

# Union Calendar No. 45

108TH CONGRESS  
1ST SESSION

# H. R. 100

**[Report No. 108-81]**

To restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act  
of 1940.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. SMITH of New Jersey (for himself and Mr. EVANS) introduced the  
following bill; which was referred to the Committee on Veterans' Affairs

APRIL 30, 2003

Additional sponsors: Mr. REYES, Mr. FILNER, Mr. MICHAUD, Mr. GUTIERREZ, Mr. BROWN of South Carolina, Mr. BILIRAKIS, Ms. CORRINE BROWN of Florida, Mr. RODRIGUEZ, Ms. HOOLEY of Oregon, Mr. STRICKLAND, Ms. BERKLEY, Mr. HOLDEN, Mr. GEORGE MILLER of California, Mr. MURPHY, Mr. RENZI, Mr. UDALL of New Mexico, Mr. ABERCROMBIE, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mrs. DAVIS of California, Mr. BEAUPREZ, Mr. SIMMONS, Mr. BOOZMAN, Mr. MILLER of Florida, Mr. FROST, Mr. PLATTS, Mr. HAYES, Mr. SNYDER, Mr. HEFLEY, Ms. CARSON of Indiana, Mr. KILDEE, Mr. GILCHREST, Mr. BRADY of Pennsylvania, Mr. COOPER, Mr. ISRAEL, Mr. FALEOMAVAEGA, Mr. GARRETT of New Jersey, Mr. JONES of North Carolina, and Mr. EDWARDS

APRIL 30, 2003

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed



- “Sec. 202. *Stay of proceedings when servicemember defendant has notice.*  
 “Sec. 203. *Fines and penalties under contracts.*  
 “Sec. 204. *Stay or vacation of execution of judgments, attachments, and garnishments.*  
 “Sec. 205. *Duration and term of stays; codefendants not in service.*  
 “Sec. 206. *Statute of limitations.*  
 “Sec. 207. *Maximum rate of interest on debts incurred before military service.*

“TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS,  
 ASSIGNMENT, LEASES.

- “Sec. 301. *Evictions and distress.*  
 “Sec. 302. *Protection under installment contracts for purchase or lease.*  
 “Sec. 303. *Mortgages and trust deeds.*  
 “Sec. 304. *Settlement of stayed cases relating to personal property.*  
 “Sec. 305. *Termination of leases by lessees.*  
 “Sec. 306. *Protection of life insurance policy.*  
 “Sec. 307. *Enforcement of storage liens.*  
 “Sec. 308. *Extension of protections to dependents.*

“TITLE IV—LIFE INSURANCE

- “Sec. 401. *Definitions.*  
 “Sec. 402. *Insurance rights and protections.*  
 “Sec. 403. *Application for insurance protection.*  
 “Sec. 404. *Policies entitled to protection and lapse of policies.*  
 “Sec. 405. *Policy restrictions.*  
 “Sec. 406. *Deduction of unpaid premiums.*  
 “Sec. 407. *Premiums and interest guaranteed by United States.*  
 “Sec. 408. *Regulations.*  
 “Sec. 409. *Review of findings of fact and conclusions of law.*

“TITLE V—TAXES AND PUBLIC LANDS

- “Sec. 501. *Taxes respecting personal property, money, credits, and real property.*  
 “Sec. 502. *Rights in public lands.*  
 “Sec. 503. *Desert-land entries.*  
 “Sec. 504. *Mining claims.*  
 “Sec. 505. *Mineral permits and leases.*  
 “Sec. 506. *Perfection or defense of rights.*  
 “Sec. 507. *Distribution of information concerning benefits of title.*  
 “Sec. 508. *Land rights of servicemembers.*  
 “Sec. 509. *Regulations.*  
 “Sec. 510. *Income taxes.*  
 “Sec. 511. *Residence for tax purposes.*

“TITLE VI—ADMINISTRATIVE REMEDIES

- “Sec. 601. *Inappropriate use of Act.*  
 “Sec. 602. *Certificates of service; persons reported missing.*  
 “Sec. 603. *Interlocutory orders.*

“TITLE VII—FURTHER RELIEF

- “Sec. 701. *Anticipatory relief.*  
 “Sec. 702. *Power of attorney.*  
 “Sec. 703. *Professional liability protection.*

*“Sec. 704. Health insurance reinstatement.*

*“Sec. 705. Guarantee of residency for military personnel.*

1 **“SEC. 2. PURPOSE.**

2 *“The purposes of this Act are—*

3 *“(1) to provide for, strengthen, and expedite the*  
4 *national defense through protection extended by this*  
5 *Act to servicemembers of the United States to enable*  
6 *such persons to devote their entire energy to the de-*  
7 *fense needs of the Nation; and*

8 *“(2) to provide for the temporary suspension of*  
9 *judicial and administrative proceedings and trans-*  
10 *actions that may adversely affect the civil rights of*  
11 *servicemembers during their military service.*

12 **“TITLE I—GENERAL PROVISIONS**

13 **“SEC. 101. DEFINITIONS.**

14 *“For the purposes of this Act:*

15 *“(1) **SERVICEMEMBER.**—The term*  
16 *‘servicemember’ means a member of the uniformed*  
17 *services, as that term is defined in section 101(a)(5)*  
18 *of title 10, United States Code.*

19 *“(2) **MILITARY SERVICE.**—The term ‘military*  
20 *service’ means—*

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

1           “(i) active duty, as defined in section  
2           101(d)(1) of title 10, United States Code,  
3           and

4           “(ii) in the case of a member of the  
5           National Guard, includes service under a  
6           call to active service authorized by the  
7           President or the Secretary of Defense for a  
8           period of more than 30 consecutive days  
9           under section 502(f) of title 32, United  
10          States Code, for purposes of responding to a  
11          national emergency declared by the Presi-  
12          dent and supported by Federal funds; and

13          “(B) in the case of a servicemember who is  
14          a commissioned officer of the Public Health  
15          Service or the National Oceanic and Atmos-  
16          pheric Administration, active service.

17          “(3) PERIOD OF MILITARY SERVICE.—The term  
18          ‘period of military service’ means the period begin-  
19          ning on the date on which a servicemember enters  
20          military service and ending on the date on which the  
21          servicemember is released from military service or  
22          dies while in military service.

23          “(4) DEPENDENT.—The term ‘dependent’, with  
24          respect to a servicemember, means—

25                 “(A) the servicemember’s spouse;

1           “(B) the servicemember’s child (as defined  
2           in section 101(4) of title 38, United States  
3           Code); or

4           “(C) an individual for whom the  
5           servicemember provided more than one-half of  
6           the individual’s support for 180 days imme-  
7           diately preceding an application for relief under  
8           this Act.

9           “(5) COURT.—The term ‘court’ means a court or  
10          an administrative agency of the United States or of  
11          any State (including any political subdivision of a  
12          State), whether or not a court or administrative agen-  
13          cy of record.

14          “(6) STATE.—The term ‘State’ includes—

15                 “(A) a commonwealth, territory, or posses-  
16                 sion of the United States; and

17                 “(B) the District of Columbia.

18          “(7) SECRETARY CONCERNED.—The term ‘Sec-  
19          retary concerned’—

20                 “(A) with respect to a member of the armed  
21                 forces, has the meaning given that term in sec-  
22                 tion 101(a)(9) of title 10, United States Code;

23                 “(B) with respect to a commissioned officer  
24                 of the Public Health Service, means the Sec-  
25                 retary of Health and Human Services; and

1           “(C) *with respect to a commissioned officer*  
2           *of the National Oceanic and Atmospheric Ad-*  
3           *ministration, means the Secretary of Commerce.*

4   **“SEC. 102. JURISDICTION AND APPLICABILITY OF ACT.**

5           “(a) *JURISDICTION.—This Act applies to—*

6           “(1) *the United States;*

7           “(2) *each of the States, including the political*  
8           *subdivisions thereof; and*

9           “(3) *all territory subject to the jurisdiction of the*  
10          *United States.*

11          “(b) *APPLICABILITY TO PROCEEDINGS.—This Act ap-*  
12          *plies to any judicial or administrative proceeding com-*  
13          *menced in any court or agency in any jurisdiction subject*  
14          *to this Act. This Act does not apply to criminal proceedings.*

15          “(c) *COURT IN WHICH APPLICATION MAY BE MADE.—*  
16          *When under this Act any application is required to be made*  
17          *to a court in which no proceeding has already been com-*  
18          *menced with respect to the matter, such application may*  
19          *be made to any court which would otherwise have jurisdic-*  
20          *tion over the matter.*

