

110TH CONGRESS  
2D SESSION

# S. 2992

To amend title 38, United States Code, to enhance housing loan authorities for veterans and to otherwise assist veterans and members of the Armed Forces in avoiding the foreclosure of their homes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 7, 2008

Mr. REID (for Mrs. CLINTON (for herself and Mr. SCHUMER)) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to enhance housing loan authorities for veterans and to otherwise assist veterans and members of the Armed Forces in avoiding the foreclosure of their homes, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Armed Forces Housing  
5       Security Act”.

1 **SEC. 2. INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT**  
 2 **FOR CERTAIN HOUSING LOANS GUARANTEED**  
 3 **BY THE SECRETARY OF VETERANS AFFAIRS.**

4 (a) INCREASE.—

5 (1) IN GENERAL.—Paragraph (1)(C) of section  
 6 3703(a) of title 38, United States Code, is amended  
 7 by striking “25 percent of the Freddie Mac con-  
 8 forming loan limit” and all that follows and insert-  
 9 ing “25 percent of the higher of—

10 “(i) the limitation determined under section  
 11 305(a)(2) of the Federal Home Loan Mortgage Cor-  
 12 poration Act (12 U.S.C. 1454(a)(2)) for the cal-  
 13 endar year in which the loan is originated for a sin-  
 14 gle-family residence; or

15 “(ii) 125 percent of the area median price for  
 16 a single-family residence, but in no case to exceed  
 17 175 percent of the limitation determined under such  
 18 section 305(a)(2) for the calendar year in which the  
 19 loan is originated for a single-family residence.”.

20 (2) APPLICABILITY.—The amendment made by  
 21 paragraph (1) shall apply with respect to loans origi-  
 22 nated on or after the date of the enactment of this  
 23 Act.

24 (b) ANNUAL INCREASE IN HOME LOAN GUARANTY  
 25 AMOUNTS.—Such section is further amended by adding  
 26 at the end the following new paragraph:

1       “(3) With respect to any fiscal year, the Secretary  
 2 shall provide a percentage increase in the amounts guar-  
 3 anteed under paragraph (1) equal to the percentage by  
 4 which—

5               “(A) the Consumer Price Index (all items,  
 6 United States city average) for the 12-month period  
 7 ending on the June 30 preceding the beginning of  
 8 the fiscal year for which the increase is made, ex-  
 9 ceeds

10              “(B) such Consumer Price Index for the 12-  
 11 month period preceding the 12-month period de-  
 12 scribed in subparagraph (A).”.

13 **SEC. 3. IMPROVEMENT OF GUARANTEE PROCESS FOR PUR-**  
 14 **CHASE OF CONDOMINIUMS.**

15       The Secretary of Veterans Affairs shall review and  
 16 streamline the process of guaranteeing home loans under  
 17 chapter 37 of title 38, United States Code, for the pur-  
 18 chase of a condominium.

19 **SEC. 4. REPEAL OF LOAN FUNDING FEES FOR VETERANS**  
 20 **HOUSING LOANS.**

21       (a) REPEAL OF LOAN FUNDING FEES REQUIREMENT  
 22 FOR HOUSING LOANS.—

23              (1) IN GENERAL.—Section 3729 of such title is  
 24 repealed.

25              (2) CONFORMING AMENDMENTS.—

1 (A) Section 2041(b)(2) of such title is  
2 amended—

3 (i) in subparagraph (A), by adding  
4 “and” at the end;

5 (ii) in subparagraph (B), by striking  
6 “; and” and inserting a period; and

7 (iii) by striking subparagraph (C).

8 (B)(i) Section 3703 of such title is amend-  
9 ed—

10 (I) by striking subsection (e); and

11 (II) by redesignating subsection (f) as  
12 subsection (e).

13 (ii) Section 3732(a)(1) of such title is  
14 amended by striking “Except as provided in  
15 section 3703(e) of this title, if” and inserting  
16 “If”.

17 (C) Section 3722(c) of such title is amend-  
18 ed by striking “section 3729 of this title or any  
19 other provision of law or” and inserting “any  
20 provision of law or any”.

