



SCRA Foreclosure Protections Extended Once Again

The phrase “better late than never” sometimes seems to be the motto for Congress and the President. Recently, President Obama signed into law Senate Bill S. 2393, the Foreclosure Relief and Extension for Servicemembers Act of 2015 (P.L. 114-142), that revives the one year foreclosure protection provisions under the Servicemembers Civil Relief Act (50 USC 3901 *et seq.*). Under the measure, the 12-month provision is in effect until December 31, 2017.

The SCRA provides certain protections to servicemembers and their dependents. Among other things, Section 3953 addresses obligations that are secured by a mortgage or trust deed on a servicemember's real property. The statute, as originally enacted, permits a court to either stay a proceeding or adjust the obligation to preserve the interests of the parties in an action filed during, or within 90 days following, a servicemember's period of military service. Note that the court's authority is limited to actions pertaining to obligations that were originated before the start of the servicemember's period of military service.

Recall that Congress amended the 90-day period a few times. First, the Housing and Economic Recovery Act of 2008 extend the timeframe from 90 days to nine months following a servicemember's period of military service. Then came the Honoring America's Veterans Act of 2012, which increased the timeframe to 12 months. That 12-month period originally expired in December 2014, but was extended to December 31, 2015 with the enactment of the Foreclosure Relief and Extension for Servicemembers Act of 2014 (not to be confused with the recently enacted 2015 Act of the same name). Thus, on December 31, 2015 the 12-month foreclosure protection period ended and, as a result, beginning in January 2016 the protections from foreclosure, sale or seizure reverted back to apply for a period of only 90 days after the end of the servicemember's military service.

However, the recently enacted Foreclosure Relief and Extension for Servicemembers Act of 2015 (FRESA 2015), has once again reinstated the 12-month provision. Specifically, as a result of the enactment of FRESA 2015, in an action secured by a mortgage, trust deed or other security in the nature of a mortgage on a servicemember's real or personal property, a court may either stay a proceeding or adjust the obligation to preserve the interests of the parties in an action filed during, or within one year after, the servicemember's period of military service. Again, this 12-month foreclosure protection period remains in effect until December 31, 2017. At that point, whether Congress will act to extend the provision or maybe even make it permanent is anyone's guess.