21   **“SEC. 103. PROTECTION OF PERSONS SECONDARILY LIA-**  
22    **BLE.**

23          “(a) *EXTENSION OF PROTECTION WHEN ACTIONS*  
24          *STAYED, POSTPONED, OR SUSPENDED.—Whenever pursu-*  
25          *ant to this Act a court stays, postpones, or suspends (1)*

1 *the enforcement of an obligation or liability, (2) the pros-*  
2 *ecution of a suit or proceeding, (3) the entry or enforcement*  
3 *of an order, writ, judgment, or decree, or (4) the perform-*  
4 *ance of any other act, the court may likewise grant such*  
5 *a stay, postponement, or suspension to a surety, guarantor,*  
6 *endorser, accommodation maker, comaker, or other person*  
7 *who is or may be primarily or secondarily subject to the*  
8 *obligation or liability the performance or enforcement of*  
9 *which is stayed, postponed, or suspended.*

10       “(b) *VACATION OR SET-ASIDE OF JUDGMENTS.*—When  
11 *a judgment or decree is vacated or set aside, in whole or*  
12 *in part, pursuant to this Act, the court may also set aside*  
13 *or vacate, as the case may be, the judgment or decree as*  
14 *to a surety, guarantor, endorser, accommodation maker,*  
15 *comaker, or other person who is or may be primarily or*  
16 *secondarily liable on the contract or liability for the enforce-*  
17 *ment of the judgment or decree.*

18       “(c) *BAIL BOND NOT TO BE ENFORCED DURING PE-*  
19 *RIOD OF MILITARY SERVICE.*—A court may not enforce a  
20 *bail bond during the period of military service of the prin-*  
21 *cipal on the bond when military service prevents the surety*  
22 *from obtaining the attendance of the principal. The court*  
23 *may discharge the surety and exonerate the bail, in accord-*  
24 *ance with principles of equity and justice, during or after*  
25 *the period of military service of the principal.*

1       “(d) *WAIVER OF RIGHTS.*—

2               “(1) *WAIVERS NOT PRECLUDED.*—*This Act does*  
3       *not prevent a waiver in writing by a surety, guar-*  
4       *antor, endorser, accommodation maker, comaker, or*  
5       *other person (whether primarily or secondarily liable*  
6       *on an obligation or liability) of the protections pro-*  
7       *vided under subsections (a) and (b). Any such waiver*  
8       *is effective only if it is executed as an instrument sep-*  
9       *arate from the obligation or liability with respect to*  
10       *which it applies.*

11               “(2) *WAIVER INVALIDATED UPON ENTRANCE TO*  
12       *MILITARY SERVICE.*—*If a waiver under paragraph (1)*  
13       *is executed by an individual who after the execution*  
14       *of the waiver enters military service, or by a depend-*  
15       *ent of an individual who after the execution of the*  
16       *waiver enters military service, the waiver is not valid*  
17       *after the beginning of the period of such military*  
18       *service unless the waiver was executed by such indi-*  
19       *vidual or dependent during the period specified in*  
20       *section 106.*

21       “**SEC. 104. EXTENSION OF PROTECTIONS TO CITIZENS**  
22               ***SERVING WITH ALLIED FORCES.***

23               “*A citizen of the United States who is serving with*  
24       *the forces of a nation with which the United States is allied*  
25       *in the prosecution of a war or military action is entitled*

1 *to the relief and protections provided under this Act if that*  
2 *service with the allied force is similar to military service*  
3 *as defined in this Act. The relief and protections provided*  
4 *to such citizen shall terminate on the date of discharge or*  
5 *release from such service.*

6 **“SEC. 105. NOTIFICATION OF BENEFITS.**

7 *“The Secretary concerned shall ensure that notice of*  
8 *the benefits accorded by this Act is provided in writing to*  
9 *persons in military service and to persons entering military*  
10 *service.*

11 **“SEC. 106. EXTENSION OF RIGHTS AND PROTECTIONS TO**  
12 **RESERVES ORDERED TO REPORT FOR MILI-**  
13 **TARY SERVICE AND TO PERSONS ORDERED**  
14 **TO REPORT FOR INDUCTION.**

15 *“(a) RESERVES ORDERED TO REPORT FOR MILITARY*  
16 *SERVICE.—A member of a reserve component who is or-*  
17 *dered to report for military service is entitled to the rights*  
18 *and protections of this title and titles II and III during*  
19 *the period beginning on the date of the member’s receipt*  
20 *of the order and ending on the date on which the member*  
21 *reports for military service (or, if the order is revoked before*  
22 *the member so reports, or the date on which the order is*  
23 *revoked).*

24 *“(b) PERSONS ORDERED TO REPORT FOR INDUC-*  
25 *TION.—A person who has been ordered to report for induc-*

1 *tion under the Military Selective Service Act (50 U.S.C.*  
2 *App. 451 et seq.) is entitled to the rights and protections*  
3 *provided a servicemember under this title and titles II and*  
4 *III during the period beginning on the date of receipt of*  
5 *the order for induction and ending on the date on which*  
6 *the person reports for induction (or, if the order to report*  
7 *for induction is revoked before the date on which the person*  
8 *reports for induction, on the date on which the order is re-*  
9 *voked).*

10 ***“SEC. 107. WAIVER OF RIGHTS PURSUANT TO WRITTEN***  
11 ***AGREEMENT.***

12 *“(a) IN GENERAL.—A servicemember may waive any*  
13 *of the rights and protections provided by this Act. In the*  
14 *case of a waiver that permits an action described in sub-*  
15 *section (b), the waiver is effective only if made pursuant*  
16 *to a written agreement of the parties that is executed during*  
17 *or after the servicemember’s period of military service. The*  
18 *written agreement shall specify the legal instrument to*  
19 *which the waiver applies and, if the servicemember is not*  
20 *a party to that instrument, the servicemember concerned.*

21 *“(b) ACTIONS REQUIRING WAIVERS IN WRITING.—The*  
22 *requirement in subsection (a) for a written waiver applies*  
23 *to the following:*

24 *“(1) The modification, termination, or cancella-*  
25 *tion of—*

1                   “(A) a contract, lease, or bailment; or

2                   “(B) an obligation secured by a mortgage,  
3                   trust, deed, lien, or other security in the nature  
4                   of a mortgage.

5                   “(2) The repossession, retention, foreclosure, sale,  
6                   forfeiture, or taking possession of property that—

7                   “(A) is security for any obligation; or

8                   “(B) was purchased or received under a  
9                   contract, lease, or bailment.

10                  “(c) *COVERAGE OF PERIODS AFTER ORDERS RE-*  
11 *CEIVED.—For the purposes of this section—*

12                   “(1) a person to whom section 106 applies shall  
13                   be considered to be a servicemember; and

14                   “(2) the period with respect to such a person  
15                   specified in subsection (a) or (b), as the case may be,  
16                   of section 106 shall be considered to be a period of  
17                   military service.

18                  “**SEC. 108. EXERCISE OF RIGHTS UNDER ACT NOT TO AF-**  
19   **FECT CERTAIN FUTURE FINANCIAL TRANS-**  
20   **ACTIONS.**

21                   “Application by a servicemember for, or receipt by a  
22                   servicemember of, a stay, postponement, or suspension pur-  
23                   suant to this Act in the payment of a tax, fine, penalty,  
24                   insurance premium, or other civil obligation or liability of

1 *that servicemember shall not itself (without regard to other*  
2 *considerations) provide the basis for any of the following:*

3           “(1) *A determination by a lender or other person*  
4 *that the servicemember is unable to pay the civil obli-*  
5 *gation or liability in accordance with its terms.*

6           “(2) *With respect to a credit transaction between*  
7 *a creditor and the servicemember—*

8                   “(A) *a denial or revocation of credit by the*  
9 *creditor;*

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

12                   “(C) *a refusal by the creditor to grant cred-*  
13 *it to the servicemember in substantially the*  
14 *amount or on substantially the terms requested.*

15           “(3) *An adverse report relating to the credit-*  
16 *worthiness of the servicemember by or to a person en-*  
17 *gaged in the practice of assembling or evaluating con-*  
18 *sumer credit information.*

19           “(4) *A refusal by an insurer to insure the*  
20 *servicemember.*

21           “(5) *An annotation in a servicemember’s record*  
22 *by a creditor or a person engaged in the practice of*  
23 *assembling or evaluating consumer credit informa-*  
24 *tion, identifying the servicemember as a member of*  
25 *the National Guard or a reserve component.*

