010. The Veterans Reemployment Act of 2012 amends USERRA so that undue hardship protections apply only to small businesses, eliminating the protections for large businesses.

In May of 2012, the Bureau of Labor and Statistics Current Population Survey (BLS CPS) reported that the unemployment rate among all veterans is 7.7%, which is slightly below the national unemployment rate. This dynamic is consistent with historical trends. Traditionally, the veteran unemployment rate has been lower than that of nonveterans. Still, the fact that 7.7% of our veterans are unemployed is unacceptable for a Nation like ours. However, this number, which represents the unemployment rate among all veterans, pales in comparison to the unemployment rate among veterans in the 18 to 24 year-old age group, which is an alarming 23.5%—over 8% higher than the national unemployment rate for that age group (15.3%).

VetJobs, a premier employment service for veterans and a witness before this Subcommittee in February 2012, has estimated that the unemployment rate for young veterans will increase even more as the DoD starts to furlough active duty troops and as many of the National Guard and Reserve brigades start to return from theatre.

This unemployment gap must be closed, and as the body that made the decision to send these brave men and women to war, it's our responsibility to ensure that they can return home to a job that enables them to support themselves and their families in the same manner as they did prior to deployment. Amending the undue hardship protections under USERRA, which my bill seeks to do, will bring us one step closer to fulfilling our obligation to our veterans. Thank you, Mr. Chairman, I look forward to any questions your Subcommittee may have.

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### Prepared Statement of Hon. Steve Stivers

I want to thank Chairman Stutzman and Ranking Member Braley for holding this important legislative hearing today on my legislation, the Helping Iraq and Afghanistan Veterans Return to Employment (HIRE) at Home Act. Also, I would like to thank my lead Democrat co-sponsor Representative Tim Walz of Minnesota for tackling this important issue with me.

The measure before the Committee today is designed to improve cooperation between the military and state agencies to more closely align specialized military training and state licensing and certification requirements.

The legislation came from an idea shared by a group of local veterans at a roundtable I held in my District in Columbus, Ohio. I am grateful to that group of local veterans for bringing this problem to my attention—including three young veterans Angela King, Dustin Crum and David Warnock. With the number of veterans returning from Iraq and Afghanistan, we need to make every effort to help our returning military transition back to jobs in their local communities.

I have served over 26 years in the Ohio Army National Guard and have been honored to serve with so many brave men and women over the years. Our servicemembers and veterans have protected the United States at immense personal cost to themselves and their families—to defend our Nation and its ideals of democracy and freedom. They and their families deserve our respect and our gratitude, and we owe a debt to them for their service.

As many of you know, unemployment among post-9/11 veterans is 12.7 percent, according to a recent Bureau of Labor Statistics report. By allowing military training in a comparable field to count toward certification in the private sector, it will help get veterans back to work more quickly once they are back with their families.

Specifically, the HIRE at Home Act would apply when a veteran is seeking State certifications or licenses to become a state-tested nursing assistant, EMT, certified nursing assistant, registered nurse or commercial truck driver. This legislation simply encourages states to consider our servicemembers' experience, which could allow them to skip expensive and time-consuming hurdles to employment.

My legislation will not only help veterans be more competitive in the job market but also help them land better jobs. For example, an Army medic who administered medication to wounded soldiers and was responsible for their lives on the battlefield, could not be certified as an emergency medical technician (EMT) in our local com-

munities without redundant schooling. This bill would make that transition much easier.

It is encouraging that the Department of Defense (DoD) released a report identifying several education and training issues it hopes to resolve, including having military training pre-approved within state credentialing options.

While serving our country, our military men and women perform high-skilled jobs, often under intense and dangerous conditions. One of the best ways to honor their service would be to give them the opportunity to do the same job, without unnecessary and burdensome hurdles at home.

Again, I appreciate the Chairman and Ranking Member for allowing me to testify today and holding this hearing.

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### **Prepared Statement of Ryan M. Gallucci**

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than 2 million men and women of the Veterans of Foreign Wars of the U.S. (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify on today's pending legislation. With the conflict in Iraq drawing to a close, withdrawal from Afghanistan on the horizon, and proposals to scale back our nation's active duty military while continuing to lean on National Guard and Reserve personnel for future routine missions, the VFW believes discussing how to protect our servicemembers and veterans within the workforce and streamlining processes through which veterans can secure meaningful employment must remain a national imperative. Despite continuing efforts within the Federal government and across private industry, recent unemployment numbers for veterans of the current conflicts indicate that that we are not solving the problem. The VFW is encouraged to see that this Committee continues to take this situation seriously, and we are honored to share our thoughts on today's bills in an effort to protect our nation's heroes and offer them the career opportunities for which their military training and experience logically prepared them.

#### **H.R. 3860, Help Veterans Return to Work Act:**

The VFW understands that the goal of this legislation is to ensure that large businesses can no longer claim "undue hardship" as a reason to shirk reemployment obligations under the Uniformed Servicemembers Employment and Reemployment Rights Act (USERRA). However, the VFW must oppose this bill, which we believe would make members of the National Guard and Reserve unattractive employees to large companies. This issue is truly a double-edged sword. The VFW wholly supports strong legal protections for members of the Guard and Reserve, but we understand that the relationship between our Reserve Component and civilian employers must be equitable for both parties. We feel the current provisions through which large businesses can claim undue hardship offers both the servicemember and the employer reasonable due process in resolving reemployment disputes.

If we put so many legal constrictions on hiring members of the Reserve Component, our servicemembers will be perceived as a legal liability to potential employers, large and small. A recent report from the Center for a New American Security (CNAS) outlined the business case for hiring servicemembers and veterans. In the report, CNAS also ranked employer concerns for hiring current or former military personnel. One of the major concerns for employers included potential deployments and USERRA compliance. To the VFW this implies that the perception of USERRA among employers may actually prevent servicemembers and veterans from ever getting in the door.

In light of this bill and other concerns over USERRA, we invite the Subcommittee to host a separate hearing or roundtable discussion on USERRA in the 21st Century to better understand how this law should be implemented and how we can best serve the interests of our Reserve Component servicemembers and the companies that employ them.

#### **H.R. 4115, HIRE at HOME Act:**

The VFW fully supports the HIRE at HOME Act. Over the last few years, we have heard growing concerns that veterans who receive highly technical training in the military and amass years of practical work experience cannot receive state licenses and certifications without jumping through hoops when they return home. The VFW understands that states have a legal right to license professionals as they see fit within their borders. However, the VFW believes that states must have the ability to evaluate the training and experience of a veteran once they leave active duty. The HIRE at HOME Act will ensure that states critically evaluate military

training when considering veterans for licensure in four key fields where we have seen high veteran unemployment: Certified nursing assistant, registered nurse, emergency medical technician, and truck driver.

The VFW successfully pushed for a companion to the HIRE at HOME Act in the Senate, with some minor changes, which we would like to see this Subcommittee also include in markup. The changes simply outlines how states should report the ways in which they considered military training and experience toward state licensing requirements. Specifically, states would report to the Department of Labor at a minimum: The state standard for licensure in each field; the specific military training components evaluated for licensure; and any gaps in training that prohibit veterans from licensure. The Department of Labor would then establish protocols to share this information with the Department of Defense in an effort to close training gaps.

The VFW believes this bill is a responsible first step in ensuring veterans can transition seamlessly into careers that the military has diligently prepared them for, while preserving each state's right to license professionals who choose to operate within their borders. Moving forward, this concept could prove helpful in closing the credentialing and licensing gap for other critical military occupational specialties (MOSs) without placing unnecessary burdens on states. We encourage the Subcommittee to move quickly on this critical bill, passing a comprehensive piece of legislation that reflects the VFW's recommendations and helps to close the military credentialing gap.

**H.R. 4740, Fairness for Military Homeowners Act of 2012:**

The VFW supports this bill and we believe it is a responsible course of action offering financial relief for military home owners who are forced to frequently change duty stations. Unlike traditional home owners, military home owners must regularly change duty stations. In the past, military home owners could easily sell or rent their properties whenever they needed to move. This all changed when the housing bubble burst in 2008. This bill would offer relief to military families by allowing military home owners to refinance the mortgage on homes at their old duty stations as if the home was still a primary residence. Home owners who seek to refinance will encounter higher interest rates if they do not actively live at the property. This bill would ensure that military home owners can still lock in reasonable interest rates when they are forced to leave a home at their old duty station. This is a common sense approach that will offer reasonable relief to military home owners who must balance family obligations with the rigors of military life.

**H.R. 5747, Military Family Home Protection Act:**

The VFW strongly supports this bill, which seeks to end predatory foreclosures on military families whose loved ones are deployed, permanent and total disabled, or who lost their lives in the line of duty. Over the last few years, we have heard horror stories about companies foreclosing on military home owners while servicemembers are deployed overseas. This bill seeks to end this unconscionable practice by affording specific protections for deployed servicemembers, disabled veterans, and surviving spouses. This bill even goes so far as to establish criminal penalties for persons who knowingly violate these new provisions under the Servicemembers Civil Relief Act, or SCRA. Never again should a military family worry that the bank will seize their home while their loved one is serving overseas or after their loved one has made the ultimate sacrifice. Military home owners face unique circumstances, and deserve these kinds of reasonable accommodations. We hope the Committee will move quickly on this bill.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions you may have.

*Information Required by Rule XI2(g)(4) of the House of Representatives*

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any Federal grants in Fiscal Year 2012, nor has it received any Federal grants in the two previous Fiscal Years.

**Prepared Statement of Hon. Steve L. Gonzalez**

Chairman Stutzman, Ranking Member Braley and distinguished Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's views on the several pieces of legislation being considered by the Subcommittee today. The Amer-

ican Legion commends the Subcommittee for holding a hearing to discuss these very important and timely issues.

Chairman Stutzman, Ranking Member Braley and distinguished Members of the Subcommittee:

On behalf of the 2.4 million members of The American Legion I thank you for this opportunity to submit The American Legion's views on the legislation being considered by the Subcommittee today. We appreciate the efforts of this Subcommittee to address the different needs of the men and women who are currently serving and those who served during past conflicts.

*H.R. 5747: Military Family Home Protection Act*

*Amends the Servicemembers Civil Relief Act (SCRA) to improve the protections for servicemembers against mortgage foreclosures, and for other purposes.*

While servicemembers fight overseas, another war has been brewing back home: foreclosures. Since the 2006 collapse of the real estate market, tens of thousands of military servicemembers have lost their homes to foreclosure. History has shown even those putting their lives on the line for their country may not be safe from foreclosure. America simply cannot afford to have our men and women in Iraq, Afghanistan, or elsewhere distracted by concerns over whether someone is seeking a default judgment against them back home, or evicting their spouse and children, or selling their house at an auction sale. *H.R. 5747, Military Family Home Protection Act*, would provide mortgage protection for members of the armed services, surviving spouses and certain veterans. This legislation would expand the statute covering servicemembers that are part of a "contingency operation", that is, anyone who is or could become involved in military actions, are called up to or retained in active-duty service.

Additionally, *H.R. 5747* would expand SCRA to cover any veteran who is totally disabled, regardless of when his or her obligation arose, and surviving spouses of servicemembers who died in service, regardless of obligation of service. It would also expand the period covered to include any proceeding filed within 12 months of the servicemember's military service, and apply protections for veterans and surviving spouses with regard to any action filed within 12 months of the servicemember's retirement or death.

In the past, military servicemembers and their families have been foreclosed upon illegally. Whether or not this has been due to carelessness or callousness neither is acceptable. *H.R. 5747, Military Family Home Protection Act*, seeks to strengthen the law to ensure that America's servicemembers have ample time to handle financial matters, while transitioning from their active-duty service.

**The American Legion supports this bill.**

*H.R. 3860: Help Veterans Return to Work Act*

*Amends title 38, United States Code, to clarify the responsibilities of small businesses with respect to the employment and reemployment rights of veterans.*

*H.R. 3860* closes a loophole that allows larger corporations to refrain from rehiring National Guard and Reserve members who were sent into combat in service of our country. Current law, as set by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), is too lenient in allowing employers, regardless of size, to dismiss deployed servicemembers. It is estimated that nearly half of unemployed veterans are National Guard and Reserve members. This bill would help ensure that those who leave behind jobs to defend our Nation will be guaranteed those jobs when they return home.

Currently, an employer is excused from reemploying a returning veteran if the employer's circumstances have changed in a way that it is now impossible or unreasonable to do so, or imposes an "undue hardship." The *Help Veterans Return to Work Act of 2012* would amend USERRA so that undue hardship protections would apply only to small businesses, eliminating the protections for large businesses.

**The American Legion supports this bill.**

*H.R. 4740: Fairness for Military Homeowners Act of 2012*

*Amends the Servicemembers Civil Relief Act (SCRA) to ensure that relocation of a servicemember to serve on active duty away from the servicemembers' principal residence does not prevent the servicemembers from refinancing a mortgage on that principal residence.*

Military service often requires relocation due to the nature of the profession. America's servicemembers should be able to expect equal treatment as any other

American homeowner when refinancing their mortgages. Currently, active-duty military servicemembers cannot refinance their homes if the home is not owner-occupied by the servicemember.

*H.R. 4740, Fairness for Military Homeowners Act of 2012*, would amend section 303, title 50, of the United States Code (USC) by adding section 303A, which would allow servicemembers who are unable to reside in a residence where they are the mortgagor due to military service. This legislation would allow them to apply for a mortgage refinance, regardless of their residency status. However, *H.R. 4740, Fairness for Military Homeowners Act of 2012*, does include provisions which limit the ability of a servicemember to refinance a mortgage if they have refinanced within the preceding 5 year period.

