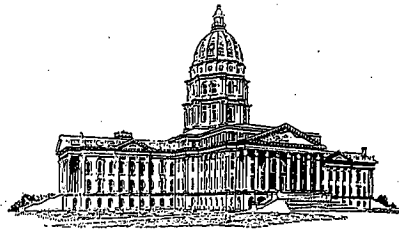


STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL
TOPEKA, KANSAS 66612
1-800-432-3924 (during session)
melanie.meier@house.ks.gov



31301 175TH STREET
LEAVENWORTH, KS 66048
913-683-1610

MELANIE MEIER
40TH DISTRICT

Dear Chairman Kinzer and fellow members of the committee,

Thank you for taking the time to hear HB2297 today.

In December 2003, the President signed the federal Servicemembers' Civil Relief Act (SCRA) into law. It rewrote and amended the Soldiers' and Sailors' Civil Relief Act of 1940. Despite an entire chapter of the SCRA dedicated to housing protection, an additional Foreclosure Protection Act was passed by the US Senate in April 2008 to provide returning servicemembers extended protection from foreclosure from 90 days to nine months.

Despite these federal safeguards, there are still cases in the news about deployed servicemembers returning home from war to find their home is no longer theirs. Almost every case of wrongful foreclosure was explained by saying that the mortgage lender did not know the servicemember was deployed. However, there are cases where the lenders knew the servicemember was deployed but they proceeded with the foreclosure anyway.

HB2297 intends to prevent such cases.

It directs lenders to determine if a plaintiff is a military member or dependent of a military member. It directs that a stay be granted for 180 days (that should actually be 270 days to align with SCRA) and it provides for what to do if a foreclosure judgment is made when it should not have.

However, in its current form HB2297 only covers the National Guard and Reserve component servicemembers in Kansas. I would propose amending it to include all servicemembers.

I have also attached a draft bill that the Revisors' Office provided that may be a more simple and direct way to address the issue. It directs the court to stay proceedings until 270 days after the servicemember's return, to set aside a judgment that is in violation of the statute, and it directs a monetary penalty for knowingly foreclosing on a deployed servicemember. In addition, it establishes a fund in the state treasury the penalty funds to be used by the Kansan Commission on Veterans Affairs to benefit servicemembers and their dependents.

Thank you again for your time and attention to this issue.

Melanie Meier

2012
HOUSE BILL NO. _____

AN ACT concerning mortgages of real property; relating to stays of mortgage foreclosure proceedings against service members.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:

- (1) "Dependent" means a service member's spouse or a service member's minor child.
 - (2) "Deployment" means the temporary transfer of a service member serving in an active-duty status to another location in support of combat or other military operation.
 - (3) "Mobilization" means the call-up of a national guard or reserve service member to extended active-duty status. "Mobilization" does not include national guard or reserve annual training.
 - (4) "Service member" means any member serving in an active-duty status in the armed forces of the United States, the national guard or the armed forces reserves.
 - (5) "Temporary duty" means the transfer of a service member from one military base to a different location for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.
 - (6) "Unaccompanied tour" means a permanent change of station for a service member where dependent travel is not authorized.
- (b) The court shall stay proceedings in any action for mortgage foreclosure where the defendant is a service member or dependent of a service member and such service member is absent from the United States due to receipt of deployment, mobilization, temporary duty or unaccompanied tour orders from the United States military. Proceedings shall be stayed until nine months after the end of the service member's period of military service outside of the United States.
- (c) Whenever a real estate mortgage has been foreclosed by judgment of the district court in any county in the state of Kansas in violation of this section, such judgment shall be set aside as invalid or void.
- (d) A person, corporation, partnership or other legal entity shall not foreclose or attempt to foreclose with the knowledge that such foreclosure is invalid under this section. Any entity who violates this subsection is subject to a civil fine not to exceed \$2,000.
- (e) The attorney general may file an action in the district court in any county in the state of Kansas for violation of this section, including enforcement costs and attorney's fees. Each violation under this section constitutes a separate civil violation for which the attorney general may obtain relief.

Sec. 2. (a) There is hereby established in the state treasury the service member benefit fund which shall be administered by the Kansas commission on veterans affairs. All expenditures from the service member benefit fund shall be for benefits or services for any service member serving in an active-duty status in the armed forces of the United States, the national guard or the armed forces reserves, or such service member's spouse or minor child.

(b) All moneys recovered under section 1, and amendments thereto, by the attorney general shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the service member benefit fund.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

example
lynn rolf [feznt6@yahoo.com]

Sent: Monday, January 23, 2012 1:22 PM
To: Melanie Meier
Cc: Melanie Meier [meiermel@hotmail.com]

here is a powerful example we can use for both the foreclosure and the VCAp grant money for your testimony

Shane Anderson, 40, will never forget watching the horror.

"I was sitting in my living room watching as the towers fell on 9/11, and I knew I'd be going to war."

Anderson joined the Army Reserves just six months earlier to serve his country, set a good example for his young son Kristian and help his family financially.

Anderson's predictions held true. In August 2005, he was deployed to Iraq after training at Fort Bliss.

"I remember arriving in Mosul thinking, 'I'm going to die,' " Anderson described. "I signed up to be a mechanic, but they put me in the gunner's seat. Nothing—no amount of training—could have prepared me for it."

Several months into his deployment, he was involved in a serious accident.

"I was in a convoy, and a truck ahead of me slammed on his brakes. My neck hyperextended. I heard a snap and felt the heat coming down my body," he said. "My vertebra was sheared down the middle."

In all, Anderson will tell you he spent "11 months, three weeks and four days in Iraq."

