

AMENDING THE SERVICEMEMBERS CIVIL RELIEF ACT TO PROVIDE SURVIVING SPOUSES WITH CERTAIN PROTECTIONS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURES

OCTOBER 5, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 1263]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1263) to amend the Servicemembers Civil Relief Act to provide surviving spouses with certain protections relating to mortgages and mortgage foreclosures, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. EXPANSION OF PROTECTIONS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURES FOR SURVIVING SPOUSES.**

(a) **PROTECTION FOR SURVIVING SPOUSE.**—Section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533) is amended by adding at the end the following new subsection:

“(e) **PROTECTION FOR SURVIVING SPOUSE.**—During the five-year period beginning on the date of the enactment of this subsection, with respect to a servicemember who dies while in military service and whose death is service-connected, this section shall apply to the surviving spouse of the servicemember if such spouse is the successor in interest to property covered under subsection (a).”.

(b) **EFFECTIVE DATE.**—Subsection (e) of section 303 of such Act, as added by subsection (a), shall apply to a surviving spouse of a servicemember whose death is on or after the date of the enactment of this Act.

**SEC. 2. REQUIREMENTS FOR LENDING INSTITUTIONS THAT ARE CREDITORS FOR OBLIGATIONS AND LIABILITIES COVERED BY THE SERVICEMEMBERS CIVIL RELIEF ACT.**

Section 207 of the Servicemembers Civil Relief Act is amended—

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

(2) by inserting after subsection (c) the following new subsection (d):

“(d) **LENDING INSTITUTION REQUIREMENTS.**—

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

“(2) **TOLL-FREE TELEPHONE NUMBER.**—During any fiscal year, a lending institution subject to the requirements of this section that had annual assets for the preceding fiscal year of \$10,000,000,000 or more shall maintain a toll-free telephone number and shall make such telephone number available on the primary Internet Web site of the institution.”.

**SEC. 3. EXTENSION OF PERIOD OF PROTECTIONS FOR SERVICEMEMBERS AGAINST MORTGAGE FORECLOSURES.**

(a) **EXTENDED PERIOD OF PROTECTIONS.**—

(1) **STAY OF PROCEEDINGS AND PERIOD OF ADJUSTMENT OF OBLIGATIONS RELATING TO REAL OR PERSONAL PROPERTY.**—Section 303(b) of the Servicemembers Civil Relief Act (50 U.S.C. App. 533(b)) is amended by striking “within 9 months” and inserting “within 12 months”.

(2) **PERIOD OF RELIEF FROM SALE, FORECLOSURE, OR SEIZURE.**—Section 303(c) of such Act (50 U.S.C. App. 533(c)) is amended by striking “within 9 months” and inserting “within 12 months”.

(3) **SUNSET.**— The amendments made by paragraphs (1) and (2) shall expire on December 31, 2017. Effective January 1, 2018, the provisions of subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act, as in effect on the day before the date of the enactment of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), are hereby revived.

(b) **REPEAL OF SUPERCEDED PROVISION.**—Subsection (c) of section 2203 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 50 U.S.C. App. 533 note) is amended to read as follows:

“(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.”.

Amend the title so as to read:

A bill to amend the Servicemembers Civil Relief Act to provide surviving spouses with certain protections relating to mortgages and mortgage foreclosures, and for other purposes.

**PURPOSE AND SUMMARY**

H.R. 1263, a bill to amend the Servicemembers Civil Relief Act to provide surviving spouses with certain protections relating to mortgages and mortgage foreclosures, was introduced on March 30, 2011, by Ranking Member Bob Filner of California.

H.R. 1263, as amended, includes provisions of three bills introduced in the 112th Congress. These bills are: H.R. 1263 as introduced; H.R. 2329, a bill to amend the Servicemembers Civil Relief Act to provide for certain requirements for financial institutions that are creditors for obligations and liabilities covered by that Act, introduced by Representative Bill Johnson of Ohio; and H.R. 1911, a bill to amend the Servicemembers Civil Relief Act to permanently extend the period of protections for servicemembers against mortgage foreclosures, and for other purposes, introduced by Representative Bruce Braley of Iowa.

#### BACKGROUND AND NEED FOR LEGISLATION

On December 19, 2003, President Bush signed into law the Servicemembers Civil Relief Act (SCRA), Public Law (P.L.) 108–189, 117 Stat. 2835, which was a significant amendment to the Soldiers’ and Sailors’ Civil Relief Act of 1940 (54 Stat. 1178). SCRA was designed to help ease the economic and legal burdens on military personnel who are on active-duty status. The SCRA is intended to postpone, suspend, or relieve certain civil obligations during a servicemember’s period of active duty and accomplishes this in part by regulating certain legal actions against military personnel. A key protection for servicemembers was on the stay of a sale or foreclosure of their home. The law states that “a sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within 9 months after, the period of the servicemember’s military service[.]” The nine month time-frame was changed from 90 days to 9 months in section 2203 of the Housing and Economic Recovery Act of 2008 (P.L. 110–289). This temporary extension is set to expire on December 31, 2012, when the original 90-day period will go back into effect.