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

3   **“SEC. 109. LEGAL REPRESENTATIVES.**

4           “(a) *REPRESENTATIVE.—A legal representative of a*  
5           *servicemember for purposes of this Act is either of the fol-*  
6           *lowing:*

7           “(1) *An attorney acting on the behalf of a*  
8           *servicemember.*

9           “(2) *An individual possessing a power of attor-*  
10          *ney.*

11          “(b)     *APPLICATION.—Whenever the term*  
12          *‘servicemember’ is used in this Act, such term shall be treat-*  
13          *ed as including a reference to a legal representative of the*  
14          *servicemember.*

15          **“TITLE II—GENERAL RELIEF**

16          **“SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DE-**  
17    **FAULT JUDGMENTS.**

18          “(a) *APPLICABILITY OF SECTION.—This section ap-*  
19          *plies to any civil action or proceeding in which the defend-*  
20          *ant does not make an appearance.*

21          “(b) *AFFIDAVIT REQUIREMENT.—*

22                 “(1) *PLAINTIFF TO FILE AFFIDAVIT.—In any ac-*  
23                 *tion or proceeding covered by this section, the court,*  
24                 *before entering judgment for the plaintiff, shall re-*

1        *quire the plaintiff to file with the court an affi-*  
2        *davit—*

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

6                *“(B) if the plaintiff is unable to determine*  
7                *whether or not the defendant is in military serv-*  
8                *ice, stating that the plaintiff is unable to deter-*  
9                *mine whether or not the defendant is in military*  
10               *service.*

11               *“(2) APPOINTMENT OF ATTORNEY TO REPRESENT*  
12               *DEFENDANT IN MILITARY SERVICE.—If in an action*  
13               *covered by this section it appears that the defendant*  
14               *is in military service, the court may not enter a judg-*  
15               *ment until after the court appoints an attorney to*  
16               *represent the defendant. If an attorney appointed*  
17               *under this section to represent a servicemember can-*  
18               *not locate the servicemember, actions by the attorney*  
19               *in the case shall not waive any defense of the*  
20               *servicemember or otherwise bind the servicemember.*

21               *“(3) DEFENDANT’S MILITARY STATUS NOT*  
22               *ASCERTAINED BY AFFIDAVIT.—If based upon the affi-*  
23               *davits filed in such an action, the court is unable to*  
24               *determine whether the defendant is in military serv-*  
25               *ice, the court, before entering judgment, may require*

1        *the plaintiff to file a bond in an amount approved by*  
2        *the court. If the defendant is later found to be in mili-*  
3        *tary service, the bond shall be available to indemnify*  
4        *the defendant against any loss or damage the defend-*  
5        *ant may suffer by reason of any judgment for the*  
6        *plaintiff against the defendant, should the judgment*  
7        *be set aside in whole or in part. The bond shall re-*  
8        *main in effect until expiration of the time for appeal*  
9        *and setting aside of a judgment under applicable Fed-*  
10       *eral or State law or regulation or under any applica-*  
11       *ble ordinance of a political subdivision of a State.*  
12       *The court may issue such orders or enter such judg-*  
13       *ments as the court determines necessary to protect the*  
14       *rights of the defendant under this Act.*

15                *“(4) SATISFACTION OF REQUIREMENT FOR AFFI-*  
16        *DAVIT.—The requirement for an affidavit under para-*  
17        *graph (1) may be satisfied by a statement, declara-*  
18        *tion, verification, or certificate, in writing, subscribed*  
19        *and certified or declared to be true under penalty of*  
20        *perjury.*

21                *“(c) PENALTY FOR MAKING OR USING FALSE AFFI-*  
22        *DAVIT.—A person who makes or uses an affidavit permitted*  
23        *under subsection (b) (or a statement, declaration,*  
24        *verification, or certificate as authorized under subsection*  
25        *(b)(4)) knowing it to be false, shall be fined as provided*

1 *in title 18, United States Code, or imprisoned for not more*  
2 *than one year, or both.*

3       “(d) *STAY OF PROCEEDINGS.*—*In an action covered by*  
4 *this section in which the defendant is in military service,*  
5 *the court shall grant a stay of proceedings for a minimum*  
6 *period of 90 days under this subsection upon application*  
7 *of counsel, or on the court’s own motion, if the court deter-*  
8 *mines that—*

9               “(1) *there may be a defense to the action and a*  
10 *defense cannot be presented without the presence of*  
11 *the defendant; or*

12               “(2) *after due diligence, counsel has been unable*  
13 *to contact the defendant or otherwise determine if a*  
14 *meritorious defense exists.*

15       “(e) *INAPPLICABILITY OF SECTION 202 PROCE-*  
16 *DURES.*—*A stay of proceedings under subsection (d) shall*  
17 *not be controlled by procedures or requirements under sec-*  
18 *tion 202.*

19       “(f) *SECTION 202 PROTECTION.*—*If a servicemember*  
20 *who is a defendant in an action covered by this section re-*  
21 *ceives actual notice of the action, the servicemember may*  
22 *request a stay of proceeding under section 202.*

23       “(g) *VACATION OR SETTING ASIDE OF DEFAULT JUDG-*  
24 *MENTS.*—

1           “(1) *AUTHORITY FOR COURT TO VACATE OR SET*  
2           *ASIDE JUDGMENT.*—If a default judgment is entered  
3           in an action covered by this section against a  
4           servicemember during the servicemember’s period of  
5           military service (or within 60 days after termination  
6           of or release from such military service), the court en-  
7           tering the judgment shall, upon application by or on  
8           behalf of the servicemember, reopen the judgment for  
9           the purpose of allowing the servicemember to defend  
10          the action if it appears that—

11                   “(A) *the servicemember was materially af-*  
12                   *ected by reason of that military service in mak-*  
13                   *ing a defense to the action; and*

14                   “(B) *the servicemember has a meritorious or*  
15                   *legal defense to the action or some part of it.*

16          “(2) *TIME FOR FILING APPLICATION.*—An appli-  
17          cation under this subsection must be filed not later  
18          than 90 days after the date of the termination of or  
19          release from military service.

20          “(h) *PROTECTION OF BONA FIDE PURCHASER.*—If a  
21          court vacates, sets aside, or reverses a default judgment  
22          against a servicemember and the vacating, setting aside, or  
23          reversing is because of a provision of this Act, that action  
24          shall not impair a right or title acquired by a bona fide  
25          purchaser for value under the default judgment.

1 ***“SEC. 202. STAY OF PROCEEDINGS WHEN SERVICEMEMBER***  
2 ***DEFENDANT HAS NOTICE.***

3 *“(a) APPLICABILITY OF SECTION.—This section ap-*  
4 *plies to any civil action or proceeding in which the defend-*  
5 *ant at the time of filing an application under this section—*

6 *“(1) is in military service or is within 90 days*  
7 *after termination of or release from military service;*  
8 *and*

9 *“(2) has received notice of the action or pro-*  
10 *ceeding.*

11 *“(b) AUTOMATIC STAY.—*

12 *“(1) AUTHORITY FOR STAY.—At any stage before*  
13 *final judgment in a civil action or proceeding in*  
14 *which a servicemember described in subsection (a) is*  
15 *a party, the court may on its own motion and shall,*  
16 *upon application by the servicemember, stay the ac-*  
17 *tion for a period of not less than 90 days, if the con-*  
18 *ditions in paragraph (2) are met.*

19 *“(2) CONDITIONS FOR STAY.—An application for*  
20 *a stay under paragraph (1) shall include the fol-*  
21 *lowing:*

22 *“(A) A letter or other communication set-*  
23 *ting forth facts stating the manner in which cur-*  
24 *rent military duty requirements materially affect*  
25 *the servicemember’s ability to appear and stat-*

1           *ing a date when the servicemember will be avail-*  
2           *able to appear.*

3           “(B) *A letter or other communication from*  
4           *the servicemember’s commanding officer stating*  
5           *that the servicemember’s current military duty*  
6           *prevents appearance and that military leave is*  
7           *not authorized for the servicemember at the time*  
8           *of the letter.*

9           “(c) *APPLICATION NOT A WAIVER OF DEFENSES.—An*  
10          *application for a stay under this section does not constitute*  
11          *an appearance for jurisdictional purposes and does not con-*  
12          *stitute a waiver of any substantive or procedural defense*  
13          *(including a defense relating to lack of personal jurisdic-*  
14          *tion).*

