
SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

Public Law 108-189

Effective December 19, 2003

50 U.S.C. App. §§501-596



U.S. AIR FORCE

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PURPOSE OF THE SCRA

- (1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and
 - (2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.
-

SUPREME COURT ON SSCRA

“Protect those who have been obliged to drop their own affairs to take up the burdens of the nation.”

Boone v. Lightner 319 U.S. 561, 575 (1943)



CONGRESS ON SSCRA

“The Shylock, to whom his pound of flesh is dearer than patriotism, is not the only man against whom the soldier must be given relief.”

House Military Affairs Subcommittee Report, 1917

LIBERAL CONSTRUCTION

“The Act should be read with an eye friendly to those who dropped their affairs to answer their country's call.”

Le Maistre v. Leffers, 333 U.S. 1, 6 (1948)

NEW, IMPROVED SCRA

- On 19 December 2003, President Bush signed the SCRA, a complete revision of the SSCRA.
- The SCRA was written to:
 - clarify the language of the SSCRA
 - to incorporate and codify many years of judicial interpretation of the SSCRA
 - to update the SSCRA to reflect developments in American life since 1940

2004 Amendments

- **Judgment defined:**
 - **“Any judgment, decree, order or ruling, final or temporary.”**
 - **Waivers of SCRA protections must be in separate writing, not less than 12 point type**
 - **Stay provisions (Sec. 522) apply to both plaintiffs and defendants**
 - **Termination of joint leases effective as to member and spouse**
 - **Termination of vehicle leases clarified**
-

ORGANIZATION – no change

- Found at **50 USC App. §§501-596** (cites herein are to 50 U.S.C. App. §____)
 - Title I - General Provisions
 - Persons protected and jurisdiction
 - Non-discrimination provision
 - Title II - General Relief
 - Default judgments and stays --§§521, 522, 524, 525
 - Fines & Penalties in contracts - §523
 - Statutes of Limitation --§526
 - Maximum rate of interest - §527
-

ORGANIZATION (cont.)

- Title III (§§531-538)
 - Major substantive protections against evictions, termination of installment contracts, foreclosure on mortgages and termination of leases by lessees, protection to dependants
- Title IV - Life Insurance (§§541-549)
- Title V - Taxes and Public Lands
 - §571 - Residence for tax purposes

ORGANIZATION (cont.)

- Article VI - Administrative Remedies
 - Inappropriate use of act - §581
 - Article VII - Further Relief
 - Anticipatory relief - §591
 - Malpractice insurance - §593
 - Self-funded medical insurance coverage reinstatement - §594
 - Voting residency - §595
 - Non-availability of non-business assets for business or trade obligations - §596
-

DEFINITIONS -- §511

■ Servicemember

- Active Duty Military of 5 services -
 - includes Reserves and Guard under Title 10
- National Guard under 32 U.S.C. §502(f)
- Public Health Service Officers
- National Oceanic & Atmospheric Officers

■ Dependents

- SM's spouse or child
 - Person that SM provided more than 1/2 support for 180 days preceding application for relief under act
-

DEFINITIONS -- §511

- Court includes

- All Courts -- including bankruptcy

- All Administrative Agencies

- Whether or not of record

Adding Administrative Agencies is a huge expansion of coverage under the SCRA – none of the agencies know this is coming

DEFINITIONS -- §511

- Judgment defined for first time:
 - “Any judgment, decree, order, or ruling, final or temporary.”

Significant change for domestic relation attorneys and possibly bankruptcy attorneys

JURISDICTION -- §512

- SCRA applies to all courts & administrative agencies – federal, state and local -- ***ALL MEANS ALL***
 - If you thought it was hard before, think of all those ALJs who've never heard of SCRA.
 - SCRA applies to civil cases only
 - May apply to ANY court which would otherwise have jurisdiction
-

PERSONS SECONDARILY LIABLE -- §513

- If court grants relief (stay, postponement, suspension of obligation) to servicemember, the relief may also be granted to persons primarily or secondarily liable with the SM
 - Surety, guarantor, endorser
 - Accommodation maker, *comaker* (*added by SCRA*)
 - Other person who may be primarily or secondarily subject to the obligation or liability

RESERVES ORDERED TO DUTY -- §516

- Members of Reserve component entitled to protection of SCRA from receipt of mobilization orders
 - Allows for time to put affairs in order

WAIVER OF RIGHTS -- §517

- Member may waive protections
- Waiver must be in writing
 - ◆ Contract, lease or bailment
 - ◆ Mortgage, trust, deed, lien, other security
 - ◆ Repossession, retention, foreclosure, sale, forfeiture, taking possession of property
- Must be made during or after period of service

2004 Amendments to §517

- **Waiver must be in separate writing**
- **Not less than 12 point type**
- **Response to efforts to have GIs waive SCRA rights in “new lease forms”**

NON-DISCRIMINATION -- §518

- Claiming rights under SCRA cannot be basis for:
 - Determination by lender that the member is unable to pay
 - Denial or revocation of credit
 - Change in terms of existing credit arrangement
 - Refusal to grant credit to the member
 - Adverse credit report
 - Refusal by insurer to insure member
 - Identifying SM as member of NG or Reserve
 - Changing the conditions or terms of insurance
-

LEGAL REPRESENTATIVES

§519

- SCRA adds a provision recognizing a legal representative of the Servicemember:
 - An attorney acting on the behalf of a Servicemember; or
 - An individual possessing a power of attorney
- Legal representative can take the same actions as a Servicemember

EXTENSION OF PROTECTION

§§514 and 538

- §514 - Citizens of the U.S. serving with allied forces if service similar to “military service”
 - §538 - Dependents of SM if dependent’s ability to comply is materially affected by SM’s military service they may apply for the protections found in Title III
-

DEFAULT JUDGMENTS -- §521

- Applies only if defendant has not appeared
- Plaintiff's Affidavit
 - Whether or not defendant is in military; or
 - If unable to determine status - court may require plaintiff to post bond
- If defendant is a military member, court cannot enter default judgment until attorney is appointed to represent military member

NEW STAY PROVISION OF §521

- If defendant is in military, court SHALL stay proceedings
 - Minimum 90 Days on application of counsel or court's own motion
- Court must determine that there
 - may be a defense that cannot be presented without presence of defendant; or
 - after due diligence counsel has been unable to contact defendant or otherwise determine if a meritorious defense exists

SETTING ASIDE DEFAULT JUDGMENTS

- Court *SHALL* reopen a default judgment entered while SM on active duty or within 60 days thereafter, when
 - SM applies while on active duty or within 90 days thereafter, and shows
 - Material affect, plus
 - Meritorious defense
- ✓ *BONA FIDE* purchasers protected

STAY PROVISIONS -- §522

- Temporary delay in civil actions until servicemember can appear
 - During period of service plus 90 days
 - Servicemember has received notice of proceeding
- Automatic 90 day stay if:
 - SM shows military duty materially affects ability to appear, and date when can appear
 - Commanding officer writes letter stating duty prevents appearance and leave not authorized

CLARIFICATION OF “APPEARANCE”

- Application for a stay under §522 does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction)
- Legislative removal of legal conundrum

EXTENSION OF STAY

- SM may apply for additional stay based on continuing material affect of military duty on SM's ability to *prosecute or defend the action*
- If Court does not grant additional stay, it shall appoint counsel to represent SM

Query: attorney's duties, who pays fee?