**The American Legion supports this bill.**

*H.R. 4115: Helping Iraq and Afghanistan Veterans Return to Employment at Home Act*

Requires states to align their certification for nursing assistant, certified nursing assistant, registered nurse, or commercial driver's license with military training standards.

In early 1996, The American Legion launched the first groundbreaking credentialing report to study those vocational skills for which the armed services provide training and for which a license or certificate is required to work in this field in the civilian economy. The education, training and experience obtained during an individual's military service not only provides tangible benefits for the nation's defense, but can also contribute significantly to a highly skilled civilian workforce. The military invests millions of dollars training its uniformed personnel, providing a broad base of knowledge and experiences that can carry over to civilian occupations. However, transitioning from military occupations to civilian jobs can present significant challenges for servicemembers.

These servicemembers and veterans have attended some of the finest technical and professional training schools in the world. These military men and women are graduates with experience in health care, electronics, computers, engineering, drafting, air traffic control, nuclear power plant operations, mechanics, carpentry, and many other fields. Many of their skills require some type of license or certificate to find a career in the civilian workforce. In many cases, this license or certificate requires schooling which has already been completed by attendance at an armed forces training institution. Unfortunately, the agencies which issue the license or certificate do not recognize the training or experience already completed. For example, a medic who treated gunshot wounds on the battlefields of Afghanistan will not be certified as an emergency medical technician (EMT) in our nation's cities without additional redundant schooling.

When civilian credentialing boards, states, and employers fail to fully recognize military education, training and experience, both the servicemember and the Nation are impaired. The veteran faces reduced chances of obtaining a job on par with his/her skills, and the civilian workforce cannot take full advantage of the extensive skills training in which our Nation has invested.

*H.R. 4115: Helping Iraq and Afghanistan Veterans Return to Employment at Home Act*, would establish as a condition for certain Federal funds to be disbursed to states. It would require that states take military training into consideration for certification or licensure for State tested nursing assistant or a certified nursing assistant, registered nurse, emergency medical technician and commercial driver's license.

The American Legion applauds Representative Steve Stivers (OH) and Tim Walz (MN) for their leadership and efforts to tackle and address this issue. This Committee should also be aware of additional legislation, as well as other actions members of Congress have undertaken which will help this problem. There are as follows:

- Representatives Jeff Denham (CA) and Walz (MN) H.R. 4155, *Veteran Skills Work Act*, which will streamline the credentialing access for servicemembers and remove the bureaucracies from it, allowing relevant military training to become equivalent to Federal licensing and certification requirements.
- Representative Joe Walsh (IL) included an amendment to the FY 2013 National Defense Authorization Bill regarding credentialing. This amendment would modify the previous pilot program by striking more than five military occupational specialties (MOS); therefore, allowing the Department of Defense to expand the amount of MOS's the pilot programs can study.



The American Legion will continue to lead on this front and will make every effort to assist and enhance them where possible.

**The American Legion supports this bill.**

The American Legion appreciates the opportunity to comment on the bills being considered by the Subcommittee. I would be happy to answer any questions you might have. Thank you.

**Executive Summary:**

The American Legion supports H.R. 5747: *Military Family Home Protection*. The American Legion believes servicemembers should not be distracted in Iraq, Afghanistan, or elsewhere by concerns over whether someone is seeking a default judgment against them back home, or evicting their spouse and children, or selling their house at an auction sale. This legislation would expand the statute covering servicemembers that are part of a “contingency operation”, that is, anyone who is or could become involved in military actions, are called up to or retained in active-duty service.

The American Legion supports H.R. 3860, *Help Veterans Return to Work Act*. The American Legion believes current law, as set by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), is too lenient in allowing employers, regardless of size, to dismiss deployed servicemembers. The *Help Veterans Return to Work Act of 2012* would amend USERRA so that undue hardship protections would apply only to small businesses, eliminating the protections for large businesses.

The American Legion supports H.R. 4740, *Fairness for Military Homeowners Act of 2012*. The American Legion believes America’s servicemembers should be able to expect equal treatment as any other American homeowner when refinancing their mortgages. *H.R. 4740* ensures that servicemembers are treated equal, as well as allow servicemembers who are unable to reside in a residence where they are the mortgagor due to military service. This legislation would allow them to apply for a mortgage refinance, regardless of their residency status.

The American Legion supports H.R. 4115, *Helping Iraq Afghanistan Veterans Return to Employment at Home Act*. The American Legion believes servicemembers and veterans have attended some of the finest technical and professional training schools in the world. Many of their skills require some type of license or certificate to find a career in the civilian workforce. In many cases, this license or certificate requires schooling which has already been completed by attendance at an armed forces training institution. Unfortunately, the agencies which issue the license or certificate do not recognize the training or experience already completed. *H.R. 4115: Helping Iraq and Afghanistan Veterans Return to Employment at Home Act*, would establish as a condition for certain Federal funds to be disbursed to states. It would require that states take military training into consideration for certification or licensure for State tested nursing assistant or a certified nursing assistant, registered nurse, emergency medical technician and commercial driver’s license.

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**Prepared Statement of Major General Andrew “Drew” Davis, USMC (Ret)**

**INTRODUCTION**

Mr. Chairman and members of the Subcommittee, the Reserve Officers Association (ROA) and the Reserve Enlisted Association (REA) would like to thank the Subcommittee for the opportunity to testify. ROA and REA applaud the ongoing efforts by Congress to address issues facing veterans and servicemembers such as employment challenges, problems within the home loan programs, SCRA and more.

Though contingency operations in Afghanistan are being wound down, currently there are still high levels of mobilizations and deployments for Reserve and Guard members, and many of these outstanding citizen soldiers, sailors, airmen, Marines, and Coast Guardsmen have put their civilian careers on hold while they serve their country in harm’s way. As we have learned, they share the same risks as their counterparts on the battlefield in the Active Components. Over 848,000 Reserve and Guard servicemembers have been activated since September 11. Of these more than 275,000 have been mobilized two or more times. The United States is creating a new generation of combat veterans that come from its Reserve Components (RC). It is important, therefore, that we do not squander this valuable resource of experience, nor ignore the benefits that they are entitled to because of their selfless service to their country.

Unfortunately, unemployment continues to run about 10 percent higher for younger Reserve and Guard members than for non-affiliated veterans. ROA and REA would like to work with this Committee to develop solutions that would focus on this age group.

#### **Reserve Association's Agenda Summary**

##### *Employer Support:*

- Continue to enact tax credits for health care and differential pay expenses for deployed Reserve Component employees.
- Provide tax credits to offset costs for temporary replacements of deployed Reserve Component employees.
- Support tax credits to employers who hire servicemembers who supported contingency operations.

##### *Employee Support:*

- Permit delays or exemptions while mobilized of regularly scheduled mandatory continuing education and licensing /certification/promotion exams.
- Continue to support a law center dedicated to USERRA/SCRA problems of deployed Active and Reserve servicemembers.

##### *Uniformed Services Employment and Reemployment Rights Act (USERRA) / Servicemembers' Civil Relief Act (SCRA):*

- Improve SCRA protections for deployed members from creditors that willfully violate SCRA.
- Fix USERRA/SCRA to protect health care coverage of returning servicemembers and family for pre-existing conditions, and continuation of prior group or individual insurance.
- Enact USERRA protections for employees who require regularly-scheduled, mandatory continuing education and licensing/certification and make necessary changes to USERRA to strengthen employment and reemployment protections.
- Exempt Reserve Component members from Federal law enforcement retirement application age restrictions when deployment interferes in completing the application to buy back retirement eligibility.
- Amend SCRA to prohibit courts from modifying previous judgments that change the custody arrangements for a child of a deployed servicemember.
- Encourage Federal agencies to abide by USERRA/SCRA standards.
- Ensure that USERRA is not superseded by binding arbitration agreements between employers and Reserve Component members.
- Make the states employers waive 11th Amendment immunity with respect to USERRA claims, as a condition of receipt of Federal assistance.

#### **Amendments to Title 38 about Employment**

Notwithstanding the protections and antidiscrimination laws in effect for veterans and serving members, it is not unusual for members to lose their jobs due to time spent away while deployed. Sometimes employers are going out of business, but more often it is because it costs employers money, time, and effort to reintroduce the employee to the company.

ROA and REA support the passages of **HR.3860** and **HR.4115**, which would improve the efficiencies of veteran's employment and training under Title 38 U.S.C.

##### *Small Business hiring of Reserve and Guard members*

Deployment of Reserve and Guard members has the hardest impact on small businesses. Such businesses are the backbone of the American economy, and are expected to do the majority of the hiring in the near future. The Small Business Administration defines a small business (depending on the industry) as a business with fewer than 500 employees. A micro-business is defined as having fewer than 10 employees.

ROA supports initiatives to provide small business owners with protections for their businesses while a Reserve Component employee is on deployment. Employer care plans should be developed in a way that will assist with mitigation strategies for dealing with the civilian workload during the absence of the servicemember employee and lay out how the employer and employee would remain in contact throughout the deployment.

**H.R.3860: Help Veterans Return to Work Act**, as introduced by Reps. John Garamendi (Calif.) and Bobby Rush (Illinois) amends USERRA to better define which businesses can claim hardship if unable to rehire a Reserve Component member. If this amendment is enacted, only "small business concerns" would be able to take advantage of this affirmative defense.

It is important to note that the “undue hardship” defense only applies to a small minority of reemployment claims. This mainly applies to those servicemembers who have disabilities that were incurred or aggravated during uniformed service, and after reasonable efforts by the employer to accommodate the disability, is not qualified due to such disability to be employed in the position of employment. The employer must also make every effort to place the veteran into another position within that company.

*Recognition of Active Duty experience for civilian employment*

There is an ongoing challenge on how to convert military skill sets into credited experience that would be recognized by civilian employers and provide longevity credit during a licensing or credentialing process. Cross-licensing/credentialing would ease the burden of having to acquire new licenses/credentials in the private sector after having gained experience to perform such duties during military service.

*ROA and REA encourage the implementation of certifications or a form that would inform employers of skills potential veteran and servicemember employees gained through their military service.*

**H.R.4115: the HIRE at HOME Act**, as introduced by Reps. Steve Stivers (Ohio) and Tim Walz (Minn.) codifies the need to credit any such military training as one of the program functions of the Assistant Secretary of Labor for Veterans’ Employment and Training. Subparagraph (9)(B) also describes certain military skills, and provides a location to include additional skills in the future as they are identified.

**Servicemembers Civil Relief Act – Home Mortgages**

ROA and REA support the passage of **H.R.4740**, which would improve the veteran’s mortgage protections under the SCRA.

Currently, under the SCRA, members of the Armed Forces are granted nine months of protection from non-judicial mortgage foreclosure after returning home from Active Duty. This temporary moratorium on civil action allows servicemembers to return home and re-adjust to civilian life while at the same time pooling their funds to repay debts such as mortgages. But protections are also needed while individuals are away from “home of record,” as well. Often, serving members want to retain homes as a place of retirement, but are required to relocate on new military assignments.

**H.R.4740: Fairness for Military Homeowners Act of 2012**, as introduced by Rep. Duncan Hunter (Calif.) protects serving members from being denied refinancing should they no longer reside in the premises because of a relocation caused by permanent change of station (PCS) or a deployment of 18 months or longer. ROA supports this change to legislation because it affects Full Time (AGR or FTS) Reserve or Guard members as well as Active Duty servicemembers.

A risk of refinancing is that the mortgage may lose its protections under SCRA, by becoming a new obligation, rather than one existing prior to military service.

The group that is excluded under this **H.R.4740** would be drilling Reserve or Guard members. For over five years, the Department of Defense policy has been that the duration of involuntary mobilization would be no longer than 12 months.

This bill would apply to those individual Reserve and Guard members who volunteer for periods longer than 12 months. PCS orders would also apply, as the Department of the Army has tried to use PCS orders for Reservists who are mobilized longer than 179 days. Volunteers can serve up to three years, but often this is accomplished through a series of annual orders.

**H.R.5747: the Military Family Home Protection Act**, introduced by Rep. Elijah Cummings (Md.) while noble in intent; has some inconsistencies on the mortgaged property it covers:

1. As in current US Code, the Active or Reserve servicemember has mortgage protection only for property obligations contracted prior to military service. However,
2. An Active member serving in support of a contingency operation gains additional protection for properties that are mortgaged at the time of mobilization or deployment.
3. Veterans are limited to Chapter 61 retirees who were separated from active duty with a 100 percent disability as determined by the secretary of veteran affairs. They are covered for any mortgage obligation in effect 12 months prior to their retirement.
4. A surviving spouse is covered for any mortgage obligation in effect 12 months prior to the death of a servicemember.

ROA is concerned that ...

1. A servicemember, if relocated by the service may pay off original property obligations, but also acquire new mortgage responsibilities because of service transfers.

The SCRA clock would only be restarted if the active duty individual is deployed to a contingency operation, but not if the individual has other mission assignments.

a. This bill does not consider remote hardship tours, such as the Marines in Okinawa, or soldiers stationed on the DMZ in Korea.