15          “(d) *ADDITIONAL STAY.—*

16                 “(1) *APPLICATION.—A servicemember who is*  
17                 *granted a stay of a civil action or proceeding under*  
18                 *subsection (b) may apply for an additional stay based*  
19                 *on continuing material effect of military duty on the*  
20                 *servicemember’s ability to appear. Such an applica-*  
21                 *tion may be made by the servicemember at the time*  
22                 *of the initial application under subsection (b) or*  
23                 *when it appears that the servicemember is unavail-*  
24                 *able to prosecute or defend the action. The same infor-*

1        *mation required under subsection (b)(2) shall be in-*  
2        *cluded in an application under this subsection.*

3            “(2) *APPOINTMENT OF COUNSEL WHEN ADDI-*  
4        *TIONAL STAY REFUSED.—If the court refuses to grant*  
5        *an additional stay of proceedings under paragraph*  
6        *(1), the court shall appoint counsel to represent the*  
7        *servicemember in the action or proceeding.*

8            “(e) *COORDINATION WITH SECTION 201.—A*  
9        *servicemember who applies for a stay under this section and*  
10       *is unsuccessful may not seek the protections afforded by sec-*  
11       *tion 201.*

12           “(f) *INAPPLICABILITY TO SECTION 301.—The protec-*  
13       *tions of this section do not apply to section 301.*

14        “**SEC. 203. FINES AND PENALTIES UNDER CONTRACTS.**

15           “(a) *PROHIBITION OF PENALTIES.—When an action*  
16       *for compliance with the terms of a contract is stayed pursu-*  
17       *ant to this Act, a penalty shall not accrue for failure to*  
18       *comply with the terms of the contract during the period*  
19       *of the stay.*

20           “(b) *REDUCTION OR WAIVER OF FINES OR PEN-*  
21       *ALTIES.—If a servicemember fails to perform an obligation*  
22       *arising under a contract and a penalty is incurred arising*  
23       *from that nonperformance, a court may reduce or waive*  
24       *the fine or penalty if—*

1           “(1) *the servicemember was in military service*  
2           *at the time the fine or penalty was incurred; and*

3           “(2) *the ability of the servicemember to perform*  
4           *the obligation was materially affected by such mili-*  
5           *tary service.*

6   **“SEC. 204. STAY OR VACATION OF EXECUTION OF JUDG-**  
7                           **MENTS, ATTACHMENTS, AND GARNISHMENTS.**

8           “(a) *COURT ACTION UPON MATERIAL EFFECT DETER-*  
9           *MINATION.—If a servicemember, in the opinion of the court,*  
10          *is materially affected by reason of military service in com-*  
11          *plying with a court judgment or order, the court may on*  
12          *its own motion and shall on application by the*  
13          *servicemember—*

14               “(1) *stay the execution of any judgment or order*  
15               *entered against the servicemember; and*

16               “(2) *vacate or stay an attachment or garnish-*  
17               *ment of property, money, or debts in the possession of*  
18               *the servicemember or a third party, whether before or*  
19               *after judgment.*

20               “(b) *APPLICABILITY.—This section applies to an ac-*  
21               *tion or proceeding commenced in a court against a*  
22               *servicemember before or during the period of the*  
23               *servicemember’s military service or within 90 days after*  
24               *such service terminates.*

1 **“SEC. 205. DURATION AND TERM OF STAYS; CODEFEND-**  
2 **ANTS NOT IN SERVICE.**

3       “(a) *PERIOD OF STAY.*—A stay of an action, pro-  
4 ceeding, attachment, or execution made pursuant to the pro-  
5 visions of this Act by a court may be ordered for the period  
6 of military service and 90 days thereafter, or for any part  
7 of that period. The court may set the terms and amounts  
8 for such installment payments as is considered reasonable  
9 by the court.

10       “(b) *CODEFENDANTS.*—If the servicemember is a co-  
11 defendant with others who are not in military service and  
12 who are not entitled to the relief and protections provided  
13 under this Act, the plaintiff may proceed against those other  
14 defendants with the approval of the court.

15       “(c) *INAPPLICABILITY OF SECTION.*—This section does  
16 not apply to sections 202 and 701.

17 **“SEC. 206. STATUTE OF LIMITATIONS.**

18       “(a) *TOLLING OF STATUTES OF LIMITATION DURING*  
19 *MILITARY SERVICE.*—The period of a servicemember’s mili-  
20 tary service may not be included in computing any period  
21 limited by law, regulation, or order for the bringing of any  
22 action or proceeding in a court, or in any board, bureau,  
23 commission, department, or other agency of a State (or po-  
24 litical subdivision of a State) or the United States by or  
25 against the servicemember or the servicemember’s heirs, ex-  
26 ecutors, administrators, or assigns.

1       “(b) *REDEMPTION OF REAL PROPERTY.*—A period of  
2 *military service may not be included in computing any pe-*  
3 *riod provided by law for the redemption of real property*  
4 *sold or forfeited to enforce an obligation, tax, or assessment.*

5       “(c) *INAPPLICABILITY TO INTERNAL REVENUE*  
6 *LAWS.*—*This section does not apply to any period of limita-*  
7 *tion prescribed by or under the internal revenue laws of*  
8 *the United States.*

9       “**SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS IN-**  
10                                   **CURRED BEFORE MILITARY SERVICE.**

11       “(a) *INTEREST RATE LIMITATION.*—

12               “(1) *LIMITATION TO 6 PERCENT.*—*An obligation*  
13 *or liability bearing interest at a rate in excess of 6*  
14 *percent per year that is incurred by a servicemember,*  
15 *or the servicemember and the servicemember’s spouse*  
16 *jointly, before the servicemember enters military serv-*  
17 *ice shall not bear interest at a rate in excess of 6 per-*  
18 *cent per year during the period of military service.*

19               “(2) *FORGIVENESS OF INTEREST IN EXCESS OF*  
20 *6 PERCENT.*—*Interest at a rate in excess of 6 percent*  
21 *per year that would otherwise be incurred but for the*  
22 *prohibition in paragraph (1) is forgiven.*

23               “(3) *PREVENTION OF ACCELERATION OF PRIN-*  
24 *CIPAL.*—*The amount of any periodic payment due*  
25 *from a servicemember under the terms of the instru-*

1 *ment that created an obligation or liability covered by*  
2 *this section shall be reduced by the amount of the in-*  
3 *terest forgiven under paragraph (2) that is allocable*  
4 *to the period for which such payment is made.*

5 *“(b) IMPLEMENTATION OF LIMITATION.—*

6 *“(1) WRITTEN NOTICE TO CREDITOR.—In order*  
7 *for an obligation or liability of a servicemember to be*  
8 *subject to the interest rate limitation in subsection*  
9 *(a), the servicemember shall provide to the creditor*  
10 *written notice and a copy of the military orders call-*  
11 *ing the servicemember to military service and any or-*  
12 *ders further extending military service, not later than*  
13 *180 days after the date of the servicemember’s termi-*  
14 *nation or release from military service.*

15 *“(2) LIMITATION EFFECTIVE AS OF DATE OF*  
16 *ORDER TO ACTIVE DUTY.—Upon receipt of written*  
17 *notice and a copy of orders calling a servicemember*  
18 *to military service, the creditor shall treat the debt in*  
19 *accordance with subsection (a), effective as of the date*  
20 *on which the servicemember is called to military serv-*  
21 *ice.*

22 *“(c) CREDITOR PROTECTION.—A court may grant a*  
23 *creditor relief from the limitations of this section if, in the*  
24 *opinion of the court, the ability of the servicemember to pay*  
25 *interest upon the obligation or liability at a rate in excess*

1 of 6 percent per year is not materially affected by reason  
2 of the servicemember's military service.

3 “(d) *INTEREST DEFINED.*—As used in this section, the  
4 term ‘interest’ means simple interest plus service charges,  
5 renewal charges, fees, or any other charges (except bona fide  
6 insurance) with respect to an obligation or liability.

7 **“TITLE III—RENT, INSTALLMENT**  
8 **CONTRACTS, MORTGAGES,**  
9 **LIENS, ASSIGNMENT, LEASES**

10 **“SEC. 301. EVICTIONS AND DISTRESS.**

11 “(a) *COURT-ORDERED EVICTION.*—

12 “(1) *IN GENERAL.*—Except by court order, a  
13 landlord (or another person with paramount title)  
14 may not—

15 “(A) evict a servicemember, or the depend-  
16 ents of a servicemember, during a period of mili-  
17 tary service of the servicemember, from prem-  
18 ises—

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

21 “(ii) for which the monthly rent does  
22 not exceed \$1,700, as adjusted under para-  
23 graph (2) for years after 2003; or

24 “(B) subject such premises to a distress dur-  
25 ing the period of military service.