FINES & PENALTIES -- §523

- **NO** penalties under a contract if performance stayed by Court, and if no stay --
- Court may reduce or waive fine or penalty if
 - SM was in military service at time of fine/penalty
 - Performance materially affected by military service

STAY OR VACATION OF JUDGMENTS -- §524

- If military service materially affects compliance with judgment or order:
 - Court SHALL on application of SM
 - Stay execution; and
 - Vacate or stay attachment or garnishment
 - Court may also act on its own motion
-

DURATION OF STAYS

§525

- May be for the period of service plus 90 days, or any part thereof
- Court may set the terms and amounts of any installment payments
- Plaintiff may proceed against any codefendants not in military service with court approval

STATUTE OF LIMITATIONS

§526

- Period of Military Service *NOT* included:
 - In any period limited by law, regulation or order to bring any action or proceeding (including redemption of real property)
 - By or against SM or heirs or assigns
- Does not apply to IRS
- *Material affect* *NOT required*

MAXIMUM RATE OF INTEREST

§527

- **PRE-SERVICE** loans incurred by SM, or SM and spouse jointly
 - But not guaranteed student loans (20 USC §1078(d))
 - Cap of 6% per annum; all excess **FORGIVEN**
 - Have to recompute payments at 6% rate
 - Cap rescinded if creditor shows no material affect
 - SM must give written notice w/copy of orders
 - Private right of action – *Cathey v. First Republic Bank*
-

EVICTIONS & DISTRESS

§531

- Can ONLY evict upon court order: **no self-help**
 - Applies to SM or dependants
 - Residential rent does not exceed \$2,400/mo (in 2003) (CPI adjusted to \$2,465 in 2004)
 - Ability to pay materially affected by service
 - Court SHALL stay for minimum 90 days, or
 - Adjust the lease obligations
 - Criminal sanctions for violation
 - *Dependents have right to invoke*
-

INSTALLMENT CONTRACTS FOR PURCHASE OR LEASE --§532

- In event of breach of contract, no termination or repossession of property without court order
 - Applies to pre-service obligation
 - Purchase, lease, or bailment of real or personal property
 - Payment or deposit made prior to service
 - Misdemeanor offense for violation
 - After hearing, a court may order repayment to SM to terminate contract, or
 - SHALL stay the proceeding if SM's ability to comply is materially affected and SM applies— length of stay determined by Court
 - May stay on court's own motion
-

MORTGAGE FORECLOSURE PROTECTION -- §533

- Similar protection as for installment contracts and leases under §532, but applies to obligations on real or personal property secured by a mortgage
- Applies to pre-service obligations
- Applicable: period of service + 90 days
- Court may stay proceedings or adjust obligation upon showing of material affect

RIGHT TO TERMINATE LEASES

§535 – HOME, BUSINESS, AUTO

- **SCRA provisions on lease cancellation are significantly different from the old SSCRA**
 - May apply regardless of whether lease is pre-service or not
 - Takes into consideration the realities of long-term deployments on both active duty and Guard/Reserve members
 - **Adds ability to cancel vehicle leases in certain situations**
 - Obviates the need for “military clauses” in leases
 - Continues criminal penalties for noncompliance by lessors
-

TERMINATION OF PREMISES LEASES

- Applies to pre-service leases of premises; or
- Premises leases signed by SM (or on SM's behalf) after entering military service when SM receives PCS orders or deployment orders for not less than 90 days
- Qualifying lease is terminated by delivery of written notice with copy of orders (or equivalent – 2004 amendments) to lessor or lessor's agent (hand delivery, mail, FedEx)

TERMINATION OF PREMISES LEASES (con't.)

- Termination effective:
 - If rent payable monthly – 30 days after first date next payment due after notice is delivered
 - All others – last day of month following month in which notice is delivered
- Rentals unpaid for period preceding the effective date of termination must be prorated and paid

TERMINATION OF VEHICLE LEASES

- Pre-service vehicle leases
 - If SM is called up or enters service for 180 days or more; or
 - Vehicle lease executed after service commences if:
 - SM receives OCONUS PCS orders (including Hawaii and Alaska) or
 - SM receives deployment orders for period of 180 days or more
 - Notice of termination must be in writing, delivered to lessor (or lessor's agent or grantee) along with copy of military orders (by hand, mail or FedEx)
-

TERMINATION OF VEHICLE LEASES (con't.)

- Vehicle must be surrendered within 15 days of termination notice
- Lease terminated effective date vehicle surrendered
- No penalties allowed for early termination
- Misdemeanor to wrongfully retain personal property or security deposit
- **Leasing companies were initially clueless of this new section; now have industry-approved form for cancellation**

TERMINATION OF LEASES

§535

- **RELIEF TO LESSOR.**—Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a Servicemember may be modified as justice and equity require.
- SCRA recognizes right to seek award for consequential or punitive damages “otherwise available under law”

ENFORCEMENT OF STORAGE LIENS -- §537

- ONLY Court ordered enforcement
 - Liens for ANY reason
 - Court SHALL stay or adjust the obligations of all parties if SM applies and ability to comply is materially affected
 - Court may do same on own motion
 - Misdemeanor to knowingly use self-help
 - Other remedies preserved
-

TITLE IV

LIFE INSURANCE

- Protection for unpaid premiums on life insurance expanded to equal SGLI coverage (currently \$250,000)
- Upon application (to Secretary of Veterans Affairs), determination made if policy qualifies for protection
- If so, premiums may be deferred for period of service and for 2 years thereafter, contingent on ultimate payment of the premiums
- Government guarantees the premiums

TAXES RESPECTING PERSONAL & REAL PROPERTY -- §561

- Tax or assessment falls due and is unpaid
 - Which arose before or during military service on
 - Personal Property, including vehicles; or
 - Real Property occupied by SM, dependants, or employees
 - Before entry into military service, and
 - During period of service tax remains unpaid
 - Court can order sale only if no material affect
 - Court may stay for period of service plus 180 days
 - SM has right to redeem for service plus 180 days
-

INCOME TAXES

§570

- Must be able to show material affect
- Payment of Federal, State or Local tax deferred for period of service plus 180 days
- No interest or penalty
- Statute of limitations suspended for period of service plus 270 days

RESIDENCE FOR TAX PURPOSES -- §571

- Applies to income and personal property tax
- Can be taxed only by state of SM's domicile
- Applies only to military pay
- May not use the military pay to gross-up combined income into a higher bracket (overrules the "Kansas Rule")

INAPPROPRIATE USE OF ACT

§581

If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

CERTIFICATES OF SERVICE

§582

- A Certificate of the Service Secretary shall be prima facie evidence as to all aspects of a person's military service, or non-service.
 - Such a certificate shall be furnished upon application – **use DMDC website**
 - A SM missing in action is presumed to continue in service until accounted for.
-

DMDC APPLICATION

- **Telephone 703-696-5790, ask for Military Verification**
- **DMDC will fax you an application for website access**
- **Fax in the form and receive access info**
- **With user name and password you can access DMDC database and get certificates of service**
 - **For accurate inquiries, need SSAN and Name**

ANTICIPATORY RELIEF

§591

- **Anticipatory relief available for:**
 - **Pre-service obligations; or**
 - **Taxes or assessments arising during period of service**
 - **Contract for purchase of real property or secured by mortgage**
 - **Court can stay enforcement of obligation during military service plus period equal to period of military service plus remaining period of obligation**
 - **Any other obligation, tax, or assessment**
 - **Court can stay enforcement of obligation during military service plus period equal to period of service**
-

ANTICIPATORY RELIEF (con't)

- Deferred payments must be paid over “extension period” plus new payments as they accrue
- Must show material affect
- Apply during service or within 180 days after
- No penalties may be imposed for claiming protections of SCRA

MALPRACTICE INSURANCE PROTECTIONS -- §593

- Physicians, lawyers (**NEW PROVISION**) and other professionals designated by SECDEF
 - Suspends policy during active duty; no premiums owed during suspension
 - Reinstatement at original rates
 - Stay of actions
 - Statute of limitations increased by period of suspension

OTHER PROTECTIONS

- Private Health insurance reinstated -- §594
- State of domicile for voting -- §595
- May not use personal assets to satisfy trade or business obligations even though SM personally liable -- §596 (result of *Cathey* case)

SCRA & BANKRUPTCY – WHO CARES?

- Debtor's counsel – both if client is a service member and if creditors are service members
- Creditor's counsel – careful; some SCRA provisions carry criminal sanctions
- Trustees – hold on; slow down; think!!
- Court – new equitable remedies apply; new stay provisions apply

IS THIS A BIG DEAL?

