

U.S. House: Give Special Consideration to Foreclosed Service Members with Security Clearance

By Christopher Graham

For members of the armed services, a foreclosure often represents a kiss of death for their security clearance and, consequently, their high-paying jobs. That, however, could change under legislation recently approved by the U.S. House of Representatives.

In late May, the House overwhelmingly passed the National Defense Authorization Act for Fiscal Year 2012 (H.R. 1540

). The legislation included a provision requiring the Secretary of Defense to give "special consideration" during the security clearance adjudication process to service members with a record of foreclosure on their credit reports. Given how frequently foreclosures trigger security clearance denials, this proposal could help service members keep their jobs by forcing the U.S. Department of Defense to stop viewing foreclosure actions as a black-and-white issue.

When adjudicating security clearance cases, government decision makers put a lot of weight on the amount of debt service members have, its cause and what steps they took to remedy their financial situation. Adjudicators want to see that the individual made a good-faith attempt to address the financial problem, and a foreclosure usually does not send that message. However, given the weakened state of the housing market and the growing prevalence of wrongful foreclosure actions initiated by lenders, this special consideration requirement is especially necessary. Timely, too.

It remains to be seen how the Defense Department will interpret this "special consideration" requirement and whether it would result in more service members with foreclosures on their credit records keeping their security clearance. The agency would have 180 days after the legislation's enactment to issue regulations on how to carry out the provision.

It is discouraging to see that this special consideration provision was not extended to all types of security clearance, barring any evidence of reckless financial activities. Federal employees and contractors as well as service members are all being adversely impacted by the nation's foreclosure crisis. Just last April, one in every 593 U.S. housing units had received a foreclosure filing, according to RealtyTrak.com. The proposal, however, still needs to pass the Senate. The special consideration proposal was not included in the draft of the National Defense Authorization Act for Fiscal Year 2012 that was introduced in the Senate on May 12, but neither was it included in the initial draft introduced in the House in April.

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