21 (D) Section 3734(b)(2) of such title is  
22 amended—

23 (i) by striking subparagraph (A); and

1 (ii) by redesignating subparagraphs  
 2 (B), (C), (D), and (E) as subparagraphs  
 3 (A), (B), (C), and (D), respectively.

4 (3) CLERICAL AMENDMENT.—The table of sec-  
 5 tions at the beginning of chapter 37 of such title is  
 6 amended by striking the item relating to section  
 7 3729.

8 (b) AUTHORIZATION OF APPROPRIATIONS FOR VET-  
 9 ERANS HOUSING BENEFIT PROGRAM FUND.—There are  
 10 authorized to be appropriated for the Veterans Housing  
 11 Benefit Program Fund under section 3722 of title 38,  
 12 United States Code, such sums as may be necessary to  
 13 carry out the amendments made by this section.

14 **SEC. 5. LOAN REFINANCING FOR VETERANS IN DANGER OF**  
 15 **MORTGAGE DEFAULT OR FORECLOSURE.**

16 (a) DECREASE IN EQUITY REQUIREMENT FOR CER-  
 17 TAIN LOANS.—Subsection (b)(8) of section 3710 of title  
 18 38, United States Code, is amended by striking “90 per-  
 19 cent” and inserting “100 percent”.

20 (b) AUTHORITY FOR DVA GUARANTEE OF REFI-  
 21 NANCED LOANS NOT PREVIOUSLY GUARANTEED BY  
 22 DVA.—Subsection (a)(8) of such section is amended by  
 23 inserting “, whether or not” after “an existing loan”.

1 **SEC. 6. ENHANCEMENT OF PROTECTIONS FOR MEMBERS**  
 2 **OF THE ARMED FORCES AND THEIR DEPEND-**  
 3 **ENTS AGAINST SALE, FORECLOSURE, SEI-**  
 4 **ZURE, OR SALE OF MORTGAGED PROPERTY.**

5 (a) EXTENSION OF PERIOD AFTER MILITARY SERV-  
 6 ICE COVERED BY GENERAL PROTECTIONS.—Section  
 7 303(c) of the Servicemembers Civil Relief Act (50 U.S.C.  
 8 App. 533(c)) is amended by striking “90 days” and insert-  
 9 ing “one year”.

10 (b) ENHANCEMENT OF PROTECTIONS FOR MEMBERS  
 11 OF THE ARMED FORCES WHO SERVE IN OPERATION  
 12 IRAQI FREEDOM OR OPERATION ENDURING FREEDOM  
 13 AND THEIR DEPENDENTS.—

14 (1) SCOPE OF PROTECTIONS.—This subsection  
 15 applies to an obligation on real or personal property  
 16 owned by a covered member of the Armed Forces,  
 17 or by a dependent of a covered member of the  
 18 Armed Forces, regardless of whether entered into  
 19 before, on, or after the member’s entry onto military  
 20 service, on which the covered member or dependent,  
 21 as the case may be, is still obligated and that is se-  
 22 cured by a mortgage, trust deed, or other security  
 23 in the nature of a mortgage.

24 (2) SALE OR FORECLOSURE.—

25 (A) IN GENERAL.—A sale, foreclosure, or  
 26 seizure of property for breach of an obligation

described in paragraph (1) shall not be valid if made during, or within one year after, the military service of a covered member of the Armed Forces, or the military service of the covered member of the Armed Forces concerned in the case of a dependent of such a member.

(B) NO WAIVER.—The limitations of subparagraph (A) are not waiveable by a covered member of the Armed Forces pursuant to section 107 of the Servicemembers Civil Relief Act (50 U.S.C. App. 517).

(3) PROHIBITION ON ACTIONS FOR NON-PAYMENT OR DEFAULT.—No court shall have jurisdiction to hear any civil action against a covered member of the Armed Forces or a dependent of a covered member of the Armed Forces for non-payment or default on an obligation described in paragraph (1) during, or within one year after, the military service of the covered member or the covered member Armed Forces concerned, as the case may be.