- As of 28 November 2004 – over 182,000 citizens who are members of the Guard and Reserve are mobilized
- The entire National Guard and virtually all the Army Reserve **WILL** be mobilized at some time during this war
It's coming – just be patient.

DEFAULT JUDGMENTS

- Adversary proceedings
 - Bankruptcy Rules 7055 & 9014; Rule 55 of FRCP
- Motions to dismiss by trustees
- Motions to lift stays
- Solution: file the required affidavit – danger of voidable judgments otherwise

§ 522 STAYS

- *Sua sponte* or, upon application and compliance with statute, court MUST grant stay
- Debtor/service member vs. creditor/service member – different treatment?
 - *In re Wlaschin*, 260 B.R. 306 (Bankr. MD Fla 2000)
- SCRA § 522 stay is an equitable remedy

FACTORS TO CONSIDER FOR ADDITIONAL EXTENSIONS OF STAY

- Did the military member have leave available?
- Did the member request leave?
- Did the member know of impending deployments/PCS moves when obligation was entered?
- Did the member request an expedited hearing?

ADDITIONAL FACTORS

- Is the member in a war zone or embarked at sea on a vessel, or local?
- Did the member request a stay for a definite period or “indefinitely”?
- Has the member kept in contact with his/her attorney of record?
- Does the member appear to be in good faith or is he/she in bad faith?

§ 526 - TOLLING

- Applies to career service members as well as draftees or short-term enlistments
 - *Conroy v. Aniskoff*, 113 S.Ct. 1562 (1993)
- § 526 tolling provision does not allow for judicial discretion
 - Bar dates; claim filing dates; deadlines for schedules – all potentially extended by § 526

MOTIONS TO LIFT § 362 STAY

- Normally, creditor can lift § 362 stay for cause
 - Lack of adequate protection
 - Debtor has no equity in the property
 - Property not necessary for effective reorganization
 - Single asset estate secured by a mortgage on the property
-

EFFECT OF SCRA ON MOTIONS TO LIFT § 362 STAY

- Added factors for consideration if debtor is a service member
- SCRA § 522 stay may be granted even if a lifting of the stay would otherwise be appropriate under 11 U.S.C. § 362(d)

PITFALLS FOR COUNSEL

- Service member as a creditor
 - Time deadlines do not apply for objections to debtor's exemptions, solicitation of votes for plan, filing proofs of claim, filing objections to discharge
- Consider putting the service member – creditor in a separate class and leave him unimpaired to be dealt with later
 - Other classes of creditors going to howl

CONVERTING FROM 11 TO 7

- Do you need to go back and re-examine the creditors to see if any individual creditors have gotten called up (or joined the military) since initial filing?
- If you don't check, is any default judgment or bar date valid?
 - Probably not, although to set aside a default judgment have to show prejudice.

§527 AND CHAPTER 13 PLANS

- Interest bearing debts in an approved Chapter 13 plan are subject to §527 maximum rate of interest (6%)
 - Maximum interest rate of 6% applies upon application by service member
 - Not considered a modification of the plan
 - Interest rate reverts to original plan rate upon termination of active duty

WHAT DOES IT ALL MEAN?

- Be aware of SCRA
- Always take default judgments properly pursuant to SCRA § 521
- Ask military status of debtors and creditors
- Realize, within an equity system, another equitable system is applicable that is always to be liberally interpreted

KEY CONCEPTS

- ✓ Protection of rights, not avoidance of responsibility
 - ✓ Private causes of action apparently recognized
 - ✓ Criminal sanctions continued for Title III
 - ✓ Liberal construction should still be the rule
-

SUMMARY

- SCRA provides protections for citizens called to military duty and their dependents
- Provides for suspension of certain civil liabilities during the period of service
- SCRA requires education for bench and bar – it really means what it says

CITATIONS

- ***Cathey v. First Republic Bank*, 2001 U.S. Dist. LEXIS 13150**
- **www.bankersonline.com/lending/catheycase.html**
- **www.roa.org/pdf/home/cathey.pdf**
- **Get The Book on SSCRA free:**
 - **www.jagcnet.army.mil/TJAGSA**
 - **click on “Publications”**
 - **scroll down to “Legal Assistance” and click on JA 260**

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CHAPTER G
SERVICEMEMBERS CIVIL RELIEF ACT
Public Law 108-189
50 U.S.C. App. §§501–596 (19 Dec 2003)
as amended by Public Law 108-454 (10 Dec 2004)

[Note: The section numbers shown herein are citations to 50 U.S.C. App. §___. If a section appeared in the Soldiers' and Sailors' Civil Relief Act, the former SSCRA section number is shown above the citation. The section numbers from P.L. 108-189 (the text of the SCRA as enacted by Congress) are shown after the section titles in bracketed *italics*.]

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§ 501. Short title [Sec. 1]

This Act [[sections 501](#) to 596 of this Appendix] may be cited as the "Servicemembers Civil Relief Act".

Formerly cited as 50 U.S.C. App. § 510

§ 502. Purpose [Sec. 2]

The purposes of this Act [[sections 501](#) to 596 of this Appendix] are--

- (1)** to provide for, strengthen, and expedite the national defense through protection extended by this Act [said sections] to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and
- (2)** to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

TITLE I--GENERAL PROVISIONS

§ 511. Definitions [Sec. 101]

For the purposes of this Act [[sections 501](#) to 596 of this Appendix]:

(1) Servicemember

The term "servicemember" means a member of the uniformed services, as that term is defined in [section 101\(a\)\(5\) of title 10, United States Code](#).

(2) Military service

The term "military service" means--

(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

(i) active duty, as defined in [section 101\(d\)\(1\) of title 10, United States Code](#), and

(ii) in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under [section 502\(f\) of title 32, United States Code](#), for purposes of responding to a national emergency declared by the President and supported by Federal funds;

(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(3) Period of military service

The term "period of military service" means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

(4) Dependent

The term "dependent", with respect to a servicemember, means--

(A) the servicemember's spouse;

(B) the servicemember's child (as defined in [section 101\(4\) of title 38, United States Code](#)); or

(C) an individual for whom the servicemember provided more than one-half of the individual's support for 180 days immediately preceding an application for relief under this Act [[sections 501](#) to 596 of this Appendix].

(5) Court

The term "court" means a court or an administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record.

(6) State

The term "State" includes--

(A) a commonwealth, territory, or possession of the United States; and

(B) the District of Columbia.

(7) Secretary concerned

The term "Secretary concerned"--

(A) with respect to a member of the armed forces, has the meaning given that term in [section 101\(a\)\(9\) of title 10, United States Code](#);

(B) with respect to a commissioned officer of the Public Health Service, means the Secretary of Health and Human Services; and

(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

(8) Motor vehicle

The term "motor vehicle" has the meaning given that term in [section 30102\(a\)\(6\) of title 49, United States Code](#).

(9) JUDGMENT – The term ‘judgment’ means any judgment, decree, order, or ruling, final or temporary. **[Added by P.L. 108-454, 10 Dec 2004.]**

§ 512. Jurisdiction and applicability of Act **[Sec. 102]**

(a) Jurisdiction

This Act [[sections 501](#) to 596 of this Appendix] applies to--

- (1) the United States;
- (2) each of the States, including the political subdivisions thereof; and
- (3) all territory subject to the jurisdiction of the United States.

(b) Applicability to proceedings

This Act [[sections 501](#) to 596 of this Appendix] applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act [said sections]. This Act [said sections] does not apply to criminal proceedings.

(c) Court in which application may be made

When under this Act [[sections 501](#) to 596 of this Appendix] any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

§ 513. Protection of persons secondarily liable **[Sec. 103]**

(a) Extension of protection when actions stayed, postponed, or suspended

Whenever pursuant to this Act [[sections 501](#) to 596 of this Appendix] a court stays, postpones, or suspends (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

(b) Vacation or set-aside of judgments

When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this Act [[sections 501](#) to 596 of this Appendix], the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on the contract or liability for the enforcement of the judgment or decree.