1           “(2) *HOUSING PRICE INFLATION ADJUSTMENT.*—

2           (A) *For calendar years beginning with 2004, the*  
3           *amount under subsection (a)(1)(A)(ii) shall be in-*  
4           *creased by the housing price inflation adjustment for*  
5           *the calendar year involved.*

6           “(B) *For purposes of this paragraph—*

7           “(i) *The housing price inflation adjustment*  
8           *for any calendar year is the percentage change*  
9           *(if any) by which—*

10           “(I) *the CPI housing component for*  
11           *November of the preceding calendar year,*  
12           *exceeds*

13           “(II) *the CPI housing component for*  
14           *November of 1984.*

15           “(ii) *The term ‘CPI housing component’*  
16           *means the index published by the Bureau of*  
17           *Labor Statistics of the Department of Labor*  
18           *known as the Consumer Price Index, All Urban*  
19           *Consumers, Rent of Primary Residence, U.S.*  
20           *City Average.’’.*

21           “(b) *STAY OF EXECUTION.*—

22           “(1) *COURT AUTHORITY.*—*Upon an application*  
23           *for eviction or distress with respect to premises cov-*  
24           *ered by this section, the court may on its own motion*  
25           *and shall, if a request is made by or on behalf of a*

1        *servicemember whose ability to pay the agreed rent is*  
2        *materially affected by military service—*

3                *“(A) stay the proceedings for a period of 90*  
4                *days, unless in the opinion of the court, justice*  
5                *and equity require a longer or shorter period of*  
6                *time; or*

7                *“(B) adjust the obligation under the lease to*  
8                *preserve the interests of all parties.*

9                *“(2) RELIEF TO LANDLORD.—If a stay is grant-*  
10              *ed under paragraph (1), the court may grant to the*  
11              *landlord (or other person with paramount title) such*  
12              *relief as equity may require.*

13              *“(c) PENALTIES.—*

14              *“(1) MISDEMEANOR.—Except as provided in*  
15              *subsection (a), a person who knowingly takes part in*  
16              *an eviction or distress described in subsection (a), or*  
17              *who knowingly attempts to do so, shall be fined as*  
18              *provided in title 18, United States Code, or impris-*  
19              *oned for not more than one year, or both.*

20              *“(2) PRESERVATION OF OTHER REMEDIES AND*  
21              *RIGHTS.—The remedies and rights provided under*  
22              *this section are in addition to and do not preclude*  
23              *any remedy for wrongful conversion (or wrongful*  
24              *eviction) otherwise available under the law to the per-*

1       son claiming relief under this section, including any  
2       award for consequential and punitive damages.

3       “(d) *RENT ALLOTMENT FROM PAY OF*  
4 *SERVICEMEMBER.*—To the extent required by a court order  
5 related to property which is the subject of a court action  
6 under this section, the Secretary concerned shall make an  
7 allotment from the pay of a servicemember to satisfy the  
8 terms of such order, except that any such allotment shall  
9 be subject to regulations prescribed by the Secretary con-  
10 cerned establishing the maximum amount of pay of  
11 servicemembers that may be allotted under this subsection.

12       “(e) *LIMITATION OF APPLICABILITY.*—Section 202 is  
13 not applicable to this section.

14       **“SEC. 302. PROTECTION UNDER INSTALLMENT CONTRACTS**  
15                               **FOR PURCHASE OR LEASE.**

16       “(a) *PROTECTION UPON BREACH OF CONTRACT.*—

17               “(1) *PROTECTION AFTER ENTERING MILITARY*  
18 *SERVICE.*—After a servicemember enters military  
19 service, a contract by the servicemember for—

20                       “(A) the purchase of real or personal prop-  
21 erty; or

22                       “(B) the lease or bailment of such property,  
23 may not be rescinded or terminated for a breach of  
24 terms of the contract occurring before or during that

1        *person’s military service, nor may the property be re-*  
2        *possessed for such breach without a court order.*

3                *“(2) APPLICABILITY.—This section applies only*  
4        *to a contract for which a deposit or installment has*  
5        *been paid by the servicemember before the*  
6        *servicemember enters military service.*

7                *“(b) PENALTIES.—*

8                *“(1) MISDEMEANOR.—A person who knowingly*  
9        *resumes possession of property in violation of sub-*  
10        *section (a), or in violation of section 107 of this Act,*  
11        *or who knowingly attempts to do so, shall be fined as*  
12        *provided in title 18, United States Code, or impris-*  
13        *oned for not more than one year, or both.*

14                *“(2) PRESERVATION OF OTHER REMEDIES AND*  
15        *RIGHTS.—The remedies and rights provided under*  
16        *this section are in addition to and do not preclude*  
17        *any remedy for wrongful conversion otherwise avail-*  
18        *able under law to the person claiming relief under*  
19        *this section, including any award for consequential*  
20        *and punitive damages.*

21                *“(c) AUTHORITY OF COURT.—In a hearing based on*  
22        *this section, the court—*

23                *“(1) may order repayment to the servicemember*  
24        *of all or part of the prior installments or deposits as*

1       *a condition of terminating the contract and resuming*  
2       *possession of the property;*

3               “(2) *may, on its own motion, and shall on ap-*  
4       *plication by a servicemember when the*  
5       *servicemember’s ability to comply with the contract is*  
6       *materially affected by military service, stay the pro-*  
7       *ceedings for a period of time as, in the opinion of the*  
8       *court, justice and equity require; or*

9               “(3) *may make other disposition as is equitable*  
10       *to preserve the interests of all parties.*

11       **“SEC. 303. MORTGAGES AND TRUST DEEDS.**

12               “(a) *MORTGAGE AS SECURITY.—This section applies*  
13       *only to an obligation on real or personal property owned*  
14       *by a servicemember that—*

15               “(1) *originated before the period of the*  
16       *servicemember’s military service and for which the*  
17       *servicemember is still obligated; and*

18               “(2) *is secured by a mortgage, trust deed, or*  
19       *other security in the nature of a mortgage.*

20               “(b) *STAY OF PROCEEDINGS AND ADJUSTMENT OF OB-*  
21       *LIGATION.—In an action filed during, or within 90 days*  
22       *after, a servicemember’s period of military service to enforce*  
23       *an obligation described in subsection (a), the court may*  
24       *after a hearing and on its own motion and shall upon ap-*  
25       *plication by a servicemember when the servicemember’s*

1 *ability to comply with the obligation is materially affected*  
2 *by military service—*

3           “(1) *stay the proceedings for a period of time as*  
4 *justice and equity require, or*

5           “(2) *adjust the obligation to preserve the inter-*  
6 *ests of all parties.*

7           “(c) *SALE OR FORECLOSURE.—A sale, foreclosure, or*  
8 *seizure of property for a breach of an obligation described*  
9 *in subsection (a) shall not be valid if made during, or with-*  
10 *in 90 days after, the period of the servicemember’s military*  
11 *service except—*

12           “(1) *upon a court order granted before such sale,*  
13 *foreclosure, or seizure with a return made and ap-*  
14 *proved by the court; or*

15           “(2) *if made pursuant to an agreement as pro-*  
16 *vided in section 107.*

17           “(d) *PENALTIES.—*

18           “(1) *MISDEMEANOR.—A person who knowingly*  
19 *makes or causes to be made a sale, foreclosure, or sei-*  
20 *zure of property that is prohibited by subsection (c),*  
21 *or who knowingly attempts to do so, shall be fined as*  
22 *provided in title 18, United States Code, or impris-*  
23 *oned for not more than one year, or both.*

24           “(2) *PRESERVATION OF OTHER REMEDIES.—The*  
25 *remedies and rights provided under this section are*



1           “(1) *the lease is executed by or on behalf of a*  
2           *person who thereafter and during the term of the lease*  
3           *enters military service; or*

4           “(2) *the servicemember, while in military serv-*  
5           *ice, executes a lease and thereafter receives military*  
6           *orders for a permanent change of station or to deploy*  
7           *with a military unit for a period of not less than 90*  
8           *days.*