2. The bill states that the Chapter 61 retiree must be 100 percent service disabled at the time of retirement, yet many individuals are underrated by Physical Evaluation Boards. Adjustments to claims made by Veterans Affairs (VA) can take up to a year to be processed, putting a Chapter 61 veteran who is actually 100 percent disabled at a financial disadvantage.

a. Further, a Chapter 61 retiree is anyone who was medically retired from military service with a 30 percent or greater VA rated disability. There are individuals who are medically retired with less than a 30 percent rating, who receive a separation payment rather than a retirement, and then there are individuals who receive regular retirement and also receive disabilities. Disabilities can cascade, and veterans from various categories can become 100 percent disabled after initial ratings. Is this an adequate definition for discharged veterans who become 100 percent disabled?

3. A surviving spouse qualifies following the death of a servicemember under this legislation. This does not address whether this death is in the "line of duty, or a spouse who may become a survivor by complications of "line of duty" wounds or injuries.

One additional group that may have been overlooked is spouses who are caretakers for wounded warriors. This would disrupt family income and have a negative effect on financial obligations.

**ROA and REA have no objection to extending protection from 9 to 12 months, but H.R.5747 needs to be reworded to accomplish what is intended.**

#### **Reducing Reserve Component Unemployment**

Employers view USERRA as a negative incentive and would like to see positive encouragement to hire veterans. The VOW to Hire Heroes Act was a first good step, but does not address the problems faced by Reserve and Guard members. For younger Reserve and Guard members unemployment continues to run at about 10 percent higher than non-affiliated veterans. For the most part those between 18 to 26 years old are from the Reserve Component.

After 10 years of war, employers are more comfortable hiring unaffiliated veterans, than those who could be recalled to active duty, and with a future risk of an operational call-up once every five years. It is just easier not to hire Reserve and Guard members.

While this may be a violation of the USERRA, stealth discrimination can easily occur if you do not tell the Reserve Component veteran that their military career is why they were not hired. Additional positive incentives are needed for this group of veterans.

Incentives of various types would serve to mitigate burdens and encourage businesses to both hire and retain Reservists and veterans. Examples include providing employers – especially small businesses – with incentives such as cash stipends to help pay for health care for Reservists up to the amount DoD is contributing. Small businesses are more likely to hire Guard and Reserve veterans if they could afford to hire temporary replacements. A variety of tax credits could be enacted to provide such credit at the beginning of a period of mobilization or perhaps even a direct subsidy for costs related to a mobilization such as the hiring and training of new employees.

#### **Conclusion**

ROA and REA appreciate the opportunity to submit testimony. ROA and REA look forward to working with the Subcommittee on Economic Opportunity and the House Veterans' Affairs Committee on solutions to these and other issues. We hope in the future for an opportunity to discuss these issues in person with Committee members and their staff.

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The Reserve Officers Association of the United States (ROA) is a professional association of commissioned and warrant officers of our nation's seven uniformed services and their spouses. ROA was founded in 1922 during the drawdown years following the end of World War I. It was formed as a permanent institution dedicated to National Defense, with a goal to teach America about the dangers of unpreparedness. When chartered by Congress in 1950, the act established the objective of ROA

to: "...support and promote the development and execution of a military policy for the United States that will provide adequate National Security."

The Association's 57,000 members include Reserve and Guard Soldiers, Sailors, Marines, Airmen, and Coast Guardsmen who frequently serve on Active Duty to meet critical needs of the uniformed services and their families. ROA's membership also includes commissioned officers from the U.S. Public Health Service and the National Oceanic and Atmospheric Administration who often are first responders during national disasters and help prepare for homeland security.

ROA is a member of The Military Coalition where it co-chairs the Guard and Reserve Committee. ROA is also a member of the National Military/Veterans Alliance and the Associations for America's Defense. Overall, ROA works with 75 military, veterans, and family support organizations.

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Executive Director:  
Major General Andrew "Drew" Davis, USMC (Ret.)  
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Air Force Director:  
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Service Members' Law Center Director:  
CAPT Sam Wright, JAGC, USN (Ret.)  
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The Reserve Enlisted Association is an advocate for the enlisted men and women of the United States Military Reserve Components in support of National Security and Homeland Defense, with emphasis on the readiness, training, and quality of life issues affecting their welfare and that of their families and survivors. REA is the only joint Reserve association representing enlisted reservists – all ranks from all five branches of the military.

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#### DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Reserve Officers and Reserve Enlisted Associations are member-supported organizations. Neither ROA nor REA have received grants, subgrants, contracts, or subcontracts from the Federal government in the past three years. All other activities and services of the associations are accomplished free of any direct Federal funding.

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#### Prepared Statement of John S. Odom, Jr., Esq.

Chairman Stutzman, Ranking Member Braley and members of the Subcommittee. My name is John S. Odom, Jr., and I am an attorney from Shreveport, Louisiana. I am also a retired Air Force judge advocate and served over 31 years of combined active and Reserve duty. I was recalled to active duty from retirement during 2010 to author a report to Congress for the Department of Defense concerning certain matters related to proposed amendments to the Servicemembers Civil Relief Act. The vast majority of my civilian law practice is involved with representing servicemembers in claims they have against banks and other lending institutions who have violated their rights under the SCRA. In 2011, I was lead counsel for Sgt James Hurley, formerly of the Michigan Army National Guard, in a suit against his

mortgage servicing company, in what is believed to have been the first Federal jury trial involving claims under the SCRA in the history of the Act. I am a frequent lecturer at all of the service judge advocate schools and speak to judges' associations and both industry and consumer groups around the country on matters related to the SCRA. From 2006 to 2009, I served on the American Bar Association Standing Committee on Legal Assistance to Military Personnel and am the author of *A Judge's Benchbook for the Servicemembers Civil Relief Act*, published by the ABA in 2011.

I am grateful for the invitation to appear today and offer comments and observations on H.R. 4740 and H.R. 5747. At the outset, let me express my appreciation to this Subcommittee and the entire House Committee on Veterans' Affairs for following the established legislative process to consider proposed amendments to the SCRA: Subcommittee hearings followed by mark-up sessions and full Committee consideration. In each of the past several sessions of Congress—including this one—efforts have been made in the House version of the National Defense Authorization Act to amend the SCRA. In my opinion, including proposed amendments in that vast piece of legislation, bypassing the Subcommittee and Committee hearing process during which the views of experts and practitioners in the field of SCRA litigation can be heard and considered, does not produce the best legislation our servicemembers, veterans and their families deserve.

Turning first to H.R. 4740, I fully support the concept that a servicemember should be able to refinance a home during a period of active duty even though they may not be residing in the residence as a result of military orders. I understand from legal assistance attorneys who consult with me frequently on a variety of SCRA-related topics that certain mortgage companies take the policy position that a mortgagor may only refinance the home if he or she currently resides in the home. Obviously, if the absence from the home is solely as a result of military orders (regardless of whether it is a mobilized Reserve or Guard member who is deployed or stationed at a duty location away from the residence or an active duty member who has complied with permanent change of station orders and has been unable to sell their home at the former duty location), such a policy is manifestly unfair to servicemembers. While H.R. 4740 would legislatively prevent such a policy, the legislation as currently drafted that will trigger the dreaded law of unintended consequences.

The Act protects pre-service mortgages from nonjudicial foreclosure in the 27 states that allow nonjudicial foreclosures. Under H.R. 4740 as drafted, a refinancing of a mortgage while a servicemember is on active duty would cause the servicemember to lose the protections of Section 303, since the new mortgage would no longer be a pre-service obligation. I suggest that additional language needs to be added to H.R. 4740 to provide that any refinancing accomplished pursuant to this section would not alter the status of the mortgage as a pre-service obligation (even though the original debt is being extinguished and refinanced) so that the protection from nonjudicial foreclosure would still be in effect for the servicemember. That is a vital protection, especially for personnel who are deployed and may have no idea about what is happening with their homes.

As a final comment on H.R. 4740, I also question why section (b)(1)(B) of the proposed amendment requires that a deployment be for a period of not less than 18 months to qualify for protection. Many of our Reserve and Guard units and some Marine Corps units deploy for periods of less than 18 months. The period of deployment currently provided for lease cancellation protection under Section 305 of the SCRA (50 U.S.C. App. §535(b)(1)(B)) is "not less than 90 days" and I would recommend the same period be used in H.R. 4740. Whenever Congress establishes a different time period to trigger benefits under the SCRA, it ramps up compliance complexity for the industry and makes it more confusing for servicemembers.

Turning to H.R. 5747, while the goals of this proposed amendment are truly laudable, it represents a significant expansion in SCRA protection and should be evaluated very closely for two reasons: first, with regard to mortgage foreclosures, this amendment cannot be realistically implemented as drafted; and secondly, it really does not fully accomplish what the drafters are trying to do.

I agree completely with Congressman Cummings and the bill's co-sponsors that the home of any servicemember who is deployed should never be subject to foreclosure, judicial or nonjudicial, and regardless of when the mortgage was incurred. There are simply too many factors that cannot be anticipated when a servicemember deploys and communication is too difficult from war zones for banks and mortgage companies to be seizing and selling servicemembers' homes while they are in harm's way.

While we agree on that fundamental position, I am equally concerned that Congress not change current Section 303 of the SCRA (50 U.S.C. App. §533) which

places the onus on creditors to ascertain the military status of mortgagors prior to nonjudicial foreclosure action. Under current Section 303, the servicemember is not required to give any notice to the mortgagee to receive the protections of the Act. The best way to accomplish the proposed expansion of SCRA mortgage foreclosure protections contemplated by H.R. 5747 is to insert a new Section 303A. into the Act.

The deal killer with H.R. 5747 as drafted is simply this: there is no current database that would allow a foreclosing creditor to ascertain a servicemember's deployment status, ascertain that a wounded warrior had been medically retired, or identify a deceased servicemember's surviving spouse. Protection of all three of those classes of servicemembers and their families is certainly appropriate, but the absence of a searchable database will not allow that goal to be realistically achieved in a manner that is fair to both the servicemember and the industry. As a litigator, I can tell you that when judges and juries encounter requirements that cannot be met by the defendant, they are much less inclined to give the plaintiff any relief at all. Moreover, Section 303 (50 U.S.C. App. §533) only applies to nonjudicial mortgage foreclosures. It does not afford any protections whatsoever to those servicemembers (or their family members) who own homes or property in the 23 states which allow only judicial foreclosures.

If the goal is to protect deployed servicemembers, wounded warriors and surviving spouses from foreclosure regardless of when their mortgages were incurred and regardless of where they reside, Congress should add a separate statutory provision to the SCRA that would do just that. Since no database exists that would allow creditors to identify these newly-added classes of protected individuals, requiring them to give the creditors notice of their status is a reasonable accommodation to the industry in exchange for these additional protections. I have drafted the outline of a suggested new section (Section 303A., 50 U.S.C. App. §533a.) which is included with my written remarks. It would accomplish the goals of H.R. 5747, provide foreclosure protections for all mortgages in all jurisdictions and avoid the pitfalls of changing current Section 303 (50 U.S.C. App. §533). I would be pleased to work with Committee and Member staffs in any way necessary to help put this suggested Section 303A. into appropriate form for either introduction as a stand-alone bill or as an amendment to H.R. 5747.

As for the remaining provisions of H.R. 5747, I wholeheartedly endorse and recommend approval of each of those subsections. The sunset provision on extension of nonjudicial mortgage foreclosure protection needs to be eliminated, the addition of a prohibition against credit discrimination for persons who may become protected by the SCRA and the requirement for SCRA compliance officers for the banks are all well-drafted and needed. I would only caution the Subcommittee that just because a person may be designated an SCRA compliance officer at a large bank does not mean he or she has the foggiest idea of what the SCRA is, or how a bank is supposed to comply with its provisions and protections. I would urge appropriate oversight for any SCRA compliance efforts imposed on the financial services industry, because in my past experience—to put it charitably—many of them know not of what they speak.

I thank the Members for their attention to these critically important protections for our servicemembers and their families and would be pleased to respond to any questions you might have now or in the future.

Respectfully submitted,

John S. Odom, Jr.  
Colonel, USAFR JAGC (ret.)

**Outline of an Amendment to the SCRA to Provide Protection of Deployed Servicemembers, Totally Disabled Servicemembers and Spouses of Deceased Servicemembers from Mortgage Foreclosures**

1. *Suggested title for new Section 303A (50 U.S.C. App. §533a):*

“Protection of deployed servicemembers, totally disabled servicemembers and spouses of certain deceased servicemembers from mortgage foreclosure, both judicial and nonjudicial, regardless of when the obligation was incurred”

2. *Who would be protected:*

- a. Deployed servicemembers;
- b. Totally disabled former servicemembers; and
- c. Surviving spouses of servicemembers whose death was service-connected

3. *Where the appropriate definitions would be placed in the Act:*

All definitions would be included in Section 101 ("Definitions") of the SCRA (50 U.S.C. App. §511).

*4. Nature of protection:*

If an obligor on a mortgage is a deployed servicemember, a disabled veteran, or a qualifying surviving spouse, in the event of a default in the obligation or mortgage and without regard to when the obligation was created, provided that the protected person (the deployed servicemember, disabled veteran or surviving spouse as defined in the Act) had given written notice to the mortgagee, trustee or other holder of the obligation of the protected person's status and documentation of the protected person's status was submitted to the obligee on the mortgage, no foreclosure action could be filed or completed in any court or nonjudicial foreclosure proceedings initiated during the protected period.

*5. Duration of protected period:*

- a. For deployed servicemembers: duration of the deployment plus 12 months;
- b. For wounded warriors: 12 months from classification as totally disabled;
- c. For surviving spouses: 12 months from death of spouse.

*6. Notice required to be given:*

The notice required to be given must be in writing and addressed to the same address as last payment made under the mortgage or other obligation. The Secretary of Defense would be designated to design and promulgate an official Department of Defense form that could be utilized to give such notice, although any written notice would suffice if it provided sufficient information to put the mortgagee or other creditor on notice of the protected person's status.