(c) Bail bond not to be enforced during period of military service

A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

(d) Waiver of rights

(1) Waivers not precluded

This Act [[sections 501](#) to 596 of this Appendix] does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protections provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

(2) Waiver invalidated upon entrance to military service

If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106 [[section 516](#) of this Appendix].

§ 514. Extension of protections to citizens serving with allied forces [Sec. 104]

A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act [[sections 501](#) to 596 of this Appendix] if that service with the allied force is similar to military service as defined in this Act [[sections 501](#) to 596 of this Appendix]. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

§ 515. Notification of benefits [Sec. 105]

The Secretary concerned shall ensure that notice of the benefits accorded by this Act [[sections 501](#) to 596 of this Appendix] is provided in writing to persons in military service and to persons entering military service.

§ 516. Extension of rights and protections to reserves ordered to report for military service and to persons ordered to report for induction [Sec. 106]

(a) Reserves ordered to report for military service

A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III [of this Appendix] during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for military service (or, if the order is revoked before the member so reports, or the date on which the order is revoked).

(b) Persons ordered to report for induction

A person who has been ordered to report for induction under the Military Selective Service Act ([50 U.S.C. App. 451](#) et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III [of this Appendix] during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

§ 517. Waiver of rights pursuant to written agreement [Sec. 107]

(a) In general

A servicemember may waive any of the rights and protections provided by this Act [[sections 501](#) to 596 of this Appendix]. Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies. **[Preceding sentence added by P.L. 108-454, 10 Dec 2004.]** In the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

(b) Actions requiring waivers in writing

The requirement in subsection (a) for a written waiver applies to the following:

- (1) The modification, termination, or cancellation of--
 - (A) a contract, lease, or bailment; or
 - (B) an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage.
- (2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that--
 - (A) is security for any obligation; or

(B) was purchased or received under a contract, lease, or bailment.
(c) Prominent Display of Certain Contract Rights Waivers – Any waiver in writing of a right or protection provided by this Act that applies to a contract, lease, or similar legal instrument must be in at least 12 point type. **[Added by P.L. 108-454, 10 Dec 2004.]**

(d) Coverage of periods after orders received

For the purposes of this section—

(1) a person to whom section 106 [\[section 516\]](#) of this Appendix] applies shall be considered to be a servicemember; and

(2) the period with respect to such a person specified in subsection (a) or (b), as the case may be, of section 106 [\[section 516\]](#) of this Appendix] shall be considered to be a period of military service.

§ 518. Exercise of rights under Act not to affect certain future financial transactions

[Sec. 108]

Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act [\[sections 501\]](#) to 596 of this Appendix] in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

(1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

(2) With respect to a credit transaction between a creditor and the servicemember--

(A) a denial or revocation of credit by the creditor;

(B) a change by the creditor in the terms of an existing credit arrangement; or

(C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

(3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.

(4) A refusal by an insurer to insure the servicemember.

(5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.

(6) A change in the terms offered or conditions required for the issuance of insurance.

§ 519. Legal representatives [Sec. 109]

(a) Representative

A legal representative of a servicemember for purposes of this Act [[sections 501](#) to 596 of this Appendix] is either of the following:

- (1) An attorney acting on the behalf of a servicemember.
- (2) An individual possessing a power of attorney.

(b) Application

Whenever the term "servicemember" is used in this Act [[sections 501](#) to 596 of this Appendix], such term shall be treated as including a reference to a legal representative of the servicemember.

§ 520. Omitted

TITLE II – GENERAL RELIEF

Formerly cited as 50 U.S.C. App. § 520

§ 521. Protection of servicemembers against default judgments [Sec. 201]

(a) Applicability of section

This section applies to any civil action or proceeding in which the defendant does not make an appearance.

(b) Affidavit requirement

(1) Plaintiff to file affidavit

In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit--

(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

(2) Appointment of attorney to represent defendant in military service

If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

(3) Defendant's military status not ascertained by affidavit

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act [[sections 501](#) to 596 of this Appendix].

(4) Satisfaction of requirement for affidavit

The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

(c) Penalty for making or using false affidavit

A person who makes or uses an affidavit permitted under subsection (b) (or a statement, declaration, verification, or certificate as authorized under subsection (b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(d) Stay of proceedings

In an action covered by this section in which the defendant is in military service, the court shall grant a stay of proceedings for a minimum period of 90 days under this subsection upon application of counsel, or on the court's own motion, if the court determines that--

- (1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or
- (2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

(e) Inapplicability of section 202 procedures

A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202 [[section 522](#) of this Appendix].

(f) Section 202 protection

If a servicemember who is a defendant in an action covered by this section receives actual notice of the action, the servicemember may request a stay of proceeding under section 202 [[section 522](#) of this Appendix].

(g) Vacation or setting aside of default judgments

(1) Authority for court to vacate or set aside judgment

If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that--

- (A) the servicemember was materially affected by reason of that military service in making a defense to the action; and
- (B) the servicemember has a meritorious or legal defense to the action or some part of it.

(2) Time for filing application

An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

(h) Protection of bona fide purchaser

If a court vacates, sets aside, or reverses a default judgment against a servicemember and the vacating, setting aside, or reversing is because of a provision of this Act [[sections 501](#) to 596 of this Appendix], that action shall not impair a right or title acquired by a bona fide purchaser for value under the default judgment.

Formerly cited as 50 U.S.C. App. § 521

§ 522. Stay of proceedings when servicemember has notice [Sec. 202]

(a) Applicability of section

This section applies to any civil action or proceeding in which the plaintiff or **["plaintiff" added by P.L. 108-454, 10 Dec 2004]** defendant at the time of filing an application under this section--

- (1) is in military service or is within 90 days after termination of or release from military service; and
- (2) has received notice of the action or proceeding.

(b) Stay of proceedings

(1) Authority for stay

At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

(2) Conditions for stay

An application for a stay under paragraph (1) shall include the following:

- (A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

(c) Application not a waiver of defenses

An application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

(d) Additional stay

(1) Application

A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear. Such an application may be made by the servicemember at the time of the initial application under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information required under subsection (b)(2) shall be included in an application under this subsection.

(2) Appointment of counsel when additional stay refused

If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.

(e) Coordination with section 201 [section 521 of this Appendix]

A servicemember who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 201 [[section 521](#) of this Appendix].

(f) Inapplicability to section 301 [section 531 of this Appendix]

The protections of this section do not apply to section 301 [[section 531](#) of this Appendix].

Formerly cited as 50 U.S.C. App. § 522

§ 523. Fines and penalties under contracts [Sec. 203]

(a) Prohibition of penalties

When an action for compliance with the terms of a contract is stayed pursuant to this Act [[sections 501](#) to 596 of this Appendix], a penalty shall not accrue for failure to

comply with the terms of the contract during the period of the stay.

(b) Reduction or waiver of fines or penalties

If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if--

- (1) the servicemember was in military service at the time the fine or penalty was incurred; and
- (2) the ability of the servicemember to perform the obligation was materially affected by such military service.

Formerly cited as 50 U.S.C. App. § 523

§ 524. Stay or vacation of execution of judgments, attachments, and garnishments [Sec. 204]

(a) Court action upon material affect determination

If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember--

- (1) stay the execution of any judgment or order entered against the servicemember; and
- (2) vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment.

(b) Applicability

This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 90 days after such service terminates.

Formerly cited as 50 U.S.C. App. § 524

§ 525. Duration and term of stays; codefendants not in service [Sec. 205]

(a) Period of stay

A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act [[sections 501](#) to 596 of this Appendix] by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

(b) Codefendants

If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this Act [[sections 501](#) to 596 of this Appendix], the plaintiff may proceed against those other defendants with the approval of the court.

(c) Inapplicability of section

This section does not apply to sections 202 and 701 [[sections 522](#) and [591](#) of this Appendix].