(4) RESPONSIBILITIES OF OBLIGORS.—In the event a sale, foreclosure, or seizure of property for breach of an obligation described in paragraph (1)

1 is prohibited by operation of paragraph (2) or (3),  
 2 the obligor on the obligation shall—

3 (A) notify the covered member of the  
 4 Armed Forces or dependent concerned, in writ-  
 5 ing, of the outstanding liability of the covered  
 6 member or dependent, as the case may be, for  
 7 principal and interest on the obligation; and

8 (B) if the obligor determines that a modi-  
 9 fication of the obligation or a reduction in the  
 10 outstanding liability of the covered member or  
 11 dependent for principal, interest, or both on the  
 12 obligation is in the interest of the obligor and  
 13 the covered member or dependent, as the case  
 14 may be, notify the covered member or depend-  
 15 ent, as the case may be, in writing, of—

16 (i) such determination; and

17 (ii) the actions to be taken by obligor  
 18 and the covered member or dependent, as  
 19 the case may be, to effectuate the modi-  
 20 fication or reduction.

21 (5) EFFECT OF PROTECTIONS ON FUTURE FI-  
 22 NANCIAL TRANSACTIONS.—

23 (A) COVERED MEMBERS.—The application  
 24 of paragraph (2), (3), (4), or (5) to an obliga-  
 25 tion described in paragraph (1) of a covered



1 member of the Armed Forces shall be deemed  
2 to constitute the receipt by the covered member  
3 of a stay of a civil liability with respect to the  
4 obligation under the Servicemembers Civil Re-  
5 lief Act for purposes of section 108 of that Act  
6 (50 U.S.C. App. 518).

7 (B) DEPENDENTS.—In the event of the  
8 application of paragraph (2), (3), (4), or (5) to  
9 an obligation described in paragraph (1) of a  
10 dependent of a covered member of the Armed  
11 Forces, the dependent shall be deemed to be a  
12 servicemember receiving a stay of a civil liabil-  
13 ity with respect to the obligation under the  
14 Servicemembers Civil Relief Act for purposes of  
15 section 108 of that Act.

16 (6) PENALTIES.—The provisions of section  
17 303(d) of the Servicemembers Civil Relief Act (50  
18 U.S.C. 533(d)) shall apply to sales, foreclosures, and  
19 seizures of property, and attempted sales, fore-  
20 closures, and seizures of property, prohibited by  
21 paragraph (2).

22 (7) DEFINITIONS.—In this subsection:

23 (A) COVERED MEMBER OF THE ARMED  
24 FORCES.—The term “covered member of the  
25 Armed Forces” means a member of the Armed

1 Forces, including a member of a Reserve com-  
2 ponent of the Armed Forces, who serves on ac-  
3 tive duty in the Armed Forces—

4 (i) in Iraq as part of Operation Iraqi  
5 Freedom; or

6 (ii) in Afghanistan as part of Oper-  
7 ation Enduring Freedom.

8 (B) DEPENDENT.—The term “dependent”,  
9 in the case of a covered member of the Armed  
10 Forces, has the meaning given that term in sec-  
11 tion 101(4) of the Servicemembers Civil Relief  
12 Act (50 U.S.C. App. 511(4)).

13 (C) MILITARY SERVICE.—The term “mili-  
14 tary service”, in the case of a covered member  
15 of the Armed Forces, means service of the  
16 member on active duty in the Armed Forces—

17 (i) in Iraq as part of Operation Iraqi  
18 Freedom; or

19 (ii) in Afghanistan as part of Oper-  
20 ation Enduring Freedom.

21 (8) EFFECTIVE DATE.—This subsection shall  
22 take effect on the date of the enactment of this Act.

1 **SEC. 7. ENCOURAGEMENT OF QUALIFIED LOAN MODIFICA-**  
2 **TIONS AND WORKOUT PLANS FOR MEMBERS**  
3 **OF THE ARMED FORCES WHO SERVE IN OP-**  
4 **ERATION IRAQI FREEDOM OR OPERATION**  
5 **ENDURING FREEDOM AND THEIR DEPEND-**  
6 **ENTS.**

7 (a) SAFE HARBOR.—Absent specific contractual pro-  
8 visions to the contrary, if a servicer of a residential mort-  
9 gage loan enters into a qualified loan modification or  
10 workout plan with a covered member of the Armed Forces  
11 or the dependent of a covered member of the Armed  
12 Forces, the servicer shall not be liable to—

