

110TH CONGRESS
2D SESSION

S. _____

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.

IN THE SENATE OF THE UNITED STATES

Mrs. CLINTON introduced the following bill; which was read twice and referred to the Committee on _____

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.—Paragraph (1)(C) of section 3703(a)
5 of title 38, United States Code, is amended by striking
6 “25 percent of” and inserting “125 percent of”.

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

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

14 “(A) the Consumer Price Index (all items,
15 United States city average) for the 12-month period
16 ending on the June 30 preceding the beginning of
17 the fiscal year for which the increase is made, ex-
18 ceeds

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

22 **SEC. 3. IMPROVEMENT OF GUARANTEE PROCESS FOR PUR-**
23 **CHASE OF CONDOMINIUMS.**

24 The Secretary of Veterans Affairs shall review and
25 streamline the process of guaranteeing home loans under

1 chapter 37 of title 38, United States Code, for the pur-
2 chase of a condominium.

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

5 (a) REPEAL OF LOAN FUNDING FEES REQUIREMENT
6 FOR HOUSING LOANS.—

7 (1) IN GENERAL.—Section 3729 of such title is
8 repealed.

9 (2) CONFORMING AMENDMENTS.—

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

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

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

16 (iii) by striking subparagraph (C).

17 (B)(i) Section 3703 of such title is amend-
18 ed—

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

20 (II) by redesignating subsection (f) as
21 subsection (e).

22 (ii) Section 3732(a)(1) of such title is
23 amended by striking “Except as provided in
24 section 3703(e) of this title, if” and inserting
25 “If”.

1 (C) Section 3722(c) of such title is amend-
2 ed by striking “section 3729 of this title or any
3 other provision of law or” and inserting “any
4 provision of law or any”.

5 (D) Section 3734(b)(2) of such title is
6 amended—

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

8 (ii) by redesignating subparagraphs
9 (B), (C), (D), and (E) as subparagraphs
10 (A), (B), (C), and (D), respectively.

11 (3) CLERICAL AMENDMENT.—The table of sec-
12 tions at the beginning of chapter 37 of such title is
13 amended by striking the item relating to section
14 3729.

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

21 **SEC. 5. LOAN REFINANCING FOR VETERANS IN DANGER OF**
22 **MORTGAGE DEFAULT OR FORECLOSURE.**

23 (a) DECREASE IN EQUITY REQUIREMENT FOR CER-
24 TAIN LOANS.—Subsection (b)(8) of section 3710 of title

1 38, United States Code, is amended by striking “90 per-
2 cent” and inserting “100 percent”.

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

7 **SEC. 6. ENHANCEMENT OF PROTECTIONS FOR MEMBERS**
8 **OF THE ARMED FORCES AGAINST SALE,**
9 **FORECLOSURE, SEIZURE, OR SALE OF MORT-**
10 **GAGED PROPERTY.**

11 (a) EXTENSION OF PERIOD AFTER MILITARY SERV-
12 ICE COVERED BY GENERAL PROTECTIONS.—Section
13 303(c) of the Servicemembers Civil Relief Act (50 U.S.C.
14 App. 533(c)) is amended by striking “90 days” and insert-
15 ing “one year”.

16 (b) ENHANCEMENT OF PROTECTIONS FOR MEMBERS
17 OF THE ARMED FORCES WHO SERVE IN OPERATION
18 IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.—

19 (1) SCOPE OF PROTECTIONS.—This subsection
20 applies to an obligation on real or personal property
21 owned by a covered member of the Armed Forces,
22 regardless of whether entered into before, on, or
23 after the member’s entry onto military service, on
24 which the covered member is still obligated on the
25 member’s entry into military service and that is se-

1 cured by a mortgage, trust deed, or other security
2 in the nature of a mortgage.

3 (2) SALE OR FORECLOSURE.—A sale, fore-
4 closure, or seizure of property for breach of an obli-
5 gation described in paragraph (1) shall not be valid
6 if made during, or within one year after, the military
7 service of a covered member of the Armed Forces.
8 The limitations of this paragraph are not waiveable
9 by a covered member of the Armed Forces pursuant
10 to section 107 of the Servicemembers Civil Relief
11 Act (50 U.S.C. App. 517).