Formerly cited as 50 U.S.C. App. § 525
§ 526. Statute of limitations [Sec. 206]

(a) Tolling of statutes of limitation during military service

The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

(b) Redemption of real property

A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

(c) Inapplicability to internal revenue laws

This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

Formerly cited as 50 U.S.C. App. § 526
§ 527. Maximum rate of interest on debts incurred before military service
[Sec. 207]

(a) Interest rate limitation

(1) Limitation to 6 percent

An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.

(2) Forgiveness of interest in excess of 6 percent

Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.

(3) Prevention of acceleration of principal

The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which such payment is made.

(b) Implementation of limitation

(1) Written notice to creditor

In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember's termination or release from military service.

(2) Limitation effective as of date of order to active duty

Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

(c) Creditor protection

A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

(d) Interest

As used in this section, the term "interest" includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

§ 530. Omitted

**TITLE III – RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS,
ASSIGNMENT, LEASES**

Formerly cited as 50 U.S.C. App. § 530

§ 531. Evictions and distress [Sec. 301]

(a) Court-ordered eviction

(1) In general

Except by court order, a landlord (or another person with paramount title) may not--

(A) evict a servicemember, or the dependents of a servicemember, during a period of military service of the servicemember, from premises--

(i) that are occupied or intended to be occupied primarily as a residence; and

(ii) for which the monthly rent does not exceed \$2,400, as adjusted under paragraph (2) for years after 2003 [**Note: for 2004, the amount is \$2,465.00**]; or

(B) subject such premises to a distress during the period of military service.

(2) Housing price inflation adjustment

(A) For calendar years beginning with 2004, the amount in effect under paragraph (1)(A)(ii) shall be increased by the housing price inflation adjustment for the calendar year involved.

(B) For purposes of this paragraph--

(i) The housing price inflation adjustment for any calendar year is the percentage change (if any) by which--

(I) the CPI housing component for November of the preceding calendar year, exceeds

(II) the CPI housing component for November of 1984.

(ii) The term "CPI housing component" means the index published by the Bureau of Labor Statistics of the Department of Labor known as the Consumer Price Index, All Urban Consumers, Rent of Primary Residence, U.S. City Average.

(3) Publication of housing price inflation adjustment

The Secretary of Defense shall cause to be published in the Federal Register each year the amount in effect under paragraph (1)(A)(ii) for that year following the housing price inflation adjustment for that year pursuant to paragraph (2). Such publication shall be made for a year not later than 60 days after such adjustment is made for that year.

(b) Stay of execution

(1) Court authority

Upon an application for eviction or distress with respect to premises covered by this section, the court may on its own motion and shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service-

- (A) stay the proceedings for a period of 90 days, unless in the opinion of the court, justice and equity require a longer or shorter period of time; or
- (B) adjust the obligation under the lease to preserve the interests of all parties.

(2) Relief to landlord

If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.

(c) Penalties

(1) Misdemeanor

Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies and rights

The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

(d) Rent allotment from pay of servicemember

To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulations prescribed by the Secretary concerned establishing the maximum amount of pay of servicemembers that may be allotted under this subsection.

(e) Limitation of applicability

Section 202 [[section 522](#) of this Appendix] is not applicable to this section.

Formerly cited as 50 U.S.C. App. § 531

§ 532. Protection under installment contracts for purchase or lease [Sec. 302]

(a) Protection upon breach of contract

(1) Protection after entering military service

After a servicemember enters military service, a contract by the servicemember for--

- (A)** the purchase of real or personal property (including a motor vehicle); or
- (B)** the lease or bailment of such property,

may not be rescinded or terminated for a breach of terms of the contract occurring before or during that person's military service, nor may the property be repossessed for such breach without a court order.

(2) Applicability

This section applies only to a contract for which a deposit or installment has been paid by the servicemember before the servicemember enters military service.

(b) Penalties

(1) Misdemeanor

A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 107 of this Act [[section 517](#) of this Appendix], or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies and rights

The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

(c) Authority of court

In a hearing based on this section, the court--

(1) may order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

- (2) may, on its own motion, and shall on application by a servicemember when the servicemember's ability to comply with the contract is materially affected by military service, stay the proceedings for a period of time as, in the opinion of the court, justice and equity require; or
- (3) may make other disposition as is equitable to preserve the interests of all parties.

Formerly cited as 50 U.S.C. App. § 532
§ 533. Mortgages and trust deeds [Sec. 303]

(a) Mortgage as security

This section applies only to an obligation on real or personal property owned by a servicemember that--

- (1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and
- (2) is secured by a mortgage, trust deed, or other security in the nature of a mortgage.

(b) Stay of proceedings and adjustment of obligation

In an action filed during, or within 90 days after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service--

- (1) stay the proceedings for a period of time as justice and equity require, or
- (2) adjust the obligation to preserve the interests of all parties.

(c) Sale or foreclosure

A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within 90 days after, the period of the servicemember's military service except—

- (1) upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court; or
- (2) if made pursuant to an agreement as provided in section 107 [section 517 of this Appendix].

(d) Penalties

(1) Misdemeanor

A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

Formerly cited as 50 U.S.C. App. § 533

§ 534. Settlement of stayed cases relating to personal property [Sec. 304]

(a) Appraisal of property

When a stay is granted pursuant to this Act [[sections 501](#) to 596 of this Appendix] in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

(b) Equity payment

Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

Formerly cited as 50 U.S.C. App. § 534

§ 535. Termination of residential or motor vehicle leases [Sec. 305]

(a) Termination by lessee

(1) IN GENERAL – The lessee on a lease described in subsection (b) may, at the lessee's option, terminate the lease at any time after –

(a) the lessee's entry into military service; or

(b) the date of the lessee's military orders described in paragraph (1)(B) of (2)(B) of subsection (b), as the case may be.

(2) JOINT LEASES – A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.

(b) Covered leases

This section applies to the following leases:

(1) Leases of premises

A lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if--

- (A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or
- (B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit or as an individual in support of a military operation for a period of not less than 90 days.

(2) Leases of motor vehicles

A lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember's dependents for personal or business transportation if--

- (A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of not less than 180 days (or who enters military service under a call or order specifying a period of 180 days or less and who, without a break in service, receives orders extending the period of military service to a period of not less than 180 days); or
- (B) the servicemember, while in military service, executes the lease and thereafter receives military orders –
 - (i) for a change of permanent station –
 - (I) from a location in the continental United States to a location outside the continental United States; or
 - (II) from a location in a State outside the continental United States to any location outside that State; or
 - (ii) to deploy with a military unit or as an individual in support of a military operation for a period of not less than 180 days.

(c) Manner of termination

(1) In general

Termination of a lease under subsection (a) is made--

(A) by delivery by the lessee of written notice of such termination, and a copy of the servicemember's military orders, to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee); and
(B) in the case of a lease of a motor vehicle, by return of the motor vehicle by the lessee to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee), not later than 15 days after the date of the delivery of written notice under subparagraph (A).

(2) Delivery of notice

Delivery of notice under paragraph (1)(A) may be accomplished--

(A) by hand delivery;
(B) by private business carrier; or
(C) by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee), and depositing the written notice in the United States mails.

(d) Effective date of lease termination

(1) Lease of premises

In the case of a lease described in subsection (b)(1) that provides for monthly payment of rent, termination of the lease under subsection (a) is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice under subsection (c) is delivered. In the case of any other lease described in subsection (b)(1), termination of the lease under subsection (a) is effective on the last day of the month following the month in which the notice is delivered.

(2) Lease of motor vehicles

In the case of a lease described in subsection (b)(2), termination of the lease under subsection (a) is effective on the day on which the requirements of subsection (c) are met for such termination.

(e) Arrearages and other obligations and liabilities

Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of the lease of a motor vehicle, the lessor may not impose an early termination charge, but any taxes, summonses, and title and registration fees and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

(f) Rent paid in advance

Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor (or the lessor's assignee or the assignee's agent) within 30 days of the effective date of the termination of the lease.