*7. When required notice must be given:*

- a. For deployed personnel:

The notice required to be given could be given up to 90 days prior to the deployment, at any time during the deployment or during the additional 12 month period following the deployment.

- b. For totally disabled veterans and surviving spouses, the notice required to be given could be given at any time during the 12 month protected period.

*8. Actions required by obligee on mortgage upon receipt of notice:*

Upon receipt of such written notice, any mortgagee, trustee or other creditor seeking to foreclose on property protected by the section would be required to immediately stay any judicial foreclosure proceeding until the expiration of the period of protection or to immediately halt any nonjudicial foreclosure proceedings that may have been initiated until the expiration of the period of protection.

Proposed by:

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STATEMENT OF JOHN S. ODOM, JR. CONCERNING FEDERAL GRANTS OR CONTRACTS

I certify that I have received no Federal grant or contract relevant to the subject matter of my 21 June 2012 testimony before the Economic Opportunity Subcommittee of the House Committee on Veterans' Affairs during the current or previous two fiscal years.

Shreveport, Louisiana, this 18th day of June, 2012.

/signed/  
John S. Odom, Jr.

**Prepared Statement of Mike Frueh**

Mr. Chairman, Ranking Member Braley, and Members of the Subcommittee, I am pleased to provide the comments of the Department of Veterans Affairs (VA) on the



legislation detailed below. Joining me today is John Brizzi, Deputy Assistant General Counsel.

Certain bills under discussion today affect programs or laws administered by the Department of Labor, the Department of Defense (DoD), and the Department of Justice. Respectfully, we defer to those agencies' views with regard to the following bills: H.R. 3860 (limiting the availability of an undue hardship defense under the Uniformed Services Employment and Reemployment Rights Act to small businesses); H.R. 4115 (conditioning receipt of certain funds by a state on that state considering a Veteran's active-duty training in granting specific certificates); and H.R. 5747 (amending the Servicemembers Civil Relief Act (SCRA) to improve protections for Servicemembers against mortgage foreclosures).

*H. R. 4740*

H.R.4740, the "Fairness for Military Homeowners Act of 2012," would add a new section 303A to the SCRA to ensure that the relocation of a Servicemember to serve on active duty away from the Servicemember's principal residence would not prevent the Servicemember from refinancing a mortgage on such residence. VA does not oppose H.R. 4740, but notes that it could impact loan subsidy costs.

VA currently guarantees two types of refinances. The Interest Rate Reduction Refinance Loan (IRRRL) is the more common option, as it is obtained by Veterans who already have VA-guaranteed loans but want to reduce their interest rates. Section 3703(e) of title 38, United States Code, does not make occupancy a requirement for IRRRLs because the Secretary already has a contingent liability on the loan being refinanced, and any reduction in interest rate could help VA avoid a loss on a guaranty claim payment. Therefore, H.R. 4740 would not change the way the Secretary administers IRRRLs.

The other type of refinance—a regular or cash-out refinance—usually occurs when a Veteran refinances a loan that is not already guaranteed by VA. Because 38 U.S.C. § 3710(a)(5) includes occupancy as a requirement for these types of refinances, H.R. 4740 would affect the number of Veterans eligible to obtain them. VA cannot estimate the cost impact of this bill, however, because VA does not have data on the number of Veterans who are currently obligated on loans that are not VA-guaranteed, nor do we know how many of such Veterans might need to obtain a regular refinance pursuant to H.R. 4740.

*H.R. 5747*

H.R. 5747, the "Military Family Home Protection Act," would expand the mortgage protections of the SCRA to include Servicemembers who have served in support of a contingency operation, certain disabled Veterans, and surviving spouses. The bill would further extend from 9-months to 12-months the period within which the protections apply once a Servicemember's period of service ends, and make such extension permanent. It would also increase the civil penalties associated with a pattern of violations and with violations of significant public interest.

Although VA defers to the Departments of Defense and Justice on the merits of this bill, we offer the following comments.

Section 303 of the SCRA, as proposed to be amended, would continue to protect Servicemembers who obtained mortgage obligations prior to the time their military service began and whose military service had a material effect on their ability to repay their mortgage obligations. The newly covered individuals would receive more protections, however, as their mortgages could be originated at any time, even after the period of military service began.

Amended section 303(f)(1)(B) would define newly covered individuals to include Veterans who were retired under chapter 61 of title 10, United States Code, and are also "totally disabled." It would be helpful if this were clarified to indicate whether "totally disabled" is intended to refer to those Veterans who have been rated by VA as having permanent and total service-connected disabilities. Likewise, as this provision is currently drafted, we cannot be certain whether the term "surviving spouse" in proposed section 303(f)(1)(B) is intended to mean a survivor who meets the criteria of 38 U.S.C. §§ 101(3) and 103. VA would be pleased to work with the Subcommittee staff to draft the necessary clarifications.

Mr. Chairman, expanding the types of covered individuals eligible for SCRA protections would have an effect on VA's loan subsidy, as would extending from 9-months to 12-months the period in which the protections would apply after a Servicemember's period of service ends, as well as making such extension permanent. We also note that a newly covered Veteran would almost always be eligible to assert the protections. VA is unable to estimate the full cost impact of this proposal before today's hearing, but will provide an estimate for the record.

In addition, we note that DoD Defense Manpower Data Center database may not reflect or provide information about the newly covered individuals. As such, it is not clear to VA how a lender or VA would ascertain the status of either a Servicemember who was serving in support of a contingency operation or that of a surviving spouse of a Servicemember.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or the other Members of the Subcommittee may have. Thank you.

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### Prepared Statement of John K. Moran

Good Morning Chairman Stutzman, Ranking Member Braley, and distinguished Members of the Subcommittee. Thank you for the opportunity to testify before you today to discuss the Department of Labor's (DOL or Department) views on pending legislation. I commend you all for your tireless efforts to ensure that America fulfills its obligations to our returning Service Members, Veterans, and their families.

President Obama and Secretary Solis are committed to serving these brave men and women as well as they have served us. In support of this goal, the Department of Labor is working to implement a series of new initiatives to train, transition and employ Veterans. These initiatives are in addition to the core programs DOL has been administering for decades, providing Veterans, transitioning Service Members and their families with critical resources and expertise to assist and prepare them to obtain meaningful careers, maximize their employment opportunities, and protect their employment rights.

My name is John Moran and I am honored to serve as the Deputy Assistant Secretary for Veterans' Employment and Training Service (VETS) at DOL. I look forward to working with the Committee to ensure that these men and women have the employment support, assistance and opportunities they deserve to succeed in the civilian workforce.

This hearing is focused on four bills before the Committee: H.R. 3860, H.R. 4115, H.R. 4740, and H.R. 5747. However, I will limit my remarks to H.R. 3860, the "Help Veterans Return to Work Act" and H.R. 4115, the "Helping Iraq and Afghanistan Veterans Return to Employment at Home Act," both of which would have a direct impact on the programs administered by the Department of Labor. DOL defers to the Departments of Veterans' Affairs (VA), Justice (DOJ) and Defense (DoD) on the remaining pieces of legislation.

#### *H.R. 3860—Help Veterans Return to Work Act*

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), prohibits discrimination against persons because of their past, present, or future military obligations. In addition, USERRA generally provides for prompt reemployment and full restoration of benefits upon completion of protected service, unless the employer can demonstrate that such employment or reemployment would impose an undue hardship. Under current law, any employer, regardless of size can raise the undue-hardship affirmative defense to reemploying certain Service Members. H.R. 3860 would amend title 38 to limit the undue-hardship affirmative defense so that it could only be claimed by small businesses as defined under the Small Business Act.

The Department believes that H.R. 3860 would help ensure that the undue-hardship exception is not used in ways that run counter to the law's goals. As such, the Department supports this legislation and looks forward to working with the Committee to protect the employment and reemployment rights of individuals who are called to serve.

#### *H.R. 4115—Helping Iraq and Afghanistan Veterans Return to Employment at Home Act*

H.R. 4115 would require the Secretary of Labor to establish, as a condition of a grant or contract to carry out DVOP or LVER services, that when the State approves or denies an application from a Veteran to obtain: (1) a certification to be a State tested nursing assistant or a certified nursing assistant; (2) a certification to be a registered nurse; (3) a certification to be an emergency medical technician; or (4) a commercial driver's license, the State takes into consideration any training received by the Veteran while serving on active duty in the Armed Forces.

The Department supports the intent of this legislation and looks forward to working with the Committee to ensure that our Veterans and transitioning Service Members have every opportunity available to leverage their skills and training in pursuit

of civilian careers. The Department of Labor recognizes that a more focused effort on credentialing can help lay the foundation necessary to support Veterans' transition to civilian employment and meet the needs of growing sectors of the civilian economy. As we invest in skills development, we will help job seekers, including recently returning Veterans, acquire the measurable and specific skills they need to move along directed career pathways, and give employers access to the skilled workers they need to compete globally.

This legislation proposes leveraging Federal funding to incentivize states to facilitate Veterans qualifying for certain licenses and credentials. The Department notes that to implement this legislation, States likely would require assistance in obtaining information on the skills possessed by Veterans separating from various military occupations in order to be able to effectively evaluate the equivalence of that training and experience against existing certification or licensing requirements. In addition, the Department would need to evaluate the adequacy of each state's effort in this area. The Department also would like to help ensure consistent measures across states' efforts to ensure separating servicemembers have a reasonable expectation of their ability to earn credentials independent of their state of residence upon transition.

This proposed legislation is a welcome addition to current initiatives to support credentialing and licensing for separating servicemembers. The Department notes that the Military Credentialing and Licensing Task Force, stood up by the President in August 2011 as part of his comprehensive plan to lower veteran unemployment and ensure that servicemembers leave the military career-ready, has worked with manufacturing and credentialing agencies to expand certifications to military personnel with skills in the high-demand fields of engineering, logistics, machining, maintenance, and welding. Through these partnerships, servicemembers will be able to test for and earn civilian credentials immediately upon completing their initial military training.

The Department is fully committed to providing a clear pathway for Veterans to transfer the significant experience they gain in the military towards good jobs in the civilian economy. As a result, DOL will continue to work on initiatives to facilitate this transition through innovative programs, and collaborative engagement with public, private and nonprofit sector organizations that can accelerate the licensing and certification of our Nation's Veterans.

#### *Conclusion*

Every day, we are reminded of the tremendous sacrifices made by our servicemen and women, and by their families. One way that we can honor those sacrifices is by providing them with the best possible services, protections and programs our Nation has to offer.

Mr. Chairman, Ranking Member Braley, Members of the Subcommittee, this concludes my statement. Thank you again for the opportunity to testify today. I would be pleased to answer any questions you may have.

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#### **Prepared Statement of Frederick E. Vollrath**

Chairman Stutzman, Ranking Member Braley, and members of this distinguished Subcommittee thank you for extending the invitation to the Department of Defense to address pending legislation that would significantly affect our Servicemembers and Veterans: H.R. 3860, the proposed "Help Veterans Return to Work Act," H.R. 4115, the proposed "Hire at Home Act," H.R. 4740, the proposed "Fairness for Military Homeowners Act of 2012," and H.R. 5747, the proposed "Military Family Home Protection Act."

##### **H.R. 3860, "Help Veterans Return to Work Act"**

H.R. 3860, would limit the availability of an undue hardship defense under the Uniformed Services Employment and Reemployment Rights Act (USERRA), so that it only could be claimed by small businesses. The Department of Defense shares the goal of ensuring that the undue hardship exception is used in ways that reinforce the law's intent.

##### **H.R. 4115, "Hire at Home Act"**

The Department supports the intent of the legislation to encourage the States to consider military training for purposes of civilian credentialing. We defer to the Department of Labor as to how this bill proposes to incentivize States. President Obama recently announced the creation of a new Department of Defense-led Task

Force charged with finding new opportunities for Servicemembers and Veterans to use skills they have learned in the military to gain relevant credentials, certifications, and licenses across a broad range of civilian occupations. This new Credentialing and Licensing Task Force is under the leadership of the Deputy Assistant Secretary of Defense for Readiness.

The problem of Veterans' unemployment is serious and especially urgent for our youngest Veterans. According to the June 2012 Bureau of Labor Statistics Current Population Survey Monthly Averages the overall unemployment rate for post-9/11 Veterans averaged 12.7 percent. Even more startling, the unemployment rate for the youngest post-9/11 Veterans – those aged 18 to 24 – averaged 20.2 percent.

The Department of Defense provides high-quality training to Service members, and this high-quality training is closely linked to many of the high-demand, high-growth occupations in the civilian sector. Although many Veterans have acquired substantial job skills during their time in the military, military experience does not always appear to translate directly to the civilian labor market. In some cases, the lack of a formal credential that demonstrates what a Veteran knows and satisfies licensing requirements can be a barrier to obtaining civilian employment.

The proposed legislation, H.R. 4115, conditionally requires the States to consider a Veteran's previous military training when approving or denying the following individual credentials:

- A certification to be a State tested nursing assistant or a certified nursing assistant.
- A certification to be a registered nurse.
- A certification to be an emergency medical technician.
- A commercial driver's license.

The DoD Credentialing and Licensing Task Force directed by the President will look at the occupational areas mentioned as well as expand its focus to other high return areas. Specifically, the Task Force will focus its initial efforts on jobs in manufacturing, health care, information technology, logistics, and first responders—law enforcement, firefighters, and emergency medical technicians. These industries have an identified need for more skilled workers, and these industries stand to benefit from Veterans' expertise and training gained from military service.

