



## Military Foreclosure Fact Sheet



There are a number of resources available to Servicemembers who are facing foreclosure. The following is a brief overview of these resources to assist Servicemembers who are navigating the foreclosure process. Which resources are available in a given situation can vary greatly, so make an appointment to meet with an attorney at the Legal Assistance Office to assess your individual options.

### **The Servicemembers' Civil Relief Act (SCRA)**

The SCRA gives several protections to Servicemembers who are facing foreclosure. If a Servicemember has a pre-active duty mortgage with interest rates above 6%, then they can notify the lender of their active duty status and have the rate reduced to 6%. The lender must be provided with a copy of military orders. The interest rate must remain at or below 6% for the remainder of the member's active duty service, and for 1 year after the conclusion of active duty service. The length of the mortgage term does not affect the 6% interest cap. Interest on adjustable rate mortgages (ARMS) is also capped. The lower interest rate, and corresponding lower payment, may allow the Servicemember to avoid foreclosure altogether.

The SCRA also provides protects Servicemembers from foreclosure while they are deployed. The SCRA guarantees at a minimum a 90 day delay in all civil proceedings, including foreclosures, when the member's service precludes participating in the proceedings. This allows the Servicemember to concentrate on their mission, and then devote their full attention to the foreclosure process as their military duties allow.

A 2010 amendment to the SCRA requires that, regardless of state law or mortgage provisions, any foreclosure on an active duty Servicemember must be a judicial foreclosure. Procedures for non-judicial foreclosure vary greatly depending on local state law, but requiring a judicial foreclosure ensures that the Servicemember's foreclosure is presided over by a judge. This is important because the same 2010 amendment to the SCRA gives discretion to the presiding judge over a foreclosure action to stay the foreclosure for as long as equity and justice require.

### **Department of Defense Homeowners Assistance Program (HAP)**

HAP was originally established to assist homeowners whose property values were damaged by the closure of nearby military installations. However, it was more recently expanded to assist Servicemembers harmed by the mortgage crisis. Unfortunately, most of the expanded assistance has since expired. Remaining are provisions that protect Wounded Warriors

who must relocate for medical treatment, and surviving dependant Spouses who relocate within two years of the line of duty death of their Servicemember spouse. Learn more about the HAP at <http://hap.usace.army.mil/homepage.asp>

### **Department of Veterans Affairs**

Many Servicemembers have mortgages that are guaranteed by the VA. This means that the VA agrees to pay your obligation in the event that you default. In exchange, the guaranteed Servicemember may be eligible for better financing than would otherwise be possible. However, when a Servicemember is facing foreclosure, the VA can also be an important asset. They can work with the lender and the Servicemember in order to avoid foreclosure. If you are facing foreclosure, be sure that you contact the VA so that they can assist you in dealing with your lender. You can learn more about the VA's role in the foreclosure process at:

[http://www.vba.va.gov/ro/cleveland/foreclosure\\_alternatives.htm](http://www.vba.va.gov/ro/cleveland/foreclosure_alternatives.htm)

### **Additional Information**

**Soldiers and Family members with SCRA questions should contact the Legal Assistance Office at the Office of the Staff Judge Advocate, 9475 Kershaw Road, Fort Jackson. For more information, or to schedule an appointment to speak with an attorney, call 803-751-4287. Office hours are Monday through Friday, 0900 to 1600. Appointments are required except for 0900-1100 on Thursdays, when walk-ins are accepted.**