9           “(b) *NOTICE TO LESSOR.—*

10           “(1) *DELIVERY OF NOTICE.—A lease described in*  
11           *subsection (a) is terminated when written notice is*  
12           *delivered by the lessee to the lessor (or the lessor’s*  
13           *grantee) or to the lessor’s agent (or the agent’s grant-*  
14           *ee).*

15           “(2) *TIME FOR NOTICE.—The written notice may*  
16           *be delivered at any time after the lessee’s entry into*  
17           *military service or the date of the military orders for*  
18           *a permanent change of station or to deploy for a pe-*  
19           *riod of not less than 90 days.*

20           “(3) *NATURE OF NOTICE.—Delivery may be ac-*  
21           *complished—*

22                   “(A) *by hand delivery;*

23                   “(B) *by private business carrier; or*

24                   “(C) *by placing the written notice in an en-*  
25           *velope with sufficient postage and addressed to*

1           *the lessor (or the lessor's grantee) or to the les-*  
2           *sor's agent (or the agent's grantee) and depos-*  
3           *iting the written notice in the United States*  
4           *mails.*

5           “(c) *EFFECTIVE DATE OF TERMINATION.*—

6           “(1) *LEASE WITH MONTHLY RENT.*—*Termi-*  
7           *nation of a lease providing for monthly payment of*  
8           *rent shall be effective 30 days after the first date on*  
9           *which the next rental payment is due and payable*  
10           *after the date on which the notice is delivered.*

11           “(2) *OTHER LEASE.*—*All other leases terminate*  
12           *on the last day of the month following the month in*  
13           *which the notice is delivered.*

14           “(d) *ARREARAGES IN RENT.*—*Rents unpaid for the pe-*  
15           *riod preceding termination shall be paid on a prorated*  
16           *basis.*

17           “(e) *RENT PAID IN ADVANCE.*—*Rents paid in advance*  
18           *for a period succeeding termination shall be refunded to the*  
19           *lessee by the lessor (or the lessor's assignee or the assignee's*  
20           *agent).*

21           “(f) *RELIEF TO LESSOR.*—*Upon application by the*  
22           *lessor to a court before the termination date provided in*  
23           *the written notice, relief granted by this section to a*  
24           *servicemember may be modified as justice and equity re-*  
25           *quire.*

1       “(g) *PENALTIES.*—

2               “(1) *MISDEMEANOR.*—Any person who know-  
3       ingly seizes, holds, or detains the personal effects, se-  
4       curity deposit, or other property of a servicemember  
5       or a servicemember’s dependent who lawfully termi-  
6       nates a lease covered by this section, or who know-  
7       ingly interferes with the removal of such property  
8       from premises covered by such lease, for the purpose  
9       of subjecting or attempting to subject any of such  
10      property to a claim for rent accruing subsequent to  
11      the date of termination of such lease, or attempts to  
12      do so, shall be fined as provided in title 18, United  
13      States Code, or imprisoned for not more than one  
14      year, or both.

15              “(2) *PRESERVATION OF OTHER REMEDIES.*—The  
16      remedy and rights provided under this section are in  
17      addition to and do not preclude any remedy for  
18      wrongful conversion otherwise available under law to  
19      the person claiming relief under this section, includ-  
20      ing any award for consequential or punitive damages.

21      **“SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.**

22              “(a) *ASSIGNMENT OF POLICY PROTECTED.*—If a life  
23      insurance policy on the life of a servicemember is assigned  
24      before military service to secure the payment of an obliga-  
25      tion, the assignee of the policy (except the insurer in connec-

1 tion with a policy loan) may not exercise, during a period  
2 of military service of the servicemember or within one year  
3 thereafter, any right or option obtained under the assign-  
4 ment without a court order.

5 “(b) *EXCEPTION.*—The prohibition in subsection (a)  
6 shall not apply—

7 “(1) if the assignee has the written consent of the  
8 insured made during the period described in sub-  
9 section (a)(1);

10 “(2) when the premiums on the policy are due  
11 and unpaid; or

12 “(3) upon the death of the insured.

13 “(c) *ORDER REFUSED BECAUSE OF MATERIAL EF-*  
14 *FECT.*—A court which receives an application for an order  
15 required under subsection (a) may refuse to grant such  
16 order if the court determines the ability of the  
17 servicemember to comply with the terms of the obligation  
18 is materially affected by military service.

19 “(d) *TREATMENT OF GUARANTEED PREMIUMS.*—For  
20 purposes of this subsection, premiums guaranteed under the  
21 provisions of title IV of this Act shall not be considered due  
22 and unpaid.

23 “(e) *PENALTIES.*—

24 “(1) *MISDEMEANOR.*—A person who knowingly  
25 takes an action contrary to this section, or attempts

1       to do so, shall be fined as provided in title 18, United  
2       States Code, or imprisoned for not more than one  
3       year, or both.

4               “(2) *PRESERVATION OF OTHER REMEDIES.*—The  
5       remedy and rights provided under this section are in  
6       addition to and do not preclude any remedy for  
7       wrongful conversion otherwise available under law to  
8       the person claiming relief under this section, includ-  
9       ing any consequential or punitive damages.

10   **“SEC. 307. ENFORCEMENT OF STORAGE LIENS.**

11       “(a) *LIENS.*—

12               “(1) *LIMITATION ON FORECLOSURE OR EN-*  
13       *FORCEMENT.*—A person holding a lien on the prop-  
14       erty or effects of a servicemember may not, during  
15       any period of military service of the servicemember  
16       and for 90 days thereafter, foreclose or enforce any  
17       lien on such property or effects without a court order  
18       granted before foreclosure or enforcement.

19               “(2) *LIEN DEFINED.*—For the purposes of para-  
20       graph (1), the term ‘lien’ includes a lien for storage,  
21       repair, or cleaning of the property or effects of a  
22       servicemember or a lien on such property or effects for  
23       any other reason.

24               “(b) *STAY OF PROCEEDINGS.*—In a proceeding to fore-  
25       close or enforce a lien subject to this section, the court may

1 *on its own motion, and shall if requested by a*  
2 *servicemember whose ability to comply with the obligation*  
3 *resulting in the proceeding is materially affected by mili-*  
4 *tary service—*

5           “(1) *stay the proceeding for a period of time as*  
6 *justice and equity require; or*

7           “(2) *adjust the obligation to preserve the inter-*  
8 *ests of all parties.*

9 *The provisions of this subsection do not affect the scope of*  
10 *section 303.*

11       “(c) *PENALTIES.—*

12           “(1) *MISDEMEANOR.—A person who knowingly*  
13 *takes an action contrary to this section, or attempts*  
14 *to do so, shall be fined as provided in title 18, United*  
15 *States Code, or imprisoned for not more than one*  
16 *year, or both.*

17           “(2) *PRESERVATION OF OTHER REMEDIES.—The*  
18 *remedy and rights provided under this section are in*  
19 *addition to and do not preclude any remedy for*  
20 *wrongful conversion otherwise available under law to*  
21 *the person claiming relief under this section, includ-*  
22 *ing any consequential or punitive damages.*

23 **“SEC. 308. EXTENSION OF PROTECTIONS TO DEPENDENTS.**

24       “*Upon application to a court, a dependent of a*  
25 *servicemember is entitled to the protections of this title if*

1 *the dependent's ability to comply with a lease, contract,*  
2 *bailment, or other obligation is materially affected by rea-*  
3 *son of the servicemember's military service.*

## 4 ***“TITLE IV—LIFE INSURANCE***

### 5 ***“SEC. 401. DEFINITIONS.***

6 *“For the purposes of this title:*

7 *“(1) POLICY.—The term ‘policy’ means any con-*  
8 *tract for whole, endowment, universal, or term life in-*  
9 *surance, including any benefit in the nature of such*  
10 *insurance arising out of membership in any fraternal*  
11 *or beneficial association which—*

12 *“(A) provides that the insurer may not—*

13 *“(i) decrease the amount of coverage or*  
14 *increase the amount of premiums if the in-*  
15 *sured is in military service; or*

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

18 *“(B) is in force not less than 180 days be-*  
19 *fore the date of the insured's entry into military*  
20 *service and at the time of application under this*  
21 *title.*

22 *“(2) PREMIUM.—The term ‘premium’ means the*  
23 *amount specified in an insurance policy to be paid*  
24 *to keep the policy in force.*

1           “(3) *INSURED.*—*The term ‘insured’ means a*  
2           *servicemember whose life is insured under a policy.*