"More than 200 missions later, I had experienced it all ... sniper bullets, mortar attacks, you name it," he said.

When Anderson came home in 2006, there was a new war afoot.

"My house had been foreclosed on. Our savings were gone, and my credit was destroyed," he said. "My wife and son were living with my parents."

The injury left Anderson in constant pain, and he was suffering from severe Post Traumatic Stress Disorder.

"I was home, but mentally I was still in Iraq," he said. "I mounted cameras in my parent's yard for surveillance and rarely left the basement. I wasn't sleeping at all. Truth is, I

came back a broken person.”

Then, things turned even worse.

“My marriage fell apart, and both of my parents died within a couple years of each other,” he said.

After his divorce, Anderson hit rock bottom and found himself living in his car for months.

“I would try and find a park to pull into during the cold nights,” he said. “It was pretty rough.”

His girlfriend Meghan Hunter could see he was on a downward spiral and got in touch with the VA and VFW.

Mark Lamb, VFW Utah Service Officer, jumped in to help. Because Anderson was homeless, Lamb insisted the VA expedite his claim for 100% Individual Unemployability.

“I’ll never forget the day Mr. Lamb called with the news that my claim was approved,” Anderson said. “I woke up the next day, and still couldn’t believe it. This program changed my life.”

Today, Anderson is living in a small apartment and taking his recovery one day at a time.

Hunter is eternally grateful for the “amazing support.”

“I feel like we have a future now,” she said, holding back tears. “We feel so blessed. I wish every soldier were so lucky.”

“My life is more comfortable,” Anderson echoed with gratitude. “I go to the VA a lot, and I’ve met many Vietnam veterans who are helping me through. Although they weren’t in *my* war, they were *in* war. They’re some of my best friends.”

For all his sacrifice and pain, Anderson resists the title of hero.

“I’m just like anybody else,” he said. “I did my duty.”

Lynn W. Rolf III Kansas VFW Jr. Vice Commander (C) 913.290.1754 Text “VFW” to 90999 to make a \$10 donation to the VFW Text “RETURN” to 90999 to make a \$10 donation to the Return the Favor campaign Text “NEEDS” to 90999 to make a \$10 donation to the Unmet Needs program Text “CALL” to 90999 to make a \$5 donation to the Operation Uplink program

From: Rick Butler <RButler@vfw.org>
To: "'feznt6@yahoo.com'" <feznt6@yahoo.com>
Cc: Michael Penney <MPenney@vfw.org>; Linda Ferguson <LFerguson@vfw.org>
Sent: Monday, January 23, 2012 3:08 PM
Subject: VFW Unmet Needs

Mr. Lynn Rolf,

Thank you for your time on the phone today, if a home is in foreclosure, we would not assist since it would already be classified as a civil matter and by the time foreclosure notice is received on a property the need is far greater than what the Unmet Needs Program could provide.

Since 01 January 2011 Unmet Needs assisted three Kansas families with rent for a total of \$2629.81 and assisted with a mortgage payment to one Kansas family in the amount of \$847.05.

In Kansas since 2004, 105 families have been assisted by Unmet Needs in the amount of \$164,915.71, of that \$40,506.56 was for rent and \$30,775.94 was for mortgage payments.

Nationally, Unmet Needs has provided a total of \$4,342,129.25 in assistance to service members and their families since 2004. Of that \$2,089,951.67 has been used to pay rent or a mortgage payment.

Please call me if you have any questions or need more information.

V/r

Rick Butler
Unmet Needs Program Supervisor
VFW National Military Services
406 W. 34th Street
Kansas City, MO 64111
Phone: 816-968-1144
Fax: 816-968-2779

Bloomberg

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CitiMortgage Sued by Iraq War Veteran Over Home Foreclosure

By Bob Van Voris - Jul 8, 2011

A Citigroup Inc. (C) unit was sued by an Iraq War veteran who claims the lender illegally foreclosed on his home while he was on active military duty.

Jorge Rodriguez, a U.S. Army sergeant, claimed in a complaint filed today in federal court in Manhattan that he was in training in preparation for deployment to Iraq in 2006 when CitiMortgage filed a foreclosure suit against his home in Del Valle, Texas.

CitiMortgage lawyers falsely said in an affidavit that Rodriguez wasn't on active service at the time, depriving him of protection under the Servicemembers Civil Relief Act, or SCRA, according to the complaint. Rodriguez is seeking to have the suit certified as a class action against CitiMortgage on behalf of other service members whose homes were foreclosed.

"This was not an isolated incident," Rodriguez said in the complaint. Beginning in December 2003, "CitiMortgage initiated thousands of foreclosure proceedings across the United States without adequate safeguards to ensure that service members on active duty were not targeted by CitiMortgage's foreclosures."

The suit seeks unspecified damages and an order restoring to service members possession of properties foreclosed in violation of the SCRA.

Sean Kevelighan, a Citigroup spokesman, said the bank is looking into the matter.

SCRA protections for active-duty members of the military include a 6 percent cap on pre-service loans, limits on court proceedings and a ban on foreclosures without court approval.

Bank of America Corp. (BAC) and Morgan Stanley agreed in May to pay \$22.4 million to resolve U.S. allegations that they improperly foreclosed on active-duty soldiers. JPMorgan Chase & Co. earlier agreed to a \$56 million settlement of claims that it illegally overcharged military personnel on home loans.

The case is Rodriguez v. CitiMortgage Inc., 11-cv-04718, U.S. District Court, Southern District of New York (Manhattan).

To contact the reporter on this story: Bob Van Voris in New York at rvanvoris@bloomberg.net

To contact the editor responsible for this story: Michael Hytha at mhytha@bloomberg.net

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