(g) Relief to lessor

Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

(h) Penalties

(1) Misdemeanor

Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

(i) Definitions –

(1) MILITARY ORDERS – The term 'military orders', with respect to a servicemember, means official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military duty status.

(2) CONUS – The term 'continental United States' means the 48 contiguous States and the District of Columbia.

[Various provisions of Section 535 were amended or added by P.L. 108-454, 10 Dec 2004.]

§ 536. Protection of life insurance policy [Sec. 306]

(a) Assignment of policy protected

If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

(b) Exception

The prohibition in subsection (a) shall not apply--

- (1) if the assignee has the written consent of the insured made during the period described in subsection (a);
- (2) when the premiums on the policy are due and unpaid; or
- (3) upon the death of the insured.

(c) Order refused because of material affect

A court which receives an application for an order required under subsection (a) may refuse to grant such order if the court determines the ability of the servicemember to comply with the terms of the obligation is materially affected by military service.

(d) Treatment of guaranteed premiums

For purposes of this subsection, premiums guaranteed under the provisions of title IV of this Act shall not be considered due and unpaid.

(e) Penalties

(1) Misdemeanor

A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

Formerly cited as 50 U.S.C. App. § 536
§ 537. Enforcement of storage liens [Sec. 306]

(a) Liens

(1) Limitation on foreclosure or enforcement

A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

(2) Lien defined

For the purposes of paragraph (1), the term "lien" includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason.

(b) Stay of proceedings

In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligation resulting in the proceeding is materially affected by military service--

- (1) stay the proceeding for a period of time as justice and equity require; or
- (2) adjust the obligation to preserve the interests of all parties.

The provisions of this subsection do not affect the scope of section 303 [[section 533](#) of this Appendix].

(c) Penalties

(1) Misdemeanor

A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

§ 538. Extension of protections to dependents [Sec. 308]

Upon application to a court, a dependent of a servicemember is entitled to the protections of this title if the dependent's ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember's military service.

§ 540. Omitted

TITLE IV – LIFE INSURANCE

Formerly cited as 50 U.S.C. App. § 540

§ 541. Definitions [Sec. 401]

For the purposes of this title [[sections 541](#) to [549](#) of this Appendix]:

(1) Policy

The term "policy" means any individual contract for whole, endowment, universal, or term life insurance (other than group term life insurance coverage), including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association which--

(A) provides that the insurer may not--

(i) decrease the amount of coverage or require the payment of an additional amount as premiums if the insured engages in military service (except increases in premiums in individual term insurance based upon age); or

(ii) limit or restrict coverage for any activity required by military service; and

(B) is in force not less than 180 days before the date of the insured's entry into military service and at the time of application under this title.

(2) Premium

The term "premium" means the amount specified in an insurance policy to be paid to keep the policy in force.

(3) Insured

The term "insured" means a servicemember whose life is insured under a policy.

(4) Insurer

The term "insurer" includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

Formerly cited as 50 U.S.C. App. § 541

§ 542. Insurance rights and protections [Sec. 402]

(a) Rights and protections

The rights and protections under this title [[sections 541](#) to [549](#) of this Appendix] apply to the insured when—

(1) the insured,

(2) the insured's legal representative, or

(3) the insured's beneficiary in the case of an insured who is outside a State,

applies in writing for protection under this title [said sections], unless the Secretary of Veterans Affairs determines that the insured's policy is not entitled to protection under this title [said sections].

(b) Notification and application

The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title [said sections]. The applicant shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

(c) Limitation on amount

The total amount of life insurance coverage protection provided by this title [said sections] for a servicemember may not exceed \$250,000, or an amount equal to the Servicemember's Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

Formerly cited as 50 U.S.C. App. § 542

§ 543. Application for insurance protection [Sec. 403]

(a) Application procedure

An application for protection under this title [[sections 541](#) to [549](#) of this Appendix] shall--

(1) be in writing and signed by the insured, the insured's legal representative, or the insured's beneficiary, as the case may be;

(2) identify the policy and the insurer; and

(3) include an acknowledgement that the insured's rights under the policy are subject to and modified by the provisions of this title [said sections].

(b) Additional requirements

The Secretary of Veterans Affairs may require additional information from the applicant, the insured and the insurer to determine if the policy is entitled to

protection under this title [said sections].

(c) Notice to the Secretary by the insurer

Upon receipt of the application of the insured, the insurer shall furnish a report concerning the policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary.

(d) Policy modification

Upon application for protection under this title [[sections 541](#) to [549](#) of this Appendix], the insured and the insurer shall have constructively agreed to any policy modification necessary to give this title [said sections] full force and effect.

Formerly cited as 50 U.S.C. App. § 543

§ 544. Policies entitled to protection and lapse of policies [Sec. 404]

(a) Determination

The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title [[sections 541](#) to [549](#) of this Appendix] and shall notify the insured and the insurer of that determination.

(b) Lapse protection

A policy that the Secretary determines is entitled to protection under this title [said sections] shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium, or interest or indebtedness on a premium, after the date on which the application for protection is received by the Secretary.

(c) Time application

The protection provided by this title [said sections] applies during the insured's period of military service and for a period of two years thereafter.

Formerly cited as 50 U.S.C. App. § 544

§ 545. Policy restrictions [Sec. 405]

(a) Dividends

While a policy is protected under this title [[sections 541](#) to [549](#) of this Appendix], a dividend or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs. If such approval is not obtained, the dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer.

(b) Specific restrictions

While a policy is protected under this title [[sections 541](#) to [549](#) of this Appendix], cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title [said sections].

Formerly cited as 50 U.S.C. App. § 545

§ 546. Deduction of unpaid premiums [Sec. 406]

(a) Settlement of proceeds

If a policy matures as a result of a servicemember's death or otherwise during the period of protection of the policy under this title [[sections 541](#) to [549](#) of this Appendix], the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title [said sections], together with interest due at the rate fixed in the policy for policy loans.

(b) Interest rate

If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued by the insurer at the time the insured's policy was issued.

(c) Reporting requirement

The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

Formerly cited as 50 U.S.C. App. § 546

§ 547. Premiums and interest guaranteed by United States [Sec. 407]

(a) Guarantee of premiums and interest by the United States

(1) Guarantee

Payment of premiums, and interest on premiums at the rate specified in section 406 [[section 546](#) of this Appendix], which become due on a policy under the protection of this title [[sections 541](#) to [549](#) of this Appendix] is guaranteed by the United States. If the amount guaranteed is not paid to the insurer before the period of insurance protection under this title [said sections] expires, the amount due shall be treated by the insurer as a policy loan on the policy.

(2) Policy termination

If, at the expiration of insurance protection under this title [[sections 541](#) to [549](#) of this Appendix], the cash surrender value of a policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

(b) Recovery from insured of amounts paid by the United States

(1) Debt payable to the United States

The amount paid by the United States to an insurer under this title [[sections 541](#) to [549](#) of this Appendix] shall be a debt payable to the United States by the insured on whose policy payment was made.

(2) Collection

Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

(3) Debt not dischargeable in bankruptcy

Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

(c) Crediting of amounts recovered

Any amounts received by the United States as repayment of debts incurred by an insured under this title [[sections 541](#) to [549](#) of this Appendix] shall be credited to the appropriation for the payment of claims under this title [said sections].

Formerly cited as 50 U.S.C. App. § 547
§ 548. Regulations [Sec. 408]

The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title [[sections 541](#) to [549](#) of this Appendix].

§ 549. Review of findings of fact and conclusions of law [Sec. 409]

The findings of fact and conclusions of law made by the Secretary of Veterans Affairs in administering this title [[sections 541](#) to [549](#) of this Appendix] are subject to review on appeal to the Board of Veterans' Appeals pursuant to chapter 71 of title 38, United States Code, and to judicial review only as provided in chapter 72 of such title.