13 (1) any person, based on that person's owner-  
14 ship of a residential mortgage loan or any interest  
15 in a pool of residential mortgage loans or in securi-  
16 ties that distribute payments out of the principal, in-  
17 terest, and other payments in loans on the pool;

18 (2) any person that insures any loan or any in-  
19 terest referred to in paragraph (1) under any law or  
20 regulation of the United States or any law or regula-  
21 tion of any State or political subdivision of any  
22 State; or

23 (3) any other person or institution that may  
24 have a financial or commercial relationship or asso-  
25 ciation with the persons described in paragraphs (1)  
26 and (2).

1 (b) RULE OF CONSTRUCTION.—No provision of this  
 2 section shall be construed as limiting the ability of a  
 3 servicer to enter into loan modifications or workout plans  
 4 other than qualified loan modification or workout plans.

5 (c) LIMITATIONS ON SAFE HARBOR.—Except for the  
 6 provisions of subsection (a) that limit liability for efforts  
 7 to pursue qualified loan modifications or workout plans,  
 8 the provisions of this section shall not be construed to af-  
 9 fect or limit any other liability, duty, or other fiduciary  
 10 obligation of the servicer to the investors and holders of  
 11 beneficial interests in the pooled loans to a securitization  
 12 vehicle, as prescribed by any other specific contractual  
 13 provision agreed upon, or any other liability, duty, or other  
 14 fiduciary obligation set forth under any—

- 15 (1) law or regulation of the United States;
- 16 (2) law or regulation of any State or political  
 17 subdivision of any State; or
- 18 (3) established and approved standards for best  
 19 practices of any industry or trade group.

20 (d) DEFINITIONS.—In this section:

- 21 (1) COVERED MEMBER OF THE ARMED  
 22 FORCES.—The term “covered member of the Armed  
 23 Forces” means a member of the Armed Forces, in-  
 24 cluding a member of a Reserve component of the

1 Armed Forces, who serves on active duty in the  
2 Armed Forces—

3 (A) in Iraq as part of Operation Iraqi  
4 Freedom; or

5 (B) in Afghanistan as part of Operation  
6 Enduring Freedom.

7 (2) DEPENDENT.—The term “dependent”, in  
8 the case of a covered member of the Armed Forces,  
9 has the meaning given that term in section 101(4)  
10 of the Servicemembers Civil Relief Act (50 U.S.C.  
11 App. 511(4)).

12 (3) QUALIFIED LOAN MODIFICATION OR WORK-  
13 OUT PLAN.—The term “qualified loan modification”  
14 or “workout plan” means a modification or plan  
15 that—

16 (A) is scheduled to remain in place until  
17 the covered member of the Armed Forces or de-  
18 pendent concerned sells or refinances the prop-  
19 erty, or for at least 5 years from the date of  
20 adoption of the plan, whichever is sooner;

21 (B) does not provide for a repayment  
22 schedule that results in negative amortization  
23 at any time;

24 (C) does not require the covered member  
25 or dependent to pay additional points and fees;

1 (D) materially improves the ability of the  
2 covered member or dependent to—

3 (i) prevent foreclosure; and

4 (ii) resume a reasonable repayment  
5 schedule, as such schedule may be based  
6 on the total debt to income ratio of the  
7 covered member or dependent;

8 (E) would reasonably reduce the likelihood  
9 of default of foreclosure during the life of the  
10 modification or plan;

11 (F) may waive any prepayment penalties  
12 that reasonably inhibited the covered member  
13 or dependent from fulfilling his or her ability to  
14 pay down the principal on such residential  
15 mortgage loan or maintain regular payments on  
16 such residential mortgage loan, as such regular  
17 payments may be defined by the terms of the  
18 residential mortgage loan; and

19 (G) includes full and accurate disclosure to  
20 the covered member of the terms of the modi-  
21 fication or workout plan, provided that such  
22 disclosures are executed in easy to understand  
23 terms that demonstrate how the covered mem-  
24 ber or dependent will benefit from the new  
25 terms in such modification or workout plan as

1 compared with the terms and conditions of the  
2 previous residential mortgage loan of the cov-  
3 ered member or dependent.