12 (3) PROHIBITION ON ACTIONS FOR NON-
13 PAYMENT OR DEFAULT.—No court shall have juris-
14 diction to hear any civil action against a covered
15 member of the Armed Forces for nonpayment or de-
16 fault on an obligation described in paragraph (1)
17 during, or within one year after, the military service
18 of the covered member.

19 (4) RESPONSIBILITIES OF OBLIGORS.—In the
20 event a sale, foreclosure, or seizure of property for
21 breach of an obligation described in paragraph (1)
22 is prohibited by operation of paragraph (2) or (3),
23 the obligor on the obligation shall—

24 (A) notify the covered member of the
25 Armed Forces concerned, in writing, of the out-

1 standing liability of the covered member for
2 principal and interest on the obligation; and

3 (B) if the obligor determines that a modi-
4 fication of the obligation or a reduction in the
5 outstanding liability of the covered member for
6 principal, interest, or both on the obligation is
7 in the interest of the obligor and the covered
8 member, notify the covered member, in writing,
9 of—

10 (i) such determination; and

11 (ii) the actions to be taken by obligor
12 and the covered member to effectuate the
13 modification or reduction.

14 (5) EFFECT OF PROTECTIONS ON FUTURE FI-
15 NANCIAL TRANSACTIONS.—The application of para-
16 graph (2), (3), (4), or (5) to a covered member of
17 the Armed Forces shall be deemed to constitute the
18 receipt by the covered member of a stay of a civil
19 liability under the Servicemembers Civil Relief Act
20 for purposes of section 108 of that Act (50 U.S.C.
21 App. 518).

22 (6) PENALTIES.—The provisions of section
23 303(d) of the Servicemembers Civil Relief Act (50
24 U.S.C. 533(d)) shall apply to sales, foreclosures, and
25 seizures of property, and attempted sales, fore-

1 closures, and seizures of property, prohibited by
2 paragraph (2),

3 (7) DEFINITIONS.—In this subsection:

4 (A) COVERED MEMBER OF THE ARMED
5 FORCES.—The term “covered member of the
6 Armed Forces” means a member of the Armed
7 Forces, including a member of a reserve compo-
8 nent of the Armed Forces, who serves on active
9 duty in the Armed Forces—

10 (i) in Iraq as part of Operation Iraqi
11 Freedom; or

12 (ii) in Afghanistan as part of Oper-
13 ation Enduring Freedom.

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

19 (i) in Iraq as part of Operation Iraqi
20 Freedom; or

21 (ii) in Afghanistan as part of Oper-
22 ation Enduring Freedom.

23 (8) EFFECTIVE DATE.—This subsection shall
24 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.**

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

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

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

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

25 (b) RULE OF CONSTRUCTION.—No provision of this
26 section shall be construed as limiting the ability of a

1 servicer to enter into loan modifications or workout plans
2 other than qualified loan modification or workout plans.

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

13 (1) law or regulation of the United States;

14 (2) law or regulation of any State or political
15 subdivision of any State; or

16 (3) established and approved standards for best
17 practices of any industry or trade group.

18 (d) DEFINITIONS.—In this section:

19 (1) COVERED MEMBER OF THE ARMED
20 FORCES.—The term “covered member of the Armed
21 Forces” means a member of the Armed Forces, in-
22 cluding a member of a reserve component of the
23 Armed Forces, who serves on active duty in the
24 Armed Forces—

1 (A) in Iraq as part of Operation Iraqi
2 Freedom; or

3 (B) in Afghanistan as part of Operation
4 Enduring Freedom.

5 (2) QUALIFIED LOAN MODIFICATION OR WORK-
6 OUT PLAN.—The term “qualified loan modification”
7 or “workout plan” means a modification or plan
8 that—

9 (A) is scheduled to remain in place until
10 the covered member of the Armed Forces con-
11 cerned sells or refinances the property, or for at
12 least 5 years from the date of adoption of the
13 plan, whichever is sooner;

14 (B) does not provide for a repayment
15 schedule that results in negative amortization
16 at any time;

17 (C) does not require the covered member
18 to pay additional points and fees;

19 (D) materially improves the ability of the
20 covered member to—

21 (i) prevent foreclosure; and

22 (ii) resume a reasonable repayment
23 schedule, as such schedule may be based
24 on the total debt to income ratio of the
25 covered member;

1 (E) would reasonably reduce the likelihood
2 of default of foreclosure during the life of the
3 modification or plan;

