



## **ASA DIX LEGAL BRIEF**

A PREVENTIVE LAW SERVICE OF THE JOINT READINESS CENTER LEGAL SECTION  
UNITED STATES ARMY SUPPORT ACTIVITY DIX  
*KEEPING YOU INFORMED ON YOUR PERSONAL LEGAL NEEDS*

# ***HOMEOWNERS ASSISTANCE PROGRAM***

## ***Expanded by the American Recovery and Reinvestment Act of 2009***

The American Recovery and Reinvestment Act of 2009 (ARRA) and Department of Defense (DoD) implementing guidance expanded the Homeowners Assistance Program (HAP) to provide benefits to Wounded, Ill or Injured members of the Armed Forces, Surviving Spouses of Fallen Warriors, BRAC 05 Impacted Personnel (non-causal), and PCSing Service Members. This act provides some monetary relief for eligible Federal personnel, both military (including Coast Guard) and DoD civilians faced with losses on the sale of their primary residence when there is no present market for the sale of such property upon reasonable terms and conditions. The Department of Defense designated the U.S. Army as executive agent for the HAP. The U.S. Army Corps of Engineers administers the program for the Department of Defense and the Coast Guard. Working with installation commanders and housing officials, the U.S. Army Corps of Engineers district realty specialists will offer all possible assistance in determining and disbursing HAP benefits to eligible homeowners.

**Support to Military and Civilian Employee Wounded Support is provided to Wounded, Ill or Injured members of the Armed Forces, DoD civilians, and U.S. Coast Guard employees as follows:**

- (1) Wounded members of the Armed Forces:
  - (a) Who receive a disability rating of 30% or more for an unfitting condition, or who are eligible for Servicemembers' Group Life Insurance Traumatic Injury Protection Program, or whose treating physician (in a grade of at least captain in the Navy or Coast Guard or colonel in the Army or Air Force) certifies that the member is likely, by a preponderance of the evidence, to receive a disability rating of 30% or more for an unfitting condition for wounds, injuries, or illness incurred in the line of duty while deployed, and who:
  - (b) Are reassigned in furtherance of medical treatment or rehabilitation, or due to retirement in connection with such disability, and
- (2) Civilian employees of DoD (excluding temporary employees or contractors, but including employees of Non-Appropriated Fund instrumentalities) who:
  - (a) Suffer a wound, injury, or illness (not due to own misconduct), on or after September 11, 2001, in the performance of duties while forward deployed in support of the Armed Forces, whose treating physician certifies the employee will receive a 30% or more disability rating, and

(b) Relocate from their primary residence in furtherance of medical treatment, rehabilitation, or due to medical retirement resulting from the wound, injury, or illness.

(3) Both military and civilian personnel must establish an adequate nexus or link between the wound, injury, or illness and the decision to relocate from their primary residence, e.g., the need to be closer to a hospital or a family member caregiver or the need to find work more accommodating to the wound, injury, or illness.

### **Support to Surviving Spouses of Fallen Warriors**

The HAP provides benefits to spouses of Servicemembers and DoD civilians and Coast Guard employees killed or died of wounds as follows:

(a) Whose spouse dies as the result of a wound, injury, or illness incurred while deployed (or forward deployed for civilian employees) on or after September 11, 2001, and (b) Who relocates from the spouse's or civilian employee's primary residence within two years of the death of spouse.

### **Support to BRAC 05 Impacted Personnel (non-causal)**

The HAP provides benefits to military and civilian personnel serving at installations/organizations included in the BRAC 05 announcement where no causal relationship can be proven between the announced closure or realignment and a decline in the real estate market. The following criteria must be met:

- (a) Owner occupant on announcement date, 13 May 2005; and
- (b) The county/city/parish where the home is located suffered a loss equal to or greater than 10%; and
- (c) The value of the home also suffered a loss equal to or greater than 10%; and
- (d) Retiring personnel are only eligible if their position is moved or eliminated; and
- (e) They must relocate at least 50 miles (installation to installation); and
- (f) Sell their home between 1 July 2006 and 30 September 2012.

### **Support to Military Service Members PCSing**

The HAP provides benefits to members of the Armed Forces, being permanently reassigned as follows:

- (a) PCS orders dated between 1 February 2006 and 30 September 2012.
- (b) The owner is permanently reassigned by order of the United States Government to a duty station or homeport outside a 50 mile radius of the base or installation; and,
- (c) The property was purchased before 1 July 2006.
- (d) The property is the primary residence of the owner; and
- (e) The owner has not previously received ARRA Expanded HAP benefit payments.

## **Additional Eligibility Requirements**

The home purchase price may not exceed an amount equal to the Fannie Mae/Freddie Mac conforming loan limits (as amended by the ARRA of 2009). These conforming loan limits range from \$417,000 to \$729,500. They apply for the duration of the Expanded HAP and are established for each city/county/parish. These loan limits are listed on the HAP website.

### **The following are not eligible for Expanded HAP benefits:**

- (1) Members who retire prior to reaching their mandatory retirement date,
- (2) Members who are a new accession into the Armed Forces or who are otherwise entering active duty,
- (3) Members who are voluntarily separated or discharged,
- (4) Members whose separation or discharge is characterized as less than honorable,
- (5) Members who request and receive voluntary Release From Active Duty (REFRAD),
- (6) Members who are REFRAD for misconduct or poor performance.

Of importance, President Obama signed HR 3548, Unemployment Compensation Extension Act of 2009, into law and thereby exempted Expanded HAP benefit payments from taxation. Applicants who received benefits and had taxes withheld, may apply for refunds from the Internal Revenue Service when they submit their tax returns.

General program information and points of contact can be found on the HAP web site, <http://hap.usace.army.mil/>.