

SENATE BILL REPORT

ESHB 3101

As Reported By Senate Committee On:
Judiciary, February 27, 2004

Title: An act relating to foreclosures and sales.

Brief Description: Restricting a trustee's sale, foreclosure, or seizure of property belonging to a service member on deployment.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Darneille, G. Simpson, Campbell, Romero, Upthegrove, Ormsby, Morrell, Kenney and O'Brien).

Brief History:

Committee Activity: Judiciary: 2/26/04, 2/27/04 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Haugen, Johnson, Kline and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: The federal Servicemember's Civil Relief Act (SCRA) contains numerous protections for service members whose financial and legal obligations may be adversely impacted by active military duty. These protections include, among others: staying court proceedings if the service member is unable to defend his or her interests in the proceeding; reducing interest rate obligations on pre-service loans to 6 percent; and restricting the ability of a landlord to evict the service member's family for nonpayment of rent in certain situations.

The SCRA protects service members from foreclosures on property under a mortgage or deed of trust during a period of military service or within 90 days after a period of military service. If the military service affects the service member's ability to meet the mortgage or deed of trust obligation, a court must either: (1) stay any judicial proceeding seeking to enforce the obligation; or (2) adjust the obligation to preserve everyone's interest. In addition, the SCRA makes invalid a sale, foreclosure, or seizure of property for breach of a mortgage or deed of trust obligation, if it occurs during or within 90 days after a period of military service, unless: (1) there is a court order for foreclosure granted prior to the foreclosure; or (2) the service member waived the protection against foreclosure in writing during or after the period of military service.

Property taxes are collected by county treasurers. Delinquent property tax payments are subject to interest and penalties specified in statute. A special provision was enacted in 1996, waiving interest and penalties on delinquent 1996 property taxes, from April 30, 1996 through December 31, 1996, on the personal residences owned by military personnel who participated in "Joint Endeavor."

Summary of Amended Bill: All of the rights, duties, and privileges conveyed under the SCRA apply to deeds of trust in Washington.

Interest and penalties may not be imposed on delinquent 2003 and 2004 property taxes, from April 30, 2003 through April 30, 2005, on the personal residences owned by military personnel who participated in "Operation Enduring Freedom."

Amended Bill Compared to Substitute Bill: The amendment clarifies that the Servicemember's Civil Relief Act applies to deeds of trust. It provides that counties may not charge interest or penalties from April 3, 2003, to April 30, 2005, on personal residence property taxes for military personnel participating in Operation Enduring Freedom.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Soldiers have a tough enough time serving their country. We need to support our troops. It is hard for soldiers to address legal issues from halfway around the world. Financial institutions are doing their best to inform soldiers of their rights.

Testimony Against: None.

Testified: PRO: Representative Darnielle, prime sponsor; Frank Scoggins, Washington Military Department; Gary Gardner, BECU; Denny Eliason, Washington Banker's Association.