§§ 550 to 554. Omitted

§ 560. Omitted

TITLE V – TAXES AND PUBLIC LANDS

Formerly cited as 50 U.S.C. App. § 560

**§ 561. Taxes respecting personal property, money, credits, and real property
[Sec. 501]**

(a) Application

This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's--

- (1) personal property (including motor vehicles); or
- (2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees--
 - (A) before the servicemember's entry into military service; and
 - (B) during the time the tax or assessment remains unpaid.

(b) Sale of property

(1) Limitation on sale of property to enforce tax assessment

Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

(2) Stay of court proceedings

A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

(c) Redemption

When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

(d) Interest on tax or assessment

Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

(e) Joint ownership application

This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

Formerly cited as 50 U.S.C. App. § 561
§ 562. Rights in public lands [Sec. 502]

(a) Rights not forfeited

The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being absent from the land, or by failing to begin or complete any work or improvements to the land, during the period of military service.

(b) Temporary suspension of permits or licenses

If a permittee or licensee under the Act of June 28, 1934 ([43 U.S.C. 315](#) et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for 180 days after termination of or release from military service.

(c) Regulations

Regulations prescribed by the Secretary of the Interior shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

Formerly cited as 50 U.S.C. App. § 564
§ 563. Desert-land entries [Sec. 503]

(a) Desert-land rights not forfeited

A desert-land entry made or held under the desert-land laws before the entrance of

the entryman or the entryman's successor in interest into military service shall not be subject to contest or cancellation--

(1) for failure to expend any required amount per acre per year in improvements upon the claim;

(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman's successor in interest is in the military service, or for 180 days after termination of or release from military service; or

(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

(b) Service-related disability

If an entryman or claimant is honorably discharged and is unable to accomplish reclamation of, and payment for, desert land due to a disability incurred in the line of duty, the entryman or claimant may make proof without further reclamation or payments, under regulations prescribed by the Secretary of the Interior, and receive a patent for the land entered or claimed.

(c) Filing requirement

In order to obtain the protection of this section, the entryman or claimant shall, within 180 days after entry into military service, cause to be filed in the land office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the claim under this section.

Formerly cited as 50 U.S.C. App. § 565
§ 564. Mining claims [Sec. 504]

(a) Requirements suspended

The provisions of section 2324 of the Revised Statutes of the United States ([30 U.S.C. 28](#)) specified in subsection (b) shall not apply to a servicemember's claims or interests in claims, regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation due to injuries or disabilities incurred in the line of duty.

(b) Requirements

The provisions in section 2324 of the Revised Statutes [[30 U.S.C.A. § 28](#)] that shall not apply under subsection (a) are those which require that on each mining claim

located after May 10, 1872, and until a patent has been issued for such claim, not less than \$100 worth of labor shall be performed or improvements made during each year.

(c) Period of protection from forfeiture

A mining claim or an interest in a claim owned by a servicemember that has been regularly located and recorded shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

(d) Filing requirement

In order to obtain the protections of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office where the location notice or certificate is recorded a notice communicating the fact of military service and the desire to hold the mining claim under this section.

Formerly cited as 50 U.S.C. App. § 566
§ 565. Mineral permits and leases [Sec. 505]

(a) Suspension during military service

A person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may suspend all operations under the permit or lease for the duration of military service and for 180 days thereafter. The term of the permit or lease shall not run during the period of suspension, nor shall any rental or royalties be charged against the permit or lease during the period of suspension.

(b) Notification

In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered mail of the fact that military service has begun and of the desire to hold the claim under this section.

(c) Contract modification

This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

Formerly cited as 50 U.S.C. App. § 567
§ 566. Perfection or defense of rights [Sec. 506]

(a) Right to take action not affected

This title [[sections 561](#) to [571](#) of this Appendix] shall not affect the right of a servicemember to take action during a period of military service that is authorized by law or regulations of the Department of the Interior, for the perfection, defense, or further assertion of rights initiated or acquired before entering military service.

(b) Affidavits and proofs

(1) In general

A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service before an officer authorized to provide notary services under [section 1044a of title 10, United States Code](#), or any superior commissioned officer.

(2) Legal status of affidavits

Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United State Code.

Formerly cited as 50 U.S.C. App. § 569
§ 567. Distribution of information concerning benefits of title [Sec. 507]

(a) Distribution of information by Secretary concerned

The Secretary concerned shall issue to servicemembers information explaining the provisions of this title [[sections 561](#) to [571](#) of this Appendix].

(b) Application forms

The Secretary concerned shall provide application forms to servicemembers requesting relief under this title [[sections 561](#) to [571](#) of this Appendix].

(c) Information from Secretary of the Interior

The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title [[sections 561](#) to [571](#) of this Appendix] (other than sections 501, 510, and 511 [[sections 561](#), [570](#), and [571](#) of this Appendix]) and related application forms.

Formerly cited as 50 App. USCA § 571

§ 568. Land rights of servicemembers [Sec. 508]

(a) No age limitations

Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

(b) Residency requirement

Any requirement related to the establishment of a residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

(c) Entry applications

Applications for entry may be verified before a person authorized to administer oaths under [section 1044a of title 10, United States Code](#), or under the laws of the State where the land is situated.

§ 569. Regulations [Sec. 509]

The Secretary of the Interior may issue regulations necessary to carry out this title [[sections 561](#) to [571](#) of this Appendix] (other than sections 501, 510, and 511 [[sections 561](#), [570](#), and [571](#) of this Appendix]).

Formerly cited as 50 U.S.C. App. § 573

§ 570. Income taxes [Sec. 510]

(a) Deferral of tax

Upon notice to the Internal Revenue Service or the tax authority of a State or a political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if a servicemember's ability to pay such income tax is materially affected by military service.

(b) Accrual of interest or penalty

No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

(c) Statute of limitations

The running of a statute of limitations against the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

(d) Application limitation

This section shall not apply to the tax imposed on employees by [section 3101 of the Internal Revenue Code of 1986](#).

Formerly cited as 50 U.S.C. App. § 574
§ 571. Residence for tax purposes

(a) Residence or domicile

A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(b) Military service compensation

Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

(c) Personal property

(1) Relief from personal property taxes

The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

(2) Exception for property within member's domicile or residence

This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

(3) Exception for property used in trade or business

This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

(4) Relationship to law of State of domicile

Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

(d) Increase of tax liability

A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

(e) Federal Indian reservations

An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

(f) Definitions

For purposes of this section:

(1) Personal property

The term "personal property" means intangible and tangible property (including motor vehicles).

(2) Taxation

The term "taxation" includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

(3) Tax jurisdiction

The term "tax jurisdiction" means a State or a political subdivision of a State.

§§ 572 to 574. Omitted

§ 580. Omitted

TITLE VI – ADMINISTRATIVE REMEDIES

Formerly cited as 50 U.S.C. App. § 580

§ 581. Inappropriate use of Act [Sec. 601]

If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just

enforcement of such right by taking advantage of this Act [[sections 501](#) to 596 of this Appendix], the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

Formerly cited as 50 App. USCA § 581

§ 582. Certificates of service; persons reported missing [Sec. 602]

(a) Prima facie evidence

In any proceeding under this Act [[sections 501](#) to 596 of this Appendix], a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

- (1) That a person named is, is not, has been, or has not been in military service.
- (2) The time and the place the person entered military service.
- (3) The person's residence at the time the person entered military service.
- (4) The rank, branch, and unit of military service of the person upon entry.
- (5) The inclusive dates of the person's military service.
- (6) The monthly pay received by the person at the date of the certificate's issuance.
- (7) The time and place of the person's termination of or release from military service, or the person's death during military service.