4 (4) RESIDENTIAL MORTGAGE LOAN.—The term  
5 “residential mortgage loan” means a loan that is se-  
6 cured by a lien on an owner-occupied residential  
7 dwelling.

8 (5) SERVICER.—The term “servicer” has the  
9 same meaning as in section 6(i)(2) of the Real Es-  
10 tate Settlement Procedures Act (12 U.S.C.  
11 2605(i)(2)).

12 (6) SECURITIZATION VEHICLE.—The term  
13 “securitization vehicle” means a trust, corporation,  
14 partnership, limited liability entity, special purpose  
15 entity, or other structure that—

16 (A) is the issuer, or is created by the  
17 issuer, of mortgage pass-through certificates,  
18 participation certificates, mortgage-backed secu-  
19 rities, or other similar securities backed by a  
20 pool of assets that includes residential mortgage  
21 loans; and

22 (B) holds such loans.

1 **SEC. 8. FINANCIAL SERVICES COUNSELING ON MORT-**  
2 **GAGES AND MORTGAGE FORECLOSURES FOR**  
3 **MEMBERS OF THE ARMED FORCES WHO**  
4 **SERVE IN OPERATION IRAQI FREEDOM OR**  
5 **OPERATION ENDURING FREEDOM, VET-**  
6 **ERANS, AND THEIR DEPENDENTS.**

7 (a) COUNSELING REQUIRED.—

8 (1) IN GENERAL.—The Secretary of Defense, in  
9 coordination with the Secretary of Veterans Affairs  
10 and the Secretary of Housing and Urban Develop-  
11 ment, shall provide financial services counseling re-  
12 lating to mortgages and mortgage foreclosures to a  
13 veteran, covered member of the Armed Forces, or  
14 dependent of such veteran or covered member, upon  
15 request of such individual.

16 (2) PROVISION AT NO COST TO RECIPIENT.—  
17 Financial services counseling shall be provided under  
18 this section at no cost to the recipient.

19 (b) ANNUAL OUTREACH PLAN.—

20 (1) PLAN REQUIRED.—The Secretary of De-  
21 fense shall, in coordination with the Secretary of  
22 Veterans Affairs and the Secretary of Housing and  
23 Urban Development, develop and implement on an  
24 annual basis a plan for the provision of outreach to  
25 veterans, covered members of the Armed Forces,



1 and their dependents on the financial services coun-  
2 seling available under this section.

3 (2) ELEMENTS.—Each plan under this sub-  
4 section shall include—

5 (A) efforts to identify veterans, covered  
6 members of the Armed Forces, or dependents  
7 who are not otherwise enrolled in or registered  
8 for financial counseling services under other  
9 programs administered by the Secretary of De-  
10 fense or the Secretary of Veterans Affairs; and

11 (B) provisions for informing veterans, cov-  
12 ered members of the Armed Forces, and their  
13 dependents about loan modification programs,  
14 workout plans, foreclosure prevention, and  
15 other financial counseling programs available to  
16 them through the Department of Defense, the  
17 Department of Veterans Affairs, the Depart-  
18 ment of Housing and Urban Development, non-  
19 profit organizations, and other Federal, State,  
20 and local initiatives.

21 (3) CONSULTATION.—In developing each plan  
22 under this subsection, the Secretary of Defense shall  
23 consult with, at a minimum, the following:

24 (A) Directors or other responsible officials  
25 of veterans service organizations.

1 (B) Representatives of other outreach pro-  
2 grams for veterans.

3 (C) Nonprofit organizations.

4 (D) Other appropriate Federal, State, or  
5 local government agencies, individuals, or orga-  
6 nizations.

7 (c) COVERED MEMBER OF THE ARMED FORCES DE-  
8 FINED.—In this section, the term “covered member of the  
9 Armed Forces” means a member of the Armed Forces,  
10 including a member of a Reserve component of the Armed  
11 Forces, who serves on active duty in the Armed Forces—

12 (1) in Iraq as part of Operation Iraqi Freedom;  
13 or

14 (2) in Afghanistan as part of Operation Endur-  
15 ing Freedom.

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