The Task Force will: (1) identify military specialties that readily transfer to high-demand jobs; (2) work with civilian credentialing and licensing associations to address gaps between military training programs and credentialing and licensing requirements; and (3) provide servicemembers with greater access to necessary certification and licensing exams. The Task Force effort is underway, and we look forward to future opportunities to inform Congress of our progress and outcomes.

The Department of Defense appreciates Congressional interest and continued support for our Service members and Veterans. Our men and women have done incredible work, mastered cutting-edge technologies, and adapted to unpredictable situations. Those skills are what America needs for the jobs and industries of the future. As President Obama said, "These are the kinds of Americans that every company should want to hire."

#### **H.R. 4740, "Fairness for Military Homeowners Act"**

H.R. 4740, the proposed "Fairness for Military Homeowners Act of 2012," would amend the SCRA to ensure that servicemembers who move away from their principal residences for active duty are not prevented from refinancing a mortgage on those residences. This is consistent with the SCRA's overarching goal of ensuring that the consumer rights of servicemembers are not unfairly limited by virtue of their military service.

The Department supports the intent of this legislation, but notes that it could impact loan subsidy costs. We will continue to review this legislation and can offer technical assistance.

#### **H.R. 5747, "Military Family Protection Act"**

The Department supports the intent of the legislation to increase protections for Servicemembers and their families, with the following comments.

Section a) would amend 50 USC App 533 to expand protections for certain Servicemembers and surviving spouses, to obligations on real property that originated at any time. This is a considerable expansion in this area, as the SCRA's protection against nonjudicial foreclosures applies currently only to pre-service obligations. Practically speaking, then, this SCRA provision has traditionally offered the mortgage-related protections against nonjudicial foreclosures primarily to members of the Reserve Component, who are far more likely to have mortgage obligations prior to their entry on Active Duty. The Department supports this expansion.

The amendments in section (a) propose to provide these expanded protections to Servicemembers serving in support of contingency operations; to retired veterans who are totally disabled at the time of such retirement; and to surviving spouses of Servicemembers who died while serving in support of a contingency operation or who died while in military service and whose death is service-connected. With respect to the amendment provisions regarding deployed Servicemembers, it is the Department's interpretation that the Committee intends to provide maximum protections to current Servicemembers deployed in support of contingency operations by making these provisions applicable to both pre- and post-service obligations. We support this expansion but note that the Defense Manpower Data Center (DMDC) Web site, however, cannot provide the deployment data required as to the personnel to whom these expanded protections would apply. It will, therefore, be incumbent upon the financial industry, which bears the legal onus to identify such Servicemembers, to fulfill all obligations ensuring Servicemembers receive the appropriate protections.

With respect to the provisions regarding surviving spouses, DMDC can, for example, identify a surviving spouse where the Servicemember has elected the Survivor Benefit Plan (SBP) to ensure that this spouse receives the benefits thereunder. However, DMDC cannot identify a surviving spouse if a SBP election has not been made. Since SBP elections are normally made only in contemplation of retirement, this will not often be the case. The Department supports the extension of protections to surviving spouses. It will, therefore, be incumbent upon the financial industry, which bears the legal onus to identify such surviving spouses, to fulfill all obligations ensuring Servicemembers receive the appropriate protections.

Additionally, DMDC does not have the ability to identify if the Servicemember's death is "service-connected." Further, the determination if a member dies "in support of a contingency operation" is subject to interpretation. May, for example, a Servicemember mobilized to provide "backfill" support in CONUS be considered to have died in support of a contingency operation if it is determined that his or her death occurred in the line of duty?

Further problematic are determinations regarding veterans' status. Disability determinations are made by the Department of Veteran's Affairs, and we defer to the Department of Veteran's Affairs on the feasibility on providing that information to the housing industry.

Section (f) would also amend Section 533 by providing definitions of "veterans," "surviving spouses," and "covered time periods." As a general rule, we believe it better, for purposes of clarity, that all definitions be contained within section 511, but, if the drafters determine it necessary to carve out specific types of definitions only for these categories of personnel and that it is more appropriate for them to be contained within the subject paragraph, we do not object. In conclusion, the Department appreciates the Committee's desire to expand SCRA protections, subject to the comments provided herewith.

In closing, I would just like to emphasize that taking care of our Military before, during and after their service to our country is one of the Department of Defense's highest priorities and we appreciate the Subcommittee's efforts to address some of the economic challenges Service Members and their families are facing during active duty and as they transition into civilian life. Mr. Chairman, that concludes my statement.

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#### **Prepared Statement of Thomas E. Perez**

Chairman Stutzman, Ranking Member Braley, and Members of the Subcommittee, thank you for holding this hearing on legislation that will impact the rights of servicemembers. It is a privilege to present our views about our shared priority of protecting the civil rights of our men and women in uniform.

The Department of Justice has made enforcement of the Servicemembers Civil Relief Act (SCRA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA) a top priority. I am pleased to share with you today some of the recent successes we have had in working with the Department of Defense to ensure that servicemembers' homes and credit are protected while they serve our Nation, and with the Department of Labor to ensure that servicemembers' jobs are here for them when they return. Lessons from our enforcement efforts over recent years suggest ways these laws could be amended to better protect the rights of servicemembers, and the bills the Subcommittee is considering today seek to do exactly that.

## I. ENFORCEMENT ACCOMPLISHMENTS

### (a) CRA

When servicemembers place their lives on the line to serve their country, they should be able to focus fully on their military duties, without having to live in fear that their homes will be wrongfully foreclosed without their knowledge. Last year, we reached two multi-million dollar settlements on behalf of servicemembers, including a \$20 million settlement with Bank of America that is the largest SCRA settlement the Department has ever reached.

That \$20 million settlement began with a referral from the United States Marine Corps on behalf of a servicemember deployed to Iraq. Bank of America was scheduled to sell that servicemember's home at a trustee's sale in three days, even though Bank of America had already received a copy of his military orders. In the course of our investigation and settlement negotiations, the Department found that a total of 143 servicemembers' homes had been illegally foreclosed between 2006 and the middle of 2009. Under the May 2011 settlement, Bank of America will pay each victim a minimum of \$116,785, plus compensation for any lost equity. Under the consent order, Bank of America will give the same compensation to additionally identified servicemembers whose homes were illegally foreclosed through December 31, 2010. The Department reached a similar with Saxon Mortgage Services that will provide 22 servicemembers with a total of \$2.87 million.

Under both settlements, the banks have agreed not to pursue any remaining amounts owed under the mortgages; to take steps to remedy negative credit reporting; and to implement enhanced measures including monitoring, training, and checking loans against the Defense Manpower Data Center's SCRA database during the foreclosure process.

In February, the Nation's five largest mortgage loan servicers (Bank of America, JPMorgan Chase & Co., Wells Fargo & Company, Citigroup Inc., and Ally Financial Inc.) agreed to terms similar to these two settlements as part of a broader \$25 billion consent judgment with Federal and state attorneys general. These servicers will conduct full reviews of whether servicemembers have been illegally foreclosed on since 2006, and each identified victim will be compensated a minimum of \$116,785, plus any lost equity with interest. All five servicers agreed to put in place better policies, procedures, and employee training to ensure full compliance with the SCRA.

As a result of these 2011 and 2012 settlements, the vast majority of all foreclosures since 2006 will now be subject to court-ordered review to determine whether the SCRA rights of servicemembers were violated.

### (b) USERRA

The Civil Rights Division has also been vigilant in protecting servicemembers' employment rights under USERRA. Servicemembers should be able to serve their country without running the risk of losing their jobs back home. To date, the Division has filed a total of 75 cases under USERRA, 42 of which have been filed during the current Administration. One such case involved Matthew King, a U.S. Army Guard member and Iraq War veteran, who was terminated from his job at Lowe's. In November 2011, the national hardware-store chain agreed to settle the Division's claims alleging that this termination violated USERRA, and King received \$45,000 for back pay and liquidated damages.

In another case, the Division went to trial and secured back pay and injunctive relief against the Alabama Department of Mental Health for failure to promptly re-employ a servicemember upon his return from active duty in Iraq. On appeal in this case, the Division successfully defended the first Eleventh Amendment challenge to USERRA.

### (c) Outreach

These efforts would not be possible without our strong collaboration with the military community. The Department of Defense has provided critical assistance in identifying servicemembers whose rights were violated, and they have been a critical partner in our SCRA enforcement efforts. We have also worked to reach out to servicemembers directly. This past September, I joined the U.S. Attorney for the Western District of Kentucky, David Hale, and met with some 100 servicemembers at the Fort Knox military installation, including several from the Warriors in Transition Unit, to discuss the civil-rights protections we enforce on their behalf. This outreach continues. Last month, I joined with U.S. Attorneys David Hale of Kentucky and Jerry Martin of Tennessee and met with approximately 200 servicemembers of the 101st Airborne Division at Fort Campbell, which straddles the border of those two states.

## II. COMMENTS ON PENDING LEGISLATION

Through our enforcement work, we have achieved great successes on behalf of servicemembers, but we have also identified ways that the SCRA and USERRA could be strengthened to better protect the rights of servicemembers. In September 2011, the Department formally transmitted to Congress a package of proposals for strengthening these laws, and we are eager to work with the Committee on many of the issues you are confronting in these bills. We were pleased when Senator Patty Murray included many of our proposals in S. 2299, the “Servicemembers Rights Enforcement Improvement Act.” The Department would welcome the introduction of a companion bill by the leaders of this Committee as well.

### (a) CRA

H.R. 5747, the proposed “Military Family Home Protection Act,” would amend the SCRA to double civil penalties for violations of section 303 of the Act, to \$110,000 for a first violation and \$220,000 for subsequent violations. We support this change, and strongly urge the Committee to also include in this bill a provision that would double civil penalties for *all* violations of the Act. As you know, when Congress amended the SCRA to provide for civil penalties in 2010, it used the amounts authorized under the Fair Housing Amendments Act. These amounts, however, have not been adjusted for inflation, or for any other reason, since 1999. The Department believes that other violations of the law deserve the same heightened level of deterrence and remedy. This bill seeks to strengthen SCRA protections in a number of other important areas. We will continue to review these provisions and can offer technical assistance.

H.R. 4740, the proposed “Fairness for Military Homeowners Act of 2012,” would amend the SCRA to ensure that servicemembers who move away from their principal residences for active duty are not prevented from refinancing a mortgage on those residences. This is consistent with the SCRA’s overarching goal of ensuring that the consumer rights of servicemembers are not unfairly limited by virtue of their military service. We will continue to review this legislation and can offer technical assistance.

In addition to the amendments proposed by H.R. 5747 and H.R. 4740, we urge the Committee to amend the SCRA’s affidavit requirement, which provides that a party seeking foreclosure or other default judgment against a servicemember must first file with the court an affidavit stating whether or not the servicemember is in military service, to clarify that such requirement includes the obligation to take reasonable steps to determine the servicemember’s military status. Such steps would include, but are not limited to, searching available Department of Defense records. The amendment would simply codify what several courts have already held. We also urge the Committee to amend the SCRA to clarify that the private right of action and the Attorney General’s authority to enforce the SCRA, which were made explicit in the Veterans’ Benefits Act of 2010, apply retroactively to violations occurring before the date of enactment of that Act. This would be consistent with the Department’s litigating position and with the recent decisions of the Fourth Circuit Court of Appeals, and would ensure that the SCRA rights of all servicemembers can be vindicated.

### (b) USERRA

H.R. 3860, the proposed “Help Veterans Return to Work Act,” would amend USERRA to limit the undue-hardship affirmative defense to reemploying certain servicemembers so that it could only be claimed by small businesses. We share the goal of ensuring that the undue-hardship exception is not used in ways that run counter to the law’s goals.

H.R. 4115, the proposed “Helping Iraq and Afghanistan Veterans Return to Employment at Home Act,” is outside of our jurisdiction, and we defer to the Department of Labor on this legislation.

In addition to the amendment proposed by H.R. 3860, we strongly urge the Committee to amend USERRA to grant the Attorney General independent authority to investigate and file suit to challenge employment policies or practices that establish a pattern or practice of violating USERRA. This change would make USERRA operate more like the SCRA and other civil-rights laws by allowing the United States to always serve as the plaintiff in USERRA cases, to vindicate the public interest in ensuring the statute is enforced. This would significantly strengthen the Department’s ability to address systemic violations of servicemembers’ employment rights (such as a policy prohibiting extended absences, including absences for military service) that could adversely affect the employment rights of multiple servicemembers.

*(c) Cross-cutting*

Finally, the Department urges the Committee to amend both the SCRA and USERRA to provide the Attorney General with civil investigative demand (CID) authority. While the Department of Labor has subpoena power in its USERRA investigations, the Department of Justice has no pre-suit investigative authority under USERRA or the SCRA, and must rely on voluntary cooperation from the subjects of our investigations. Greater investigative authority would strengthen the Department's ability to enforce both statutes, especially through pattern-or-practice suits.

**III. LOOKING FORWARD**

The Department appreciates the opportunity to report on our accomplishments in enforcing the SCRA and USERRA, and to comment on the legislation the Subcommittee is considering today. We stand ready to work with the Subcommittee in strengthening these important laws that protect the rights of our servicemembers.

Thank you for the opportunity to share our views.

