

VALERI Servicer Newsflash

Friday, January 28, 2011

IMPORTANT SPECIAL REMINDER SCRA PROTECTIONS FOR ACTIVE DUTY MILITARY

VA would like to remind our partners in serving the nation's veterans and servicemembers of the mortgage-related protections for members of the military under the Servicemembers' Civil Relief Act (SCRA), 50 U.S.C. App. §§ 501, *et seq.* This reminder should not be construed as providing legal advice, but only a reminder to seek competent counsel when questions arise, and to establish appropriate controls to comply with SCRA.

Stated simply, ***SCRA is intended to protect servicemembers from the possible serious legal and financial consequences of their military service.*** For example, the servicemember's income may decline due to active service or deployment, making the mortgage payments less affordable, or the servicemember may be unable to appear in a court proceeding, or even be aware of a proceeding involving his or her property while serving abroad.

SCRA and Mortgages

A number of SCRA provisions may apply to VA and any other mortgages, and protect servicemembers who obtained their mortgages before entering active duty military service. Other provisions may apply even for mortgages originated after entry into active duty. VA expects every servicer of VA-guaranteed loans to diligently follow all requirements of SCRA to provide its benefits to all eligible borrowers. VA is not charged with enforcing SCRA, as that is delegated to any court of competent jurisdiction of the United States or of any State. Special attention should be paid to the following:

- SCRA section 527 caps the interest rate on all debt incurred prior to military service, including a home loan, at six percent during the individual's military service. The note holder must forgive any amount of interest above six percent to which they would otherwise have been entitled during that period.
- A court must approve the sale, foreclosure, or seizure of a home to enforce the mortgage during or within 9 months after the servicemember's military service, even if court approval would not otherwise be necessary. This provision is in SCRA section 533(b).
- A judge may stay an action to enforce a servicemembers' mortgage if his or her service has affected the ability to fulfill the obligation, pursuant to SCRA section 533(b).

Establishing SCRA Eligibility

Please be aware that all servicemembers may not be fully informed about their rights under SCRA. We request that servicers make reasonable efforts to determine whether an individual may be entitled to SCRA mortgage protection, as well as inform borrowers of potentially applicable protections. You can research information about whether servicemembers are on active duty in a Department of Defense database located here:

<https://www.dmdc.osd.mil/appj/scra/scraHome.do>.

Final Thoughts

We appreciate all that you do to help veterans and servicemembers realize their dreams of homeownership. We hope that you will continue to show our military families the Nation's gratitude for their sacrifices by ensuring they receive every consideration possible when facing mortgage difficulties.