



DLT ALERT

For Clients and Friends of DREHER LANGER & TOMKIES L.L.P.

November 4, 2008

OCC ISSUES GUIDANCE ON AMENDED SERVICEMEMBERS CIVIL RELIEF ACT

The Office of the Comptroller of the Currency issued a Bulletin providing guidance on the provisions of the Servicemembers Civil Relief Act ("SCRA"), 50 App. U.S.C. §§ 501 *et seq.*, that are most likely to affect national banks. OCC Bulletin 2008-30 (Oct. 24, 2008). The Bulletin supersedes OCC Advisory Letter 2004-8 of June 18, 2004 and provides information on servicemember protections with respect to (i) interest rates, (ii) mortgages and trust deeds, (iii) installment contracts and leases, (iv) eviction, (v) exercise of rights, (vi) waiver of rights, (vii) business or trade obligations and (viii) dependents and persons secondarily liable.

The Bulletin specifically addresses the amendments made to the SCRA by the Housing and Economic Recovery Act of 2008 ("HERA"), which became effective July 30, 2008. The SCRA generally requires creditors to forgive (not merely defer) interest in excess of six percent per year on obligations incurred by a servicemember before the servicemember entered military service. "Interest" for purposes of this limitation is not limited to the periodic interest rate, but rather is defined to include service charges, renewal charges, fees or any other charges (except bona fide insurance). The HERA amended the SCRA six percent interest rate limitation to apply during the period of military service and for one year thereafter with respect to credit obligations secured by a mortgage, trust deed or "other security in the nature of a mortgage." In addition, the HERA amended the SCRA to prohibit, with limited exceptions, the sale, foreclosure or seizure of property based on a breach of an obligation secured by a mortgage, trust deed or other security in the nature of a mortgage on real or personal property owned by a servicemember during the period of the servicemember's military service, or within nine months after the end of the period of military service (a related provision applies to any legal action to enforce any such obligation).

Please let us know if you have any questions or would like a copy of the Bulletin.

□ *Michael Tomkies and Chuck Gall*

Darrell L. Dreher
ddreher@dltlaw.com

Judith M. Scheiderer
jscheiderer@dltlaw.com

Elizabeth L. Anstaett
eanstaett@dltlaw.com

Charles V. Gall
cgall@dltlaw.com

Susan L. Ostrander
sostrander@dltlaw.com

DREHER LANGER & TOMKIES L.L.P.

Attorneys at Law

2250 Huntington Center, 41 S. High Street
Columbus, Ohio 43215

Telephone: (614) 628-8000 / Facsimile: (614) 628-1600
WWW.DLTLAW.COM

Michael C. Tomkies
mtomkies@dltlaw.com

Margaret M. Stolar
mstolar@dltlaw.com

Robin R. De Leo
robin@dreher-la.com

Vanessa A. Nelson
vnelson@dltlaw.com

Kathleen L. Caress
kcaress@dltlaw.com

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