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**Materials Submitted For The Record**

**LETTERS OF SUPPORT FOR THE RECORD**

The  
American  
Legion

May 14, 2012

Honorable Elijah E. Cummings  
U.S. House of Representatives  
2235 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Cummings:

On behalf of the 2.4 million members of The American Legion, I am writing this letter in support of your efforts to amend the Servicemembers Civil Relief Act (SCRA). Our servicemembers should be afforded every protection and right possible when deployed in service to our nation. These safeguards should be in place regardless of their status as an active duty member and they should extend to their families in situations of serious injury or death.

Your proposed amendment to the 2013 National Defense Authorization Act would codify these protections. It would protect servicemembers deployed in support of contingency operations from home foreclosures, regardless of when the home was purchased. It would expand the civil penalties levied against unscrupulous lenders to better reflect the seriousness of violations against SCRA. Finally it would expand the 12-month stay against foreclosures for servicemembers discharged with a 100% disability rating and it would offer a similar stay for surviving spouses.

When originally enacted, SCRA was a bipartisan effort to guarantee our nation, citizens and corporations alike took care of the family and servicemember when he or she deployed. It didn't perfectly meet the requirements and reality of today's military members. We appreciate your efforts to dramatically improve SCRA and better assist those in our Nation willing to serve.

If we can be of further assistance, please don't hesitate to let us know.

National Commander

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**VETERANS OF FOREIGN WARS OF THE UNITED STATES**

May 15, 2012

The Honorable Elijah Cummings  
Ranking Member  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
2471 Rayburn House Building  
Washington, D.C. 20515



Dear Ranking Member Cummings:

On behalf of the 2 million men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I am pleased to offer our support to your Amendment to the National Defense Authorization Act of 2013 that would provide greater protections and expand coverage of the Servicemembers Civil Relief Act.

In a time of war, and when a large portion of our fighting force is being drawn from the National Guard and reserves, every protection must be taken to ensure their lives are not further complicated by financial worries while they are deployed and once they return home. Your proposal goes a long way in protecting the homes of our Guard and reserve members, veterans and their surviving spouses. By lengthening the time our servicemembers have to get their financial affairs in order and by placing real punitive deterrents on lenders, our veterans can have one less thing to worry about while reintegrating from war.

Thank you for continuing to take the lead on this initiative, and for your continued support of our armed forces and veterans. We look forward to working with you to advance this critical initiative.

Sincerely,  
Raymond C. Kelley, Director  
VFW National Legislative Service

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**DISABLED AMERICAN VETERANS**

May 14, 2012

The Honorable Elijah Cummings  
United States House of Representatives  
2235 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Cummings:

I am writing on behalf of the Disabled American Veterans (DAV), a congressionally chartered national veterans service organization with 1.2 million members, all of whom were disabled as a result of active duty in the United States Armed Forces. The DAV works to build better lives for America's disabled veterans, their families and survivors.

We have reviewed your proposed bill, which amends the Servicemembers Civil Relief Act to extend from the current grace period to twelve months after military service to protect covered servicemembers and their surviving spouses, as well as veterans rated totally disabled by the Department of Veterans Affairs (VA) at time of military retirement, against mortgage sale or foreclosure, as well as the stay of proceedings, in the case of an obligation on real property that originated before the servicemember's military service.

While we do not have a resolution on this specific matter from our members, we support its general purpose, as it would extend the period of protection for servicemembers against mortgage sale or foreclosure. However, we believe that section 1(f)(1)(B) of the bill is extremely restrictive in requiring a VA disability rating of 100 percent at the time of retirement.

Thank you again for introducing this important legislation. I look forward to working with you and your staff to continue the DAV mission of building better lives for America's disabled veterans and their families.

Sincerely,  
JOSEPH A. VIOLANTE  
National Legislative Director

JAV:lmb  
cc: Representative Bob Filner, Ranking Member, House Veterans' Affairs Committee  
Representative David Dreier, Chairman, House Rules Committee  
Representative Louise Slaughter, Ranking Member, House Rules Committee

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**PARALYZED VETERANS OF AMERICA**

May 9, 2012

Honorable Elijah E. Cummings  
 U.S. House of Representatives  
 2235 Rayburn House Office Building  
 Washington, D.C. 20515

Dear Congressman Cummings:

On behalf of Paralyzed Veterans of America (PVA), a Congressionally Chartered veterans' service organization that represents veterans with spinal cord injuries and diseases, I am writing to express our support for your legislation that would make needed reform in the Servicemembers Civil Relief Act (SCRA).

SCRA provides certain protection for servicemembers against sale, foreclosure, and seizure of property when those servicemembers are unable to meet the financial obligation on real or personal property. To expand this protection offered under SCRA the House recently passed H.R. 1263. This legislation would offer the same protection to the spouse of a servicemember who died while in the military and whose death is service-connected. This protection offered in H.R. 1263 is of significant importance to protect the home of the deceased servicemember where the spouse and children may reside.

Your proposed legislation will expand the protection of SCRA to include servicemembers who are seriously injured while serving in the military. Their homes should also have the same protection from foreclosure. It will extend the period of protection from mortgage foreclosure to 12 months after the veteran leaves the service. It also requires lending institutions to establish a toll free phone number for the servicemember to discuss their lending program.

Your proposed legislation is a strong example of the concern you have displayed for veterans and those serving in the military. We look forward to working with you on this legislation, or other legislation that benefits our servicemembers and our veterans.

Sincerely,  
 Carl Blake  
 National Legislative Director  
 Paralyzed Veterans of America

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**MOAA**

Military Officers Association of America  
**VADM Norbert R. Ryan, Jr. USN (Ret)**  
*President*

June 6, 2012

The Honorable Elijah Cummings  
 United States House of Representatives  
 Washington, DC 20515

Dear Congressman Cummings:

On behalf of the over 370,000 members of the Military Officers Association of America (MOAA), I am writing to express our support for your amendment in H.R. 4130, the House-passed version of the FY 2013 National Defense Authorization Act (NOAA), which would expand protections under the Servicemembers Civil Relief Act (SCRA).

Your provision, one that passed with overwhelmingly bi-partisan support in the House, would provide significant foreclosure protections for servicemembers who own homes and are sent into harm's way, regardless of when they purchased their home.

Our young men and women in uniform who are deployed to contingency operations will be able to focus on the mission at hand and not have to worry if their family remaining at home will be able to keep a roof over their head.

Fortunately your provision does not stop there. It extends protections to two other deserving groups who are forced to deal with life-altering changes- survivors and 100% disabled veterans.

Thank you for your leadership, for continuing to look out after the interests of our Nation's servicemembers and their families, and for sponsoring this important amendment - we pledge our strong support and look forward to its inclusion in the FY 2013 NOAA.

Sincerely, & Best

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**Materials Submitted For The Record**

**REPORT ON: FIGHTING ON THE HOME FRONT: THE GROWING PROBLEM OF ILLEGAL FORECLOSURES AGAINST U.S. SERVICEMEMBERS**

DEMOCRATIC STAFF REPORT  
PREPARED FOR:

SENATOR JOHN D. (JAY) ROCKEFELLER IV  
CHAIRMAN  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE  
*<http://commerce.senate.gov/public/>*

REPRESENTATIVE ELIJAH E. CUMMINGS  
RANKING MEMBER  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
UNITED STATES HOUSE OF REPRESENTATIVES  
*<http://democrats.oversight.house.gov/>*

JULY 12, 2011

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**Executive Summary**

In the midst of World War II, Congress enacted the Soldiers' and Sailors' Civil Relief Act "to protect those who have been obliged to drop their own affairs to take up the burdens of the nation." In 2003, Congress passed the Servicemembers Civil Relief Act (SCRA) to update the law and provide additional protections for servicemembers. In 2010, Congress enacted amendments to the SCRA specifically relating to mortgages and foreclosures.

The SCRA prohibits foreclosures against servicemembers without court orders and restricts mortgage banks from charging interest fees above 6% during active duty service.

When isolated reports of illegal foreclosures and inflated fees against servicemembers first arose, mortgage servicing companies downplayed the extent of

these problems. As thousands of servicemembers began coming forward, however, the widespread scope of these problems became more evident.

Multiple mortgage servicing companies have now conceded that they violated the SCRA by illegally foreclosing on servicemembers and by charging fees in excess of the maximum amounts allowed under the SCRA. Three banks have been forced to pay multi-million dollar settlements relating to these abuses. The largest to date was JPMorgan, which initially announced that it would pay \$2 million, but later agreed to pay \$56 million to settle claims that it overcharged military personnel and illegally seized the homes of active-duty military personnel protected by the SCRA.

Similarly, in announcing a \$20 million settlement against Bank of America, Justice Department officials condemned the bank's actions, stating that it "failed to protect and respect the rights of our servicemembers, failed to comply with clearly mandated procedures, and foreclosed against homeowners who are valiantly serving our nation."

The scale of these problems continued to expand, however, as Federal regulators dug deeper. On April 13, four Federal agencies that regulate mortgage servicing companies issued a report finding "critical weaknesses in servicers' foreclosure governance processes, foreclosure document preparation processes, and oversight and monitoring of third-party vendors, including foreclosure attorneys." The report raised "escalated" concerns about the systemic deficiencies of 14 mortgage banks, including multiple SCRA violations.

This interagency review was cursory, however, and was based on only a sampling of a "relatively small number of files." As a result, the agencies initiated enforcement action against all 14 banks, directing a more comprehensive review to identify additional borrowers and servicemembers "that have been financially harmed."

In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act established the Consumer Financial Protection Bureau (CFPB) to protect consumers from unfair, deceptive, and abusive financial practices. Under the leadership of Elizabeth Warren, the CFPB organized an Enforcement Division and an Office of Servicemember Affairs led by Holly Petraeus, the wife of Gen. David H. Petraeus, the former top U.S. commander in Afghanistan.

Mrs. Petraeus focused quickly on the issue of SCRA violations, making public statements to increase awareness and issuing warning letters to the nation's largest 25 mortgage banks. In addition, on July 6, 2011, she announced that the CFPB and the Judge Advocates General of the United States Army, Marine Corps, Navy, Air Force, and Coast Guard agreed to a number of steps "to provide stronger protections for servicemembers and their families." In particular, they established "a formal working group with the goal of achieving a coordinated response to unlawful conduct targeted at servicemembers and their families."

Although it is now clear that illegal actions against servicemembers are much more widespread than originally believed, their full scope is not yet known. Violations of the SCRA have taken a significant toll on servicemembers who have had to wage battles on two fronts—risking their lives in service of their country abroad while fighting illegal foreclosures and inflated fees at home.

## **I. OVERVIEW OF SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)**

In 1940, Congress enacted the Soldiers' and Sailors' Civil Relief Act "to protect those who have been obliged to drop their own affairs to take up the burdens of the nation." In 2003, Congress passed the Servicemembers Civil Relief Act (SCRA) to update the law and provide additional protections for servicemembers.<sup>1</sup> In 2010, Congress enacted additional provisions creating a private right of action and extending certain protections regarding mortgages and foreclosures.<sup>2</sup>

When the SCRA was passed in 2003 with broad bipartisan support, a report by the House Committee on Veterans' Affairs stated:

Congress has long recognized that the men and women of our military services should have civil legal protections so they can "devote their entire energy to the defense needs of the Nation." With hundreds of thousands of servicemembers fighting in the war on terrorism and the war in Iraq, many of them mobilized from the reserve components, the Committee believes the Soldiers' and Sailors' Civil Relief Act (SSCRA) should be restated and strengthened to ensure that its protections meet their needs in the 21st century.<sup>3</sup>

The purpose of the SCRA is to "provide for, strengthen, and expedite the national defense" through the "temporary suspension of judicial and administrative pro-

<sup>1</sup>Pub. L. No. 108-189 (2003).

<sup>2</sup>See Pub. L. No. 111-346 (2010); Pub. L. No. 111-275 (2010).

<sup>3</sup>House Committee on Veterans' Affairs, *Servicemembers Civil Relief Act*, 108th Cong. (2003) (H. Rept. 108-81).

ceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.” The Act addresses a host of proceedings, including those affecting motor vehicle leases, life insurance, and mortgages.<sup>4</sup>

The SCRA protects active duty servicemembers against foreclosures during their period of military service. It states:

A sale, foreclosure, or seizure of property for a breach of an obligation ... shall not be valid if made during, or within 9 months after, the period of the servicemember’s military service except ... upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court.<sup>5</sup>

The SCRA also provides courts with broad authority to “stay the proceedings for a period of time as justice and equity require” and to “adjust the obligation to preserve the interests of all parties.”<sup>6</sup> Finally, the SCRA provides that mortgage interest rates for servicemembers may not exceed 6% for pre-service debt during the period of military service and for one year after termination of service.<sup>7</sup>

## II. WIDESPREAD AND INCREASING VIOLATIONS OF THE SCRA

Multiple mortgage servicing companies have now conceded that they violated the SCRA by illegally foreclosing on servicemembers and by charging fees in excess of the maximum amounts allowed under the SCRA. Although initially downplaying the extent of the problem, several banks have been forced to pay multi-million dollar settlements relating to these violations.