3           “(4) *INSURER.*—*The term ‘insurer’ includes any*  
4           *firm, corporation, partnership, association, or busi-*  
5           *ness that is chartered or authorized to provide insur-*  
6           *ance and issue contracts or policies by the laws of a*  
7           *State or the United States.*

8           “**SEC. 402. INSURANCE RIGHTS AND PROTECTIONS.**

9           “(a) *RIGHTS AND PROTECTIONS.*—*The rights and pro-*  
10          *tections under this title apply to the insured when the in-*  
11          *sured, the insured’s designee, or the insured’s beneficiary*  
12          *applies in writing for protection under this title, unless the*  
13          *Secretary of Veterans Affairs determines that the insured’s*  
14          *policy is not entitled to protection under this title.*

15          “(b) *NOTIFICATION AND APPLICATION.*—*The Secretary*  
16          *of Veterans Affairs shall notify the Secretary concerned of*  
17          *the procedures to be used to apply for the protections pro-*  
18          *vided under this title. The applicant shall send the original*  
19          *application to the insurer and a copy to the Secretary of*  
20          *Veterans Affairs.*

21          “(c) *LIMITATION ON AMOUNT.*—*The total amount of*  
22          *life insurance coverage protection provided by this title for*  
23          *a servicemember may not exceed \$250,000, or an amount*  
24          *equal to the Servicemember’s Group Life Insurance max-*

1 *imum limit, whichever is greater, regardless of the number*  
2 *of policies submitted.*

3 **“SEC. 403. APPLICATION FOR INSURANCE PROTECTION.**

4       “(a) *APPLICATION PROCEDURE.*—*An application for*  
5 *protection under this title shall—*

6               “(1) *be in writing and signed by the insured, the*  
7 *insured’s designee, or the insured’s beneficiary, as the*  
8 *case may be;*

9               “(2) *identify the policy and the insurer; and*

10              “(3) *include an acknowledgement that the in-*  
11 *sured’s rights under the policy are subject to and*  
12 *modified by the provisions of this title.*

13       “(b) *ADDITIONAL REQUIREMENTS.*—*The Secretary of*  
14 *Veterans Affairs may require additional information from*  
15 *the applicant, the insured and the insurer to determine if*  
16 *the policy is entitled to protection under this title.*

17       “(c) *NOTICE TO THE SECRETARY BY THE INSURED.*—  
18 *Upon receipt of the application of the insured, the insurer*  
19 *shall furnish a report concerning the policy to the Secretary*  
20 *of Veterans Affairs as required by regulations prescribed by*  
21 *the Secretary.*

22       “(d) *POLICY MODIFICATION.*—*Upon application for*  
23 *protection under this title, the insured and the insurer shall*  
24 *have constructively agreed to any policy modification nec-*  
25 *essary to give this title full force and effect.*

1 **“SEC. 404. POLICIES ENTITLED TO PROTECTION AND LAPSE**  
2 **OF POLICIES.**

3 “(a) *DETERMINATION.*—*The Secretary of Veterans Af-*  
4 *fairs shall determine whether a policy is entitled to protec-*  
5 *tion under this title and shall notify the insured and the*  
6 *insurer of that determination.*

7 “(b) *LAPSE PROTECTION.*—*A policy that the Secretary*  
8 *determines is entitled to protection under this title shall not*  
9 *lapse or otherwise terminate or be forfeited for the non-*  
10 *payment of a premium, or interest or indebtedness on a*  
11 *premium, after the date of the application for protection.*

12 “(c) *TIME APPLICATION.*—*The protection provided by*  
13 *this title applies during the insured’s period of military*  
14 *service and for a period of two years thereafter.*

15 **“SEC. 405. POLICY RESTRICTIONS.**

16 “(a) *DIVIDENDS.*—*While a policy is protected under*  
17 *this title, a dividend or other monetary benefit under a pol-*  
18 *icy may not be paid to an insured or used to purchase divi-*  
19 *dend additions without the approval of the Secretary of Vet-*  
20 *erans Affairs. If such approval is not obtained, the divi-*  
21 *dends or benefits shall be added to the value of the policy*  
22 *to be used as a credit when final settlement is made with*  
23 *the insurer.*

24 “(b) *SPECIFIC RESTRICTIONS.*—*While a policy is pro-*  
25 *tected under this title, cash value, loan value, withdrawal*  
26 *of dividend accumulation, unearned premiums, or other*

1 *value of similar character may not be available to the in-*  
2 *ured without the approval of the Secretary. The right of*  
3 *the insured to change a beneficiary designation or select an*  
4 *optional settlement for a beneficiary shall not be affected*  
5 *by the provisions of this title.*

6 **“SEC. 406. DEDUCTION OF UNPAID PREMIUMS.**

7       “(a) *SETTLEMENT OF PROCEEDS.—If a policy ma-*  
8 *tures as a result of a servicemember’s death or otherwise*  
9 *during the period of protection of the policy under this title,*  
10 *the insurer in making settlement shall deduct from the in-*  
11 *surance proceeds the amount of the unpaid premiums guar-*  
12 *anteed under this title, together with interest due at the rate*  
13 *fixed in the policy for policy loans.*

14       “(b) *INTEREST RATE.—If the interest rate is not spe-*  
15 *cifically fixed in the policy, the rate shall be the same as*  
16 *for policy loans in other policies issued by the insurer at*  
17 *the time the insured’s policy was issued.*

18       “(c) *REPORTING REQUIREMENT.—The amount de-*  
19 *ducted under this section, if any, shall be reported by the*  
20 *insurer to the Secretary of Veterans Affairs.*

21 **“SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY**  
22 **UNITED STATES.**

23       “(a) *GUARANTEE OF PREMIUMS AND INTEREST BY*  
24 *THE UNITED STATES.—*

1           “(1) *GUARANTEE.*—*Payment of premiums, and*  
2           *interest on premiums at the rate specified in section*  
3           *406, which become due on a policy under the protec-*  
4           *tion of this title is guaranteed by the United States.*  
5           *If the amount guaranteed is not paid to the insurer*  
6           *before the period of insurance protection under this*  
7           *title expires, the amount due shall be treated by the*  
8           *insurer as a policy loan on the policy.*

9           “(2) *POLICY TERMINATION.*—*If, at the expiration*  
10           *of insurance protection under this title, the cash sur-*  
11           *render value of a policy is less than the amount due*  
12           *to pay premiums and interest on premiums on the*  
13           *policy, the policy shall terminate. Upon such termi-*  
14           *nation, the United States shall pay the insurer the*  
15           *difference between the amount due and the cash sur-*  
16           *render value.*

17           “(b) *RECOVERY FROM INSURED OF AMOUNTS PAID BY*  
18           *THE UNITED STATES.*—

19           “(1) *DEBT PAYABLE TO THE UNITED STATES.*—  
20           *The amount paid by the United States to an insurer*  
21           *under this title shall be a debt payable to the United*  
22           *States by the insured on whose policy payment was*  
23           *made.*

24           “(2) *COLLECTION.*—*Such amount may be col-*  
25           *lected by the United States, either as an offset from*

1       *any amount due the insured by the United States or*  
2       *as otherwise authorized by law.*

3               “(3) *DEBT NOT DISCHARGEABLE IN BANK-*  
4       *RUPTCY.—Such debt payable to the United States is*  
5       *not dischargeable in bankruptcy proceedings.*

6               “(c) *CREDITING OF AMOUNTS RECOVERED.—Any*  
7       *amounts received by the United States as repayment of*  
8       *debts incurred by an insured under this title shall be cred-*  
9       *ited to the appropriation for the payment of claims under*  
10       *this title.*

11       **“SEC. 408. REGULATIONS.**

12               *“The Secretary of Veterans Affairs shall prescribe regu-*  
13       *lations for the implementation of this title.*

14       **“SEC. 409. REVIEW OF FINDINGS OF FACT AND CONCLU-**  
15               **SIONS OF LAW.**

16               *“The findings of fact and conclusions of law made by*  
17       *the Secretary of Veterans Affairs in administering this title*  
18       *may be reviewed by the Board of Veterans’ Appeals and*  
19       *the United States Court of Appeals for Veterans Claims.*

20               **“TITLE V—TAXES AND PUBLIC**  
21               **LANDS**

22       **“SEC. 501. TAXES RESPECTING PERSONAL PROPERTY,**  
23               **MONEY, CREDITS, AND REAL PROPERTY.**

24               “(a) *APPLICATION.—This section applies in any case*  
25       *in which a tax or assessment, whether general or special*