The Washington Post notes that since U.S. forces began Operation Iraqi Freedom and Operation Enduring Freedom combat operations in 2001, 6,026 servicemembers have died in service as of June 5, 2011. This means that thousands of families have lost a spouse, a wage earner and servicemember mortgage protections under the SCRA. While a family grieves the loss of a servicemember, the resulting change in income will force a surviving spouse to make important financial decisions including whether they will keep or sell their home. The surviving family should be given sufficient time to refinance, make arrangements with the lender to restructure the loan, or sell the house.

In January 17, 2011, a JPMorgan Chase official told NBC News that over 4,000 servicemembers had been illegally overcharged and that many military families had been improperly foreclosed. These improper foreclosures that came to light involve only servicemembers that had the protection. Surviving spouses did not have this protection and we can only surmise how many lost their homes when the military family needed it most.

This change in law will recognize that military families serve with the spouse and sacrifice just as much for their country.

In February 2011, allegations surfaced of mortgage-related violations of the SCRA by JPMorgan Chase Bank and other lending institutions. These allegations alleged that these institutions were unlawfully foreclosing on servicemembers’ homes and charging in-

terest rates above the six-percent cap required by SCRA. On February 9, 2011, the Committee held an oversight hearing to review these allegations and received testimony from Captain Jonathon Rowles (USMC), and Mrs. Julia Rowles, about the trouble they had with JPMorgan Chase when they tried to assert their rights under SCRA. They commented that when they called the toll-free number provided by the bank, their employees were woefully inadequate in their knowledge of SCRA and there didn't seem to be in anyone in charge to ensure that the bank was complying with SCRA.

In response to this hearing and Committee's continued oversight of SCRA abuses, this section clarifies requirements for banks to comply with SCRA. The section requires all lending institutions affected by SCRA to employ and/or designate an SCRA compliance officer. This will make it clear that all banks and other lending institutions must take SCRA seriously and have at least one person responsible to ensure their institution's compliance. The section further requires banks that have annual assets of \$10 billion to have a toll-free hotline for servicemembers to call and ask questions about their mortgage and SCRA.

On February 4, 2011, USA Today noted in an article that 20,000 military members and Reservists faced foreclosure in 2010. The foreclosure filings increased in 2010 in 163 zip codes located near military bases. About 12,000 military families have applied for the Homeowners Assistance Program run by the Pentagon and about 9,000 were deemed eligible. USA Cares, a charity providing assistance to troops, notes that demand for help has increased 19 percent. While JPMorgan Chase admitted to improperly foreclosing on servicemembers, this was only one bank that publicly came forth with its admission. Therefore, the Committee remains concerned with the true number of families affected.

A home is often a veteran's largest financial asset and they should have an opportunity to avoid a negative mark on their credit history by working with the lender to minimize the chance of foreclosure or other less advantageous options such as a short sale. When a servicemember separates from the armed services, they need sufficient time to establish good economic footing to be successful. Some military families experience difficulties—often related to owning a home where the servicemember is stationed—in the transition from the military to the civilian world.

*Section 1—Expansion of protections relating to mortgage foreclosures for surviving spouses*

Section 1 would extend foreclosure-related protections to 12 months for surviving spouses of servicemembers who die on active duty or whose death is service-connected.

*Section 2—To amend the Servicemembers Civil Relief Act to provide for certain requirements for financial institutions that are creditors for obligations and liabilities covered by that Act*

Section 2 clarifies requirements for banks to comply with SCRA by requiring certain large lending institutions to designate an SCRA compliance officer and to maintain a toll-free number on its Web site for SCRA issues.

*Section 3—Extension of period of protections for servicemembers against mortgage foreclosures*

Section 3 would extend the current 9-month period during which servicemembers are protected from foreclosure-related proceedings to 12 months and revert such protections to 9 months after 5 years from enactment.