### A. JPMorgan Chase

In January 2011, JPMorgan admitted publicly that it overcharged thousands of military families in violation of the SCRA. One of these servicemembers was Marine Captain Jonathon Rowles, a fighter pilot who sued the bank for overcharging his family and illegally attempting to seize his home. Captain Rowles’ case identified systematic failures in JPMorgan’s SCRA procedures, resulting in illegal foreclosures, improper fees, and negative credit actions against servicemembers.<sup>8</sup>

Initially, JPMorgan announced that it would pay \$2 million to approximately 4,500 servicemembers.<sup>9</sup> But within three months—by April 2011—JPMorgan conceded that its abuses were much worse. Instead of paying only \$2 million, the company agreed to pay \$56 million to settle claims that it overcharged military personnel and illegally seized the homes of active-duty military personnel protected by the SCRA.<sup>10</sup>

Last month, JPMorgan ousted David Lowman, the mortgage chief who ran the company’s home-lending unit since 2006.<sup>11</sup> JPMorgan CEO Jamie Dimon stated that this was the worst mistake the bank has ever made. At the company’s May 17 annual shareholder meeting, he stated: “We deeply apologize to the military, the veterans, anyone who’s ever served this country. ... We’re sorry.”<sup>12</sup>

### B. Bank of America (Countrywide)

In May 2011, the Department of Justice announced that Bank of America Home Loan Servicing, formerly known as Countrywide Home Loans Servicing, would pay \$20 million for hundreds of SCRA violations. The Department determined that the bank “foreclosed on approximately 160 servicemembers between January 2006 and May 2009 without court orders.” In addition to paying \$20 million for violations dur-

<sup>4</sup> See Pub. L. No. 108–189 (2003).

<sup>5</sup> 50 U.S.C. app. § 533(c).

<sup>6</sup> *Id.* at § 533(b).

<sup>7</sup> *Id.* at § 527.

<sup>8</sup> *JP Morgan Overcharged Troops on Mortgages*, NBC News (Jan. 17, 2011) (online at [www.nbcnewyork.com/news/breaking/No-2-bank-overcharged-troops-on-mortgages-113875324.html](http://www.nbcnewyork.com/news/breaking/No-2-bank-overcharged-troops-on-mortgages-113875324.html)). See also *Overcharges on Soldiers’ Mortgages Investigated*, NBC News (Jan. 26, 2011) (online at [today.msnbc.msn.com/id/41043127/ns/today-money/t/overcharges-soldiers-mortgages-investigated/](http://today.msnbc.msn.com/id/41043127/ns/today-money/t/overcharges-soldiers-mortgages-investigated/)).

<sup>9</sup> *JPMorgan Mails \$2 Million to Military Families for Overcharges, Lost Homes*, Bloomberg (Jan. 18, 2011) (online at [www.bloomberg.com/news/2011-01-18/jpmorgan-mails-2-million-to-military-families-for-overcharges-lost-homes.html](http://www.bloomberg.com/news/2011-01-18/jpmorgan-mails-2-million-to-military-families-for-overcharges-lost-homes.html)).

<sup>10</sup> *JPMorgan Settles Military Mortgage Suits for \$56 Million*, Bloomberg (Apr. 21, 2011) (online at [www.businessweek.com/news/2011-04-21/jpmorgan-settles-military-mortgage-suits-for-56-million.html](http://www.businessweek.com/news/2011-04-21/jpmorgan-settles-military-mortgage-suits-for-56-million.html)).

<sup>11</sup> *JPMorgan Ousts Home-Lending Chief After Foreclosure Lapses*, Bloomberg (June 14, 2011) (online at [www.businessweek.com/news/2011-06-14/jpmorgan-ousts-home-lending-chief-after-foreclosure-lapses.html](http://www.businessweek.com/news/2011-06-14/jpmorgan-ousts-home-lending-chief-after-foreclosure-lapses.html)).

<sup>12</sup> *Id.*

ing this time period, the bank must also compensate servicemembers wrongfully foreclosed on from June 2009 through 2010.<sup>13</sup>

In announcing the settlement, André Birotte, the U.S. Attorney for the Central District of California, condemned the bank's violations:

Countrywide Home Loans failed to protect and respect the rights of our servicemembers, failed to comply with clearly mandated procedures and foreclosed against homeowners who are valiantly serving our nation. Military families lost their homes when Countrywide violated the law, causing undue stress to wartime personnel.<sup>14</sup>

James Jacks, the U.S. Attorney for the Northern District of Texas, was also critical:

With the numerous sacrifices our servicemembers make while they are serving our country, the last thing they need to worry about is whether or not their families will be forced from their homes. These lenders' callous disregard for the SCRA, a law which was designed to insulate these patriots from unlawful foreclosures and other civil and financial obligations while they are on active duty, is deplorable.<sup>15</sup>

According to the Department, the bank foreclosed on servicemembers in many instances "where it knew, or should have known, about their military status," and the "victims include individuals who have served honorably in Iraq and Afghanistan." The settlement requires SCRA training for bank employees and agents, referrals of future SCRA complaints to the Justice Department, and repairs to negative credit reports related to wrongful foreclosures.<sup>16</sup>

Bank of America Executive Vice President Terry Laughlin stated: "While most cases involve loans originated by Countrywide and the improper foreclosures were taken or started by Countrywide prior to our acquisition, it is our responsibility to make things right. These errors are not acceptable, and we certainly regret them."<sup>17</sup>

### C. Morgan Stanley (Saxon Mortgage Services, Deutsche Bank)

In March 2009, a Federal judge ruled that National Guard Sergeant James Hurley, who was called to active duty in Iraq in 2004, was illegally foreclosed on in violation of the SCRA by a Morgan Stanley subsidiary, Saxon Mortgage Services, and Deutsche Bank Trust Company. The foreclosure forced Sergeant Hurley's wife and two young children to find shelter elsewhere while he was deployed overseas.<sup>18</sup>

Despite the court ruling, it took Sergeant Hurley two years in continued litigation to settle his claims because the banks refused to pay any damages other than the sale value of the home, which was less than the mortgage Sergeant Hurley owed. The banks completed the foreclosure without the court hearing required by the SCRA, claiming there was no evidence Sergeant Hurley was on military duty. Yet the banks admitted in a court filing that one of their foreclosure attorneys "learned in April 2005 that Sergeant Hurley had been on active duty since the previous October."<sup>19</sup>

In March 2011, the Department of Justice announced that it was investigating these and other illegal activities by Morgan Stanley and its subsidiary. The bank's attorneys attempted to downplay the investigation, stating that it was "merely a preliminary investigation based on unproven allegations, for which no liability or wrongdoing has been found."<sup>20</sup>

Nevertheless, two months later, the Department of Justice announced that the bank would pay \$2.35 million to settle multiple claims of violations of the SCRA. The Department stated that, in addition to Sergeant Hurley's illegal foreclosure, the banks foreclosed on other servicemembers when they "knew or should have known

<sup>13</sup> Department of Justice, *Justice Department Settles with Bank of America and Saxon Mortgage for Illegally Foreclosing on Servicemembers* (May 26, 2011) (online at [www.justice.gov/opa/pr/2011/May/11-crt-683.html](http://www.justice.gov/opa/pr/2011/May/11-crt-683.html)).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Mortgage Servicing Means Occasionally Having to Say You're Sorry*, American Banker (May 27, 2011) (online at [www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html](http://www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html)).

<sup>18</sup> *A Reservist in a New War, Against Foreclosure*, New York Times (Jan. 26, 2011) (online at [www.nytimes.com/2011/01/27/business/27foreclose.html](http://www.nytimes.com/2011/01/27/business/27foreclose.html)).

<sup>19</sup> *Id.*

<sup>20</sup> *U.S. Inquiry on Military Family Foreclosures*, New York Times (Mar. 11, 2011) (online at [www.nytimes.com/2011/03/12/business/12military.html](http://www.nytimes.com/2011/03/12/business/12military.html)).

about their military status,” including “men and women who have served honorably in Iraq, some of whom were severely injured in the line of duty.”<sup>21</sup>

Following the settlement, Morgan Stanley issued the following statement: “We want to apologize to those military families that were affected by any mistakes made in the foreclosure process.”<sup>22</sup>

### III. INTERAGENCY FINDINGS OF ILLEGAL ACTIONS AND “ELEVATED” CONCERN

In addition to reports about specific servicemembers and banks described above, an analysis by Federal regulators raises a host of new concerns about the full scope of these abuses. On April 13, 2011, four agencies that regulate mortgage servicing companies—the Office of the Comptroller of the Currency, the Federal Reserve System, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation—issued a report finding widespread foreclosure abuses by 14 mortgage servicing companies, including multiple SCRA violations.

The report found “critical weaknesses in servicers’ foreclosure governance processes, foreclosure document preparation processes, and oversight and monitoring of third-party vendors, including foreclosure attorneys.”<sup>23</sup>

The report also found violations of law that elevated the agencies’ level of concern across the board. The report stated:

[T]he weaknesses at each servicer, individually or collectively, resulted in unsafe and unsound practices and violations of applicable Federal and state law and requirements. The results elevated the agencies’ concern that widespread risks may be presented—to consumers, communities, various market participants, and the overall mortgage market. The servicers included in this review represent more than two-thirds of the servicing market. Thus, the agencies consider problems cited within this report to have widespread consequences for the national housing market and borrowers.<sup>24</sup>

With respect to servicemembers in particular, the report found “cases in which foreclosures should not have proceeded,” including against borrowers who were “covered by the Servicemembers Civil Relief Act.”<sup>25</sup>

This review was based on only a sampling of a “relatively small number of files.” To address the widespread abuses identified in this cursory review, the agencies initiated enforcement action against all 14 banks, directing a comprehensive review of all files of affected homeowners “to identify borrowers that have been financially harmed and provide remediation.”<sup>26</sup>

### IV. ACTIONS BY CFPB AND MILITARY JAGs

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the Consumer Financial Protection Bureau (CFPB) to protect consumers from unfair, deceptive, and abusive financial practices.<sup>27</sup> Under the leadership of Elizabeth Warren, the CFPB organized an Enforcement Division and an Office of Servicemember Affairs dedicated to protecting the rights of servicemembers and their families.

On January 4, 2011, Ms. Warren announced that Holly Petraeus would lead the Office of Servicemember Affairs. As the wife of General David H. Petraeus, the former top U.S. commander in Afghanistan, and the daughter of a career Army officer, Mrs. Petraeus previously served as the Director of BBB Military Line, a program that assisted military families on consumer issues.<sup>28</sup>

After she was appointed, Mrs. Petraeus focused quickly on the issue of SCRA violations. In one of her first public statements in her new role, she spoke directly about the severe repercussions these violations have on servicemembers and their families. She stated:

<sup>21</sup> Department of Justice, *Justice Department Settles with Bank of America and Saxon Mortgage for Illegally Foreclosing on Servicemembers* (May 26, 2011) (online at [www.justice.gov/opa/pr/2011/May/11-crt-683.html](http://www.justice.gov/opa/pr/2011/May/11-crt-683.html)).

<sup>22</sup> *Mortgage Servicing Means Occasionally Having to Say You’re Sorry*, American Banker (May 27, 2011) (online at [www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html](http://www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html)).

<sup>23</sup> Federal Reserve System, Office of the Comptroller of the Currency, and Office of Thrift Supervision, *Interagency Review of Foreclosure Policies and Practices* (Apr. 13, 2011) (online at [www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf](http://www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf)).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Pub. L. No. 11–203 (2010).

<sup>28</sup> **Holly Petraeus Will Lead Consumer Financial Protection Bureau’s Office for Servicemember Affairs**, Washington Post (Jan. 4, 2011) (online at [www.washingtonpost.com/wp-dyn/content/article/2011/01/04/AR2011010405627.html](http://www.washingtonpost.com/wp-dyn/content/article/2011/01/04/AR2011010405627.html)).

It can be devastating. It is a terrible situation for the family at home and for the servicemember abroad, who feels helpless. I would hope that the recent problems will be a wake-up call for all banks to review their policies and be sure they comply with the act.<sup>29</sup>

Within days, Mrs. Petraeus sent warning letters to the nation's 25 top mortgage servicing companies, directing them "to take steps to educate all your employees about the financial protections that the SCRA provides and to review your loan files to ensure compliance."<sup>30</sup>

In addition, last week, on July 6, 2011, Mrs. Petraeus announced that the CFPB and the Judge Advocates General of the United States Army, Marine Corps, Navy, Air Force, and Coast Guard agreed to a number of steps "to provide stronger protections for servicemembers and their families."<sup>31</sup>



Holly Petraeus adds her signature to an agreement between the CFPB and the Judge Advocates General.

Source: *Consumer Financial Protection Bureau*

For example, they agreed to establish "a single point of contact within the CFPB's Enforcement Division that will allow members of the Judge Advocate Generals' Corps to share information on consumer complaints from servicemembers and military families." They also agreed to establish "a formal working group with the goal of achieving a coordinated response to unlawful conduct targeted at servicemembers and their families."<sup>32</sup>

The top goal of this joint effort by CFPB and the nation's top uniformed lawyers is to protect servicemembers and their families "from unlawful acts or practices by providers of consumer financial products or services, including through enforcement actions where necessary."<sup>33</sup> In her statement announcing these steps, Mrs. Petraeus warned about the predatory practices of mortgage servicing companies:

I have worked for years trying to protect military families from predatory practices and to help raise awareness of the unique financial challenges they face—and I know the Judge Advocate Generals have been on the front lines in each of those fights. Servicemembers and their families sacrifice a great deal for our country and they deserve advocates who will use every available resource to protect them from financial threats.<sup>34</sup>

A joint statement issued by the Judge Advocates General also warned about the predatory abuses by mortgage servicing companies:

<sup>29</sup> **A Reservist in a New War, Against Foreclosure**, New York Times (Jan. 26, 2011) (online at [www.nytimes.com/2011/01/27/business/27foreclose.html](http://www.nytimes.com/2011/01/27/business/27foreclose.html)).