(b) Certificates

The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

(c) Treatment of servicemembers in missing status

A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act [[sections 501](#) to 596 of this Appendix] that begins or ends with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

Formerly cited as 50 U.S.C. App. § 582

§ 583. Interlocutory orders [Sec. 603]

An interlocutory order issued by a court under this Act [[sections 501](#) to 596 of this Appendix] may be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

§ 584. Omitted

§ 585. Omitted

§ 590. Omitted

TITLE VII – FURTHER RELIEF

Formerly cited as 50 U.S.C. App. § 590

§ 591. Anticipatory relief [Sec. 701]

(a) Application for relief

A servicemember may, during military service or within 180 days of termination of or release from military service, apply to a court for relief--

- (1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or
- (2) from a tax or assessment falling due before or during the servicemember's military service.

(b) Tax liability or assessment

In a case covered by subsection (a), the court may, if the ability of the servicemember to comply with the terms of such obligation or liability or pay such tax or assessment has been materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

(1) Stay of enforcement of real estate contract

(A) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, the court may grant a stay of the enforcement of the obligation--

- (i) during the servicemember's period of military service; and
- (ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

(B) Any stay under this paragraph shall be--

- (i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and
- (ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument

evidencing the obligation, and subject to other terms as may be equitable.

(2) Stay of enforcement of other contracts

(A) In the case of any other obligation, liability, tax, or assessment, the court may grant a stay of enforcement--

- (i)** during the servicemember's military service; and
- (ii)** from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

(B) Any stay under this paragraph shall be--

- (i)** for a period of time equal to the period of the servicemember's military service or any part of such period; and
- (ii)** subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

(c) Affect of stay on fine or penalty

When a court grants a stay under this section, a fine or penalty shall not accrue on the obligation, liability, tax, or assessment for the period of compliance with the terms and conditions of the stay.

Formerly cited as 50 U.S.C. App. § 591

§ 592. Power of attorney [Sec. 702]

(a) Automatic extension

A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in [section 551\(2\) of title 37, United States Code](#)) if the power of attorney--

(1) was duly executed by the servicemember--

- (A)** while in military service; or
- (B)** before entry into military service but after the servicemember--

- (i)** received a call or order to report for military service; or
- (ii)** was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

(2) designates the servicemember's spouse, parent, or other named relative as the servicemember's attorney in fact for certain, specified, or all purposes; and

(3) expires by its terms after the servicemember entered a missing status.

(b) Limitation on power of attorney extension

A power of attorney executed by a servicemember may not be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

Formerly cited as 50 U.S.C. App. § 592

§ 593. Professional liability protection [Sec. 703]

(a) Applicability

This section applies to a servicemember who--

(1) after July 31, 1990, is ordered to active duty (other than for training) pursuant to [sections 688, 12301\(a\), 12301\(g\), 12302, 12304, 12306, or 12307 of title 10, United States Code](#), or who is ordered to active duty under section 12301(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

(2) immediately before receiving the order to active duty--

(A) was engaged in the furnishing of health-care or legal services or other services determined by the Secretary of Defense to be professional services; and

(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to the servicemember during the period of the servicemember's active duty unless the premiums are paid for such coverage for such period.

(b) Suspension of coverage

(1) Suspension

Coverage of a servicemember referred to in subsection (a) by a professional liability insurance policy shall be suspended by the insurance carrier in accordance with this subsection upon receipt of a written request from the servicemember by the insurance carrier.

(2) Premiums for suspended contracts

A professional liability insurance carrier—

(A) may not require that premiums be paid by or on behalf of a servicemember for any professional liability insurance coverage suspended pursuant to paragraph (1); and

(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such servicemember, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

(3) Nonliability of carrier during suspension

A professional liability insurance carrier shall not be liable with respect to any claim that is based on professional conduct (including any failure to take any action in a professional capacity) of a servicemember that occurs during a period of suspension of that servicemember's professional liability insurance under this subsection.

(4) Certain claims considered to arise before suspension

For the purposes of paragraph (3), a claim based upon the failure of a professional to make adequate provision for a patient, client, or other person to receive professional services or other assistance during the period of the professional's active duty service shall be considered to be based on an action or failure to take action before the beginning of the period of the suspension of professional liability insurance under this subsection, except in a case in which professional services were provided after the date of the beginning of such period.

(c) Reinstatement of coverage

(1) Reinstatement required

Professional liability insurance coverage suspended in the case of any servicemember pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which that servicemember transmits to the insurance carrier a written request for reinstatement.

(2) Time and premium for reinstatement

The request of a servicemember for reinstatement shall be effective only if the servicemember transmits the request to the insurance carrier within 30 days after the date on which the servicemember is released from active duty. The insurance carrier shall notify the servicemember of the due date for payment of the premium of such insurance. Such premium shall be paid by the servicemember within 30 days after receipt of that notice.

(3) Period of reinstated coverage

The period for which professional liability insurance coverage shall be reinstated for a servicemember under this subsection may not be less than the balance of the period for which coverage would have continued under the insurance policy if the coverage had not been suspended.

(d) Increase in premium

(1) Limitation on premium increases

An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any servicemember for the minimum period of the reinstatement of such coverage required under subsection (c)(3) to an amount greater than the amount chargeable for such coverage for such period before the suspension.

(2) Exception

Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

(e) Continuation of coverage of unaffected persons

This section does not—

(1) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

(f) Stay of civil or administrative actions

(1) Stay of actions

A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

(A) the action was commenced during the period of the suspension;

(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the servicemember.

(2) Date of commencement of action

Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any servicemember, the action shall have been deemed to have been filed on the date on which the professional liability insurance coverage of the servicemember is reinstated under subsection (c).

(g) Effect of suspension upon limitations period

In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

(h) Death during period of suspension

If a servicemember whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension-

- (1)** the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember under subsection (f)(1) shall terminate on the date of the death of such servicemember; and
- (2)** the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased servicemember in the same manner and to the same extent as such carrier would be liable if the servicemember had died while covered by such insurance but before the claim was filed.

(i) Definitions

For purposes of this section:

(1) Active duty

The term "active duty" has the meaning given that term in [section 101\(d\)\(1\) of title 10, United States Code](#).

(2) Profession

The term "profession" includes occupation.

(3) Professional

The term "professional" includes occupational.

Formerly cited as 50 U.S.C. App. § 593
§ 594. Health insurance reinstatement [Sec. 704]

(a) Reinstatement of health insurance

A servicemember who, by reason of military service as defined in section 703(a)(1) [[section 593\(a\)\(1\)](#) of this Appendix], is entitled to the rights and protections of this Act [[sections 501](#) to 596 of this Appendix] shall also be entitled upon termination or release from such service to reinstatement of any health insurance that--

- (1) was in effect on the day before such service commenced; and
- (2) was terminated effective on a date during the period of such service.

(b) No exclusion or waiting period

The reinstatement of health care insurance coverage for the health or physical condition of a servicemember described in subsection (a), or any other person who is covered by the insurance by reason of the coverage of the servicemember, shall not be subject to an exclusion or a waiting period, if--

- (1) the condition arose before or during the period of such service;
- (2) an exclusion or a waiting period would not have been imposed for the condition during the period of coverage; and
- (3) if the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of [section 105 of title 38, United States Code](#)).

(c) Exceptions

Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

(d) Time for applying for reinstatement

An application under this section must be filed not later than 120 days after the date of the termination of or release from military service.

Formerly cited as 50 U.S.C. App. § 594
§ 595. Guarantee of residency for military personnel [Sec. 705]

For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 ([2 U.S.C. 431](#))) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence--

- (1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

- (2) be deemed to have acquired a residence or domicile in any other State; or
- (3) be deemed to have become a resident in or a resident of any other State.

§ 596. Business or trade obligations [Sec. 706]

(a) Availability of non-business assets to satisfy obligations

If the trade or business (without regard to the form in which such trade or business is carried out) of a servicemember has an obligation or liability for which the servicemember is personally liable, the assets of the servicemember not held in connection with the trade or business may not be available for satisfaction of the obligation or liability during the servicemember's military service.

(b) Relief to obligors

Upon application to a court by the holder of an obligation or liability covered by this section, relief granted by this section to a servicemember may be modified as justice and equity require.