4 (F) may waive any prepayment penalties
5 that reasonably inhibited the covered member
6 from fulfilling his or her ability to pay down the
7 principal on such residential mortgage loan or
8 maintain regular payments on such residential
9 mortgage loan, as such regular payments may
10 be defined by the terms of the residential mort-
11 gage loan; and

12 (G) includes full and accurate disclosure to
13 the covered member of the terms of the modi-
14 fication or workout plan, provided that such
15 disclosures are executed in easy to understand
16 terms that demonstrate how the covered mem-
17 ber will benefit from the new terms in such
18 modification or workout plan as compared with
19 the terms and conditions of the previous resi-
20 dential mortgage loan of the covered member.

21 (3) RESIDENTIAL MORTGAGE LOAN.—The term
22 “residential mortgage loan” means a loan that is se-
23 cured by a lien on an owner-occupied residential
24 dwelling.

1 (4) **SERVICER.**—The term “‘servicer’” has the
2 same meaning as in section 6(i)(2) of the Real Es-
3 tate Settlement Procedures Act (12 U.S.C.
4 2605(i)(2)).

5 (5) **SECURITIZATION VEHICLE.**—The term
6 “securitization vehicle” means a trust, corporation,
7 partnership, limited liability entity, special purpose
8 entity, or other structure that—

9 (A) is the issuer, or is created by the
10 issuer, of mortgage pass-through certificates,
11 participation certificates, mortgage-backed secu-
12 rities, or other similar securities backed by a
13 pool of assets that includes residential mortgage
14 loans; and

15 (B) holds such loans.

16 **SEC. 8. FINANCIAL SERVICES COUNSELING ON MORT-**
17 **GAGES AND MORTGAGE FORECLOSURES FOR**
18 **MEMBERS OF THE ARMED FORCES WHO**
19 **SERVE IN OPERATION IRAQI FREEDOM OR**
20 **OPERATION ENDURING FREEDOM, VET-**
21 **ERANS, AND THEIR DEPENDENTS.**

22 (a) **COUNSELING REQUIRED.**—

23 (1) **IN GENERAL.**—The Secretary of Defense, in
24 coordination with the Secretary of Veterans Affairs
25 and the Secretary of Housing and Urban Develop-

1 ment, shall provide financial services counseling re-
2 lating to mortgages and mortgage foreclosures to a
3 veteran, covered member of the Armed Forces, or
4 dependent of such veteran or covered member, upon
5 request of such individual.

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

9 (b) ANNUAL OUTREACH PLAN.—

10 (1) PLAN REQUIRED.—The Secretary of De-
11 fense shall, in coordination with the Secretary of
12 Veterans Affairs and the Secretary of Housing and
13 Urban Development, develop and implement on an
14 annual basis a plan for the provision of outreach to
15 veterans, covered members of the Armed Forces,
16 and their dependents on the financial services coun-
17 seling available under this section.

18 (2) ELEMENTS.—Each plan under this sub-
19 section shall include—

20 (A) efforts to identify veterans, covered
21 members of the Armed Forces, or dependents
22 who are not otherwise enrolled in or registered
23 for financial counseling services under other
24 programs administered by the Secretary of De-
25 fense or the Secretary of Veterans Affairs; and

1 (B) provisions for informing veterans, cov-
2 ered members of the Armed Forces, and their
3 dependents about loan modification programs,
4 workout plans, foreclosure prevention, and
5 other financial counseling programs available to
6 them through the Department of Defense, the
7 Department of Veterans Affairs, the Depart-
8 ment of Housing and Urban Development, non-
9 profit organizations, and other Federal, State,
10 and local initiatives.

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

14 (A) Directors or other responsible officials
15 of veterans service organizations.

16 (B) Representatives of other outreach pro-
17 grams for veterans.

18 (C) Nonprofit organizations.

19 (D) Other appropriate Federal, State, or
20 local government agencies, individuals, or orga-
21 nizations.

22 (c) COVERED MEMBER OF THE ARMED FORCES DE-
23 FINED.—In this section, the term “covered member of the
24 Armed Forces” means a member of the Armed Forces,

1 including a member of a reserve component of the Armed
2 Forces, who serves on active duty in the Armed Forces—
3 (1) in Iraq as part of Operation Iraqi Freedom;
4 or
5 (2) in Afghanistan as part of Operation Endur-
6 ing Freedom.