<sup>30</sup> See, e.g., Letter from Holly Petraeus, Team Lead, Office of Servicemember Affairs, Consumer Financial Protection Bureau, to Brian T. Moynihan, CEO and President, Bank of America Corporation (Feb. 1, 2011).

<sup>31</sup> Consumer Financial Protection Bureau, *Consumer Financial Protection Bureau and Military's Top Uniformed Lawyers Release Joint Statement of Principles* (July 6, 2011) (online at [www.consumerfinance.gov/pressrelease/consumer-financial-protection-bureau-and-militarys-top-uniformed-lawyers-release-joint-statement-of-principles/](http://www.consumerfinance.gov/pressrelease/consumer-financial-protection-bureau-and-militarys-top-uniformed-lawyers-release-joint-statement-of-principles/)).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*



Too often our Soldiers, Marines, Sailors, Airmen, and Coast Guardsmen are targeted by predatory lenders and they become victims of unfair financial practices. This agreement recognizes the crucial role financial readiness plays in mission readiness and we look forward to partnering with the Consumer Financial Protection Bureau to vigorously protect servicemembers and their families from unlawful acts or practices by providers of consumer financial products or services.<sup>35</sup>

## V. SERVICEMEMBER CASE STUDIES

### A. Army National Guard Warrant Officer Charles Pickett

Chief Warrant Officer 3 Charles L. Pickett is a helicopter pilot in the Army National Guard who lives in Anthem, Arizona, with his two daughters. From 2009 to 2011, while he was on active duty, Bank of America attempted to foreclose on his home on three separate occasions in violation of the Servicemembers Civil Relief Act (SCRA). Attempting to prevent the foreclosure in the midst of his deployment to Iraq, Warrant Officer Pickett hired an attorney, Colonel John Odom. Although they were ultimately successful in halting the foreclosures, Bank of America's actions resulted in damage to Warrant Officer Pickett's credit, a cancellation of his credit line with USAA, and unnecessary stress while he was serving his country on the battlefield.

#### *Timeline*

**August 6, 2003:** Mr. Pickett purchased a home with a mortgage from Countrywide Mortgage Loans (Bank of America acquired Countrywide in July 2008).

**November 2003–October 2008:** Mr. Pickett joined the Arizona National Guard as a Warrant Officer and helicopter pilot.

**March 2009:** Warrant Officer Pickett joined the Army National Guard.

**May 5, 2009:** Warrant Officer Pickett received orders to deploy to Iraq under Operation Iraqi Freedom. Although not required, Warrant Officer Pickett notified Bank of America that he had been ordered to active duty in Iraq. He served there until January 14, 2010, when he returned home with spinal injuries incurred while piloting his helicopter during operations.

**July 2009:** Bank of America offered Warrant Officer Pickett an unsolicited modification to his mortgage with lower monthly payments. He began making reduced payments in accordance with the modification agreement.

**September 2009:** Warrant Officer Pickett's daughter called him in Iraq to tell him that a notice had been posted on their front door stating that a foreclosure sale had been scheduled for December 7, 2009. When Warrant Officer Pickett called Bank of America, he was told that the modified payments he had been making for three months were insufficient under the terms of his original loan.

**October 2009:** Bank of America reported Warrant Officer Pickett as delinquent to at least one credit bureau. As a result, USAA canceled Warrant Officer Pickett's credit card.

**November 2009:** Warrant Officer Pickett retained Colonel John Odom, an attorney with Jones, Odom, Davis & Politz. Colonel Odom sent letters by certified mail to Bank of America and its foreclosure attorneys advising them that he was representing Warrant Officer Pickett and that his mortgage was protected under the SCRA. Bank of America never responded.

**December 2, 2009:** With the foreclosure sale scheduled for December 7, Colonel Odom sent a second letter requesting that Bank of America contact him immediately, and he included a written authorization from Warrant Officer Pickett for Colonel Odom to act on his behalf. Bank of America never responded.

**December 3, 2009:** Colonel Odom sent a third letter requesting that Bank of America's SCRA Department immediately halt the foreclosure sale. An employee from Bank of America's Home Loan Servicing Center informed Colonel Odom that his department could not stop the foreclosure. Colonel Odom then spoke with a second employee, then a third, and then left a voicemail with the bank's SCRA manager.

**December 4, 2009:** Colonel Odom spoke with an official in Bank of America's SCRA Department who stated that the foreclosure had been canceled and that he would provide written confirmation of the cancellation to Colonel Odom. Bank of America never provided the confirmation.

**December 7 and 11, 2009:** Colonel Odom faxed letters to Bank of America's SCRA Department seeking confirmation that the foreclosure had been canceled. Bank of America did not respond.

**January 2010:** Warrant Officer Pickett decided to list his home for sale.

<sup>35</sup> *Id.*

**April 6, 2010:** Several months later, on April 6, Warrant Officer Pickett called Colonel Odom to tell him that his real estate agent discovered a second foreclosure sale on his home while performing a title search. This foreclosure sale was scheduled for the next day, April 7. Colonel Odom immediately called Bank of America, who was unable to verify the foreclosure sale. According to a realtor Colonel Odom spoke with, tax records indicated that a foreclosure sale had indeed been set for April 7, 2010. The foreclosure sale did not go forward.

**June 1, 2010:** Two months later, on June 1, Warrant Officer Pickett sent an e-mail to Colonel Odom stating that his realtor had discovered a third foreclosure sale scheduled for two days later, on June 3, 2010. Colonel Odom immediately called Bank of America, who claimed that Warrant Officer Pickett's account was not being reviewed for foreclosure. Colonel Odom spoke with Bank of America's foreclosure attorneys, who informed him that Bank of America had indeed scheduled the foreclosure sale for June 3, 2010, and that the loan had been in foreclosure since September 1, 2009. The foreclosure sale did not go forward.

**June 7, 2011:** In response to a suit filed against Bank of America on behalf of Warrant Officer Pickett for violations of the SCRA, Bank of America settled the case for an undisclosed amount.

### **B. Army Captain Kenneth Gonzales**

Kenneth R. Gonzales currently serves as a Captain and Medical Service Corps Officer in the U.S. Army in San Antonio, Texas, where he lives with his wife and four children. From December 2009 to December 2010, then-Lieutenant Gonzales was deployed to Iraq. During his deployment, his mortgage bank, Chase, attempted to foreclose on his home in violation of the Servicemembers Civil Relief Act (SCRA). Chase also made negative reports to credit bureaus regarding Lieutenant Gonzales' mortgage payments, causing his security clearance to be suspended. While he was in Iraq, Lieutenant Gonzales contacted the Federal Trade Commission and his Senator, Kay Bailey Hutchison. These officials reported Chase's actions to the American Bar Association and the Office of the Comptroller of the Currency. A year and a half later, the foreclosure has been halted and Captain Gonzales' security clearance has been reinstated, but the Gonzales family lost several months worth of mortgage payments as a result of Chase's actions.

#### *Timeline*

**July 2005:** Mr. Gonzales enlisted in the Army and later received his commission as Lieutenant.

**November 2008:** Lieutenant Gonzales obtained a home mortgage that was purchased by Chase.

**November 2009:** Lieutenant Gonzales informed Chase that he was being deployed to Iraq and began using online access to pay his mortgage.

**December 2009:** Lieutenant Gonzales attempted to pay his mortgage online from Iraq. Back in Texas, his wife also attempted to pay cash by phone. As a result, Chase locked out Lieutenant Gonzales from its online payment system for six months. Chase requested that Lieutenant Gonzales's wife instead mail money orders, and the bank provided an address to submit them.

**January-May 2010:** Each month, Lieutenant Gonzales's wife complied with Chase's request, went to her bank to obtain money orders, and mailed the money orders on time to the address Chase provided.

**February 2010:** Chase began reporting late mortgage payments by the Gonzales family to credit bureaus. Chase also scheduled a foreclosure sale of the Gonzales' home on April 10, 2010. Neither Lieutenant Gonzales nor his wife was aware that foreclosure had been initiated or that a sale date had been set.

**April 2010:** Chase sent a letter to the Gonzales' home asking them to call regarding their mortgage. When Mrs. Gonzales called, she was told that Chase was unsure why the letter was sent. During this discussion, there was no mention of late payments or foreclosure proceedings.

**June 2010:** When Lieutenant Gonzales was repeatedly denied access to Chase's online mortgage payment system, he inquired and soon after discovered that Chase had been reporting late mortgage payments to credit bureaus. He was also informed that his security clearance had been suspended as a result. His mission as one of ten soldiers responsible for delivering blood products in Iraq was compromised, and his access to information was restricted.

Lieutenant Gonzales contacted Chase repeatedly from Iraq, but its representatives were unwilling to consider that the bank was in error. Chase refused to correct the late payment reports to his credit and told Lieutenant Gonzales to expect a lawyer's letter demanding the repayment of fees associated with the foreclosure. By the

end of June, Lieutenant Gonzales had not received any letter, and a number given to him by Chase for the bank's foreclosure attorney was out of service.

Lieutenant Gonzales took a number of affirmative steps from Iraq to address the situation. He filed a complaint with the Federal Trade Commission regarding Chase's mortgage practices, and he contacted his Senator, Kay Bailey Hutchison.

**July 2010:** Senator Hutchison sent a letter to the Department of Defense requesting assistance with Lieutenant Gonzales's case. She also contacted the Office of the Comptroller of the Currency regarding Chase's actions.

**August–November 2010:** An officer with the Legal Assistance Policy Division of the Army's Judge Advocate General (JAG) repeatedly faxed an authorization to Chase from Lieutenant Gonzales indicating that she was acting on his behalf. Chase officials told her it would take 48 to 72 hours to confirm receipt of the authorization, but they claimed repeatedly that they never received her faxes and would not accept e-mail.

The JAG officer reported Chase to the American Bar Association, which contacted a Senior Vice President at Chase. This official immediately arranged to remove the erroneous late payments on Lieutenant Gonzales's credit report. A Chase official admitted to the JAG officer that the original authorization she faxed on Lieutenant Gonzales's behalf indeed had been received on the first day she sent it.

**May 2011:** Lieutenant Gonzales was promoted to Captain, and his security clearance was reinstated. However, Chase claimed that it "misplaced" the five money orders sent in by Mrs. Gonzales from January through May 2010. Mrs. Gonzales was able to recover three of the five receipts for the money orders, but the remaining two receipts were never located. Due to Chase's actions, the Gonzales family had to pay two months worth of mortgage payments twice.

## VI. EFFORTS BY RANKING MEMBER CUMMINGS TO INVESTIGATE

From the outset of the 112th Congress, Representative Elijah E. Cummings, the Ranking Member of the House Committee on Oversight and Government Reform, has sought a comprehensive investigation into abuses by mortgage servicing companies, including an examination of illegal foreclosures against servicemembers. To date, he has sent four letters to Representative Darrell E. Issa, the Chairman of the Committee, but Chairman Issa has declined to seek any information from mortgage servicing companies relating to these abuses.

On December 21, 2010, Ranking Member Cummings sent his first letter to Representative Issa in his new role as Chairman. Ranking Member Cummings requested that Chairman Issa make investigating foreclosure abuses one of the Committee's top priorities in the 112th Congress.<sup>36</sup>

On February 25, 2011, Ranking Member Cummings sent a second, more detailed letter to Chairman Issa setting forth specific evidence of widespread abuses by mortgage servicing companies and outlining steps the Committee should take to investigate. This letter included specific information about illegal foreclosures against servicemembers and asked Chairman Issa to issue document requests to the nation's top ten mortgage servicing companies.<sup>37</sup>

When Chairman Issa declined to send these document requests, Ranking Member Cummings sent them himself, requesting that the ten mortgage servicing companies produce documents relating to allegations of wrongful foreclosures, inflated fees, and other abusive practices.<sup>38</sup>

On May 24, 2011, Ranking Member Cummings wrote a third letter to Chairman Issa, reporting that several mortgage servicing companies refused to provide documents in response to his previous requests. As a result, Ranking Member Cummings requested that Chairman Issa issue subpoenas to those mortgage servicing companies.<sup>39</sup>

On June 21, 2011, Ranking Member Cummings wrote a fourth letter to Chairman Issa, marking the six-month anniversary of his first letter requesting the investigation. He provided additional information regarding abuses by mortgage servicers

<sup>36</sup>Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Dec. 21, 2010) (online at [democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5175&Itemid=49](http://democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5175&Itemid=49)).

<sup>37</sup>Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Feb. 25, 2011) (online at [democrats.oversight.house.gov/images/stories/Correspondence/Foreclosure%20Letters/Cummings%20Letter%20to%20Issa.pdf](http://democrats.oversight.house.gov/images/stories/Correspondence/Foreclosure%20Letters/Cummings%20Letter%20to%20Issa.pdf)).

<sup>38</sup>See, e.g., Letter from Ranking Member Elijah E. Cummings to Raymond D. Fortin, General Counsel, SunTrust Banks Inc. (Feb. 25, 2011) (online at [democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5229&Itemid=49](http://democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5229&Itemid=49)).

<sup>39</sup>Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (May 24, 2011) (online at [democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5315&Itemid=49](http://democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5315&Itemid=49)).

and reiterated his request for subpoenas for documents relating to illegal foreclosures, inflated fees, and other abuses. He wrote:

If mortgage servicing companies are allowed to disregard requests for documents that are integral to this investigation, the Committee's integrity will be called into question and, more importantly, abuses may continue.<sup>40</sup>

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<sup>40</sup>Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (June 21, 2011) (online at [democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5350&Itemid=49](http://democrats.oversight.house.gov/index.php?option=com-content&task=view&id=5350&Itemid=49)).