HEARINGS

On July 7, 2011, the Subcommittee on Economic Opportunity conducted a legislative hearing on various bills introduced during the 112th Congress, including: H.R. 1911, H.R. 240, H.R. 1263, H.R. 120, H.R. 2274, H.R. 2301, H.R. 2302, H.R. 2345, and H.R. 2329. The following witnesses testified: Mr. Tom Tarantino, Senior Legislative Associate of Iraq and Afghanistan Veterans of America; Mr. Shane Barker, Senior Legislative Associate, National Legislative Service of the Veterans of Foreign Wars of the United States; Mr. Jeff Steele, Assistant Director, National Legislative Commission of The American Legion; MG David Bockel, USA (Ret.), Executive Director of the Reserve Officers Association of the United States also on behalf of Reserve Enlisted Association of the United States; Mr. Arthur F. Kirk, Jr., President, Saint Leo University, Saint Leo, FL, on behalf of National Association of Independent Colleges and Universities; Ms. Susan C. Aldridge, Ph.D., President, University of Maryland University College, Adelphia, MD, on behalf of the American Association of State Colleges and Universities; and Mr. Curtis L. Coy, Deputy Under Secretary for Economic Opportunity Veterans Benefits Administration of the U.S. Department of Veterans Affairs, who was accompanied by Mr. John Brizzi, Deputy Assistant General Counsel, Office of General Counsel of the U.S. Department of Veterans Affairs, Ms. Vivianne Cisneros Wersel, Au.D., Chair, Government Relations Committee of Gold Star Wives of America, Inc., and the Paralyzed Veterans of America submitted statements for the record.

SUBCOMMITTEE CONSIDERATION

On July 21, 2011, the Subcommittee on Economic Opportunity met in an open markup session, a quorum being present, and approved H.R. 1263, by voice vote. Ranking Member Braley offered a motion to forward H.R. 1263 to the full Committee. His motion was approved by voice vote.

COMMITTEE CONSIDERATION

On September 8, 2011, the full Committee met in an open markup session, a quorum being present, to consider H.R. 1263. Ranking Member Filner offered an amendment in the nature of a substitute to include H.R. 2329 and H.R. 1911. The amendment in the nature of a substitute was agreed to by voice vote. Following this vote, the full Committee ordered favorably reported H.R. 1627, to the House of Representatives, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion

to report the legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering reported H.R. 1263, as amended, to the House. A motion by Ranking Member Bob Filner of California to order favorably reported H.R. 1263, as amended, to the House of Representatives was agreed to by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1263, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 1263, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 1263, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 23, 2011.*

Hon. JEFF MILLER,  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1263, a bill to amend the

Servicemembers Civil Relief Act to provide surviving spouses with certain protections relating to mortgages and mortgage foreclosures.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Newman.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 1263—A bill to amend the Servicemembers Civil Relief Act to provide surviving spouses with certain protections relating to mortgages and mortgage foreclosures*

H.R. 1263 would extend protections related to mortgage foreclosure under the Servicemembers Civil Relief Act (SCRA). Military personnel are shielded from foreclosure on a residential mortgage for up to nine months after they leave active duty. However, after January 1, 2013, the period during which foreclosures are deferred declines to 90 days. The bill would increase that protection to a 12-month period, until December 31, 2017, after which the forbearance period would decline to 90 days. The bill also would grant that same foreclosure protection to the surviving spouses of servicemembers who die on active duty. The enhanced protections for surviving spouses would expire five years after enactment.

Enacting H.R. 1263 would affect direct spending; therefore, pay-as-you-go procedures apply. Federal agencies such as the Department of Veterans Affairs and the Federal Housing Administration, which currently guarantee the mortgages of some servicemembers, are responsible for the payment of any interest that accrues on such a mortgage during the period between the stoppage of payments on the mortgage and the time the agency finally settles the loan with the originator. Therefore, delaying certain foreclosures could result in additional costs to the federal government. Because of the low number of affected mortgages, CBO estimates that such costs would be insignificant.

The bill would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by adding and expanding protections for servicemembers as authorized under SCRA. CBO estimates that the costs to public and private entities of complying with the mandates would be small and would not exceed the thresholds established in UMRA for intergovernmental and private-sector mandates (\$71 million and \$142 million, respectively, in 2011, adjusted annually for inflation).

The bill would require public and private lending institutions that are subject to SCRA to designate an employee who would ensure compliance with the act. In addition, lending institutions with over \$10 billion in annual assets in the preceding fiscal year would be required to maintain a toll-free telephone number to provide assistance to servicemembers. Lending institutions currently employ compliance officers, and all large institutions maintain toll-free numbers. For that reason, CBO estimates that the extra training for employees and the maintenance of toll-free numbers would not impose significant costs on private entities. Because few lending institutions are public entities, CBO estimates that the intergovernmental costs of the mandate also would be small.

Current law grants temporary stays of civil proceedings related to real or personal property, mortgages, evictions, and foreclosures to servicemembers whose military service has ended. As described above, the bill would extend the length of such stays to 12 months after a servicemember's military service ends and expand eligibility to certain surviving spouses. The number of servicemembers who face foreclosure within 12 months of separation is small. The current number of servicemembers killed on active duty since March 2003 is less than 6,500. Thus, CBO expects the cost of the mandate to be minimal.

The CBO staff contacts for this estimate are David Newman (for federal costs), Lisa Ramirez-Branum (for state and local costs), and Elizabeth Bass (for the impact on the private sector). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 1263, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 1263, as amended.

#### STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1—Expansion of protections relating to mortgage foreclosures for surviving spouses*

This section would amend section 303 of the Servicemembers Civil Relief Act (50 U.S.C. 533) to extend mortgage related protections for surviving spouses of servicemembers who die on active duty or whose death is service-connected. This protection states that a lending institution is not allowed to foreclose on property owned by the surviving spouse until at least 12 months following the servicemember's death. This provision would be effective with the enactment of this bill and would sunset five years from the date of enactment.



*Section 2—Requirements for lending institutions that are creditors for obligations and liabilities covered by the Servicemembers Civil Relief Act*

This section amends section 207 of the Servicemembers Civil Relief Act (50 U.S.C. 526) would extend protections for servicemembers under SCRA.

Subsection (d)(1) would require all lending institutions covered by SCRA to designate an employee who is responsible for their institution's compliance with SCRA and for providing information to their customers who are covered by SCRA.

Subsection (d)(2) would require that any institution with annual assets of \$10 billion in the previous fiscal year maintain a toll-free telephone number for their customers. It would also require these institutions to publish this toll-free number on their Web site.

*Section 3—Extension of period of protections for servicemembers against mortgage foreclosures*

This section amends section 303(b) and 303(c) of the Servicemembers Civil Relief Act (50 U.S.C. 533) to extend mortgage-related provisions for servicemembers.

Subsection (a)(1) would extend the disallowance on stay proceedings and adjustment of obligations related to real or personal property for SCRA covered property from 9 months after the servicemembers returns from active duty to 12 months.

Subsection (a)(2) would extend the disallowance on foreclosure or seizure for SCRA covered property from 9 months after the servicemembers returns from active duty to 12 months.

Subsection (a)(3) would require that the protections in paragraphs (1) and (2) be reduced to nine months after active duty service, 5 years following the enactment of this bill.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SERVICEMEMBERS CIVIL RELIEF ACT**

\* \* \* \* \*

**TITLE II—GENERAL RELIEF**

\* \* \* \* \*

**SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.**

(a) \* \* \*

\* \* \* \* \*

(d) *LENDING INSTITUTION REQUIREMENTS.*—

(1) *COMPLIANCE OFFICERS.*—*Each lending institution subject to the requirements of this section shall designate an employee of the institution as a compliance officer who is responsible for*

*ensuring the institution's compliance with this section and for distributing information to servicemembers whose obligations and liabilities are covered by this section.*

(2) *TOLL-FREE TELEPHONE NUMBER.—During any fiscal year, a lending institution subject to the requirements of this section that had annual assets for the preceding fiscal year of \$10,000,000,000 or more shall maintain a toll-free telephone number and shall make such telephone number available on the primary Internet Web site of the institution.*

[(d)] (e) DEFINITIONS.—In this section:

(1) \* \* \*

\* \* \* \* \*

[(e)] (f) PENALTY.—Whoever knowingly violates subsection (a) shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

### TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES, TELEPHONE SERVICE CONTRACTS

\* \* \* \* \*

#### SEC. 303. MORTGAGES AND TRUST DEEDS.

(a) \* \* \*

(b) STAY OF PROCEEDINGS AND ADJUSTMENT OF OBLIGATION.—In an action filed during, or [within 9 months] *within 12 months* after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

(1) \* \* \*

\* \* \* \* \*

(c) SALE OR FORECLOSURE.—A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or [within 9 months] *within 12 months* after, the period of the servicemember's military service except—

(1) \* \* \*

\* \* \* \* \*

(e) PROTECTION FOR SURVIVING SPOUSE.—*During the five-year period beginning on the date of the enactment of this subsection, with respect to a servicemember who dies while in military service and whose death is service-connected, this section shall apply to the surviving spouse of the servicemember if such spouse is the successor in interest to property covered under subsection (a).*

\* \* \* \* \*



**HOUSING AND ECONOMIC RECOVERY ACT OF 2008**

\* \* \* \* \*

**DIVISION B—FORECLOSURE  
PREVENTION**

\* \* \* \* \*

**TITLE II—MORTGAGE FORECLOSURE  
PROTECTIONS FOR SERVICEMEMBERS**

\* \* \* \* \*

**SEC. 2203. ENHANCEMENT OF PROTECTIONS FOR SERVICEMEMBERS  
RELATING TO MORTGAGES AND MORTGAGE FORE-  
CLOSURES.**

(a) \* \* \*

\* \* \* \* \*

[(c) **EFFECTIVE DATE; SUNSET.—**

[(1) **EFFECTIVE DATE.—**The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

[(2) **SUNSET.—**The amendments made by subsection (a) shall expire on December 31, 2010. Effective January 1, 2011, the provisions of subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act, as in effect on the day before the date of the enactment of this Act, are hereby revived.]

(c) *EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.*

\* \* \* \* \*