1 *(other than a tax on personal income), falls due and re-*  
2 *mains unpaid before or during a period of military service*  
3 *with respect to a servicemember's—*

4           “(1) *personal property; or*

5           “(2) *real property occupied for dwelling, profes-*  
6 *sional, business, or agricultural purposes by a*  
7 *servicemember or the servicemember's dependents or*  
8 *employees—*

9           “(A) *before the servicemember's entry into*  
10 *military service; and*

11           “(B) *during the time the tax or assessment*  
12 *remains unpaid.*

13           “(b) *SALE OF PROPERTY.—*

14           “(1) *LIMITATION ON SALE OF PROPERTY TO EN-*  
15 *FORCE TAX ASSESSMENT.—Property described in sub-*  
16 *section (a) may not be sold to enforce the collection*  
17 *of such tax or assessment except by court order and*  
18 *upon the determination by the court that military*  
19 *service does not materially affect the servicemember's*  
20 *ability to pay the unpaid tax or assessment.*

21           “(2) *STAY OF COURT PROCEEDINGS.—A court*  
22 *may stay a proceeding to enforce the collection of such*  
23 *tax or assessment, or sale of such property, during a*  
24 *period of military service of the servicemember and*  
25 *for a period not more than 180 days after the termi-*

1        *nation of, or release of the servicemember from, mili-*  
2        *tary service.*

3        “(c) *REDEMPTION.*—*When property described in sub-*  
4        *section (a) is sold or forfeited to enforce the collection of*  
5        *a tax or assessment, a servicemember shall have the right*  
6        *to redeem or commence an action to redeem the*  
7        *servicemember’s property during the period of military*  
8        *service or within 180 days after termination of or release*  
9        *from military service. This subsection may not be construed*  
10       *to shorten any period provided by the law of a State (in-*  
11       *cluding any political subdivision of a State) for redemp-*  
12       *tion.*

13       “(d) *INTEREST ON TAX OR ASSESSMENT.*—*Whenever*  
14       *a servicemember does not pay a tax or assessment on prop-*  
15       *erty described in subsection (a) when due, the amount of*  
16       *the tax or assessment due and unpaid shall bear interest*  
17       *until paid at the rate of 6 percent per year. An additional*  
18       *penalty or interest shall not be incurred by reason of non-*  
19       *payment. A lien for such unpaid tax or assessment may*  
20       *include interest under this subsection.*

21       “(e) *JOINT OWNERSHIP APPLICATION.*—*This section*  
22       *applies to all forms of property described in subsection (a)*  
23       *owned individually by a servicemember or jointly by a*  
24       *servicemember and a dependent or dependents.*

1 **“SEC. 502. RIGHTS IN PUBLIC LANDS.**

2       “(a) *RIGHTS NOT FORFEITED.*—The rights of a  
3 servicemember to lands owned or controlled by the United  
4 States, and initiated or acquired by the servicemember  
5 under the laws of the United States (including the mining  
6 and mineral leasing laws) before military service, shall not  
7 be forfeited or prejudiced as a result of being absent from  
8 the land, or by failing to begin or complete any work or  
9 improvements to the land, during the period of military  
10 service.

11       “(b) *TEMPORARY SUSPENSION OF PERMITS OR LI-*  
12 *CENSES.*—If a permittee or licensee under the Act of June  
13 28, 1934 (43 U.S.C. 315 et seq.), enters military service,  
14 the permittee or licensee may suspend the permit or license  
15 for the period of military service and for 180 days after  
16 termination of or release from military service.

17       “(c) *REGULATIONS.*—Regulations prescribed by the  
18 Secretary of the Interior shall provide for such suspension  
19 of permits and licenses and for the remission, reduction,  
20 or refund of grazing fees during the period of such suspen-  
21 sion.

22 **“SEC. 503. DESERT-LAND ENTRIES.**

23       “(a) *DESERT-LAND RIGHTS NOT FORFEITED.*—A  
24 desert-land entry made or held under the desert-land laws  
25 before the entrance of the entryman or the entryman’s suc-

1 *cessor in interest into military service shall not be subject*  
2 *to contest or cancellation—*

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

5           “(2) *for failure to effect the reclamation of the*  
6 *claim during the period the entryman or the*  
7 *entryman’s successor in interest is in the military*  
8 *service, or for 180 days after termination of or release*  
9 *from military service; or*

10           “(3) *during any period of hospitalization or re-*  
11 *habilitation due to an injury or disability incurred*  
12 *in the line of duty.*

13 *The time within which the entryman or claimant is re-*  
14 *quired to make such expenditures and effect reclamation of*  
15 *the land shall be exclusive of the time periods described in*  
16 *paragraphs (2) and (3).*

17           “(b) *SERVICE-RELATED DISABILITY.—If an entryman*  
18 *or claimant is honorably discharged and is unable to ac-*  
19 *complish reclamation of, and payment for, desert land due*  
20 *to a disability incurred in the line of duty, the entryman*  
21 *or claimant may make proof without further reclamation*  
22 *or payments, under regulations prescribed by the Secretary*  
23 *of the Interior, and receive a patent for the land entered*  
24 *or claimed.*

1       “(c) *FILING REQUIREMENT.*—*In order to obtain the*  
2 *protection of this section, the entryman or claimant shall,*  
3 *within 180 days after entry into military service, cause to*  
4 *be filed in the land office of the district where the claim*  
5 *is situated a notice communicating the fact of military*  
6 *service and the desire to hold the claim under this section.*

7       “**SEC. 504. MINING CLAIMS.**

8       “(a) *REQUIREMENTS SUSPENDED.*—*The provisions of*  
9 *section 2324 of the Revised Statutes of the United States*  
10 *(30 U.S.C. 28) specified in subsection (b) shall not apply*  
11 *to a servicemember’s claims or interests in claims, regularly*  
12 *located and recorded, during a period of military service*  
13 *and 180 days thereafter, or during any period of hos-*  
14 *pitalization or rehabilitation due to injuries or disabilities*  
15 *incurred in the line of duty.*

16       “(b) *REQUIREMENTS.*—*The provisions in section 2324*  
17 *of the Revised Statutes that shall not apply under sub-*  
18 *section (a) are those which require that on each mining*  
19 *claim located after May 10, 1872, and until a patent has*  
20 *been issued for such claim, not less than \$100 worth of labor*  
21 *shall be performed or improvements made during each year.*

22       “(c) *PERIOD OF PROTECTION FROM FORFEITURE.*—  
23 *A mining claim or an interest in a claim owned by a*  
24 *servicemember that has been regularly located and recorded*  
25 *shall not be subject to forfeiture for nonperformance of an-*

1 nual assessments during the period of military service and  
2 for 180 days thereafter, or for any period of hospitalization  
3 or rehabilitation described in subsection (a).

4 “(d) *FILING REQUIREMENT.*—In order to obtain the  
5 protections of this section, the claimant of a mining loca-  
6 tion shall, before the end of the assessment year in which  
7 military service is begun or within 60 days after the end  
8 of such assessment year, cause to be filed in the office where  
9 the location notice or certificate is recorded a notice commu-  
10 nicating the fact of military service and the desire to hold  
11 the mining claim under this section.

12 **“SEC. 505. MINERAL PERMITS AND LEASES.**

13 “(a) *SUSPENSION DURING MILITARY SERVICE.*—A  
14 person holding a permit or lease on the public domain  
15 under the Federal mineral leasing laws who enters military  
16 service may suspend all operations under the permit or  
17 lease for the duration of military service and for 180 days  
18 thereafter. The term of the permit or lease shall not run  
19 during the period of suspension, nor shall any rental or  
20 royalties be charged against the permit or lease during the  
21 period of suspension.

22 “(b) *NOTIFICATION.*—In order to obtain the protection  
23 of this section, the permittee or lessee shall, within 180 days  
24 after entry into military service, notify the Secretary of the  
25 Interior by registered mail of the fact that military service

1 *has begun and of the desire to hold the claim under this*  
2 *section.*

3 “(c) *CONTRACT MODIFICATION.*—*This section shall not*  
4 *be construed to supersede the terms of any contract for oper-*  
5 *ation of a permit or lease.*

6 “**SEC. 506. PERFECTION OR DEFENSE OF RIGHTS.**

7 “(a) *RIGHT TO TAKE ACTION NOT AFFECTED.*—*This*  
8 *title shall not affect the right of a servicemember to take*  
9 *action during a period of military service that is authorized*  
10 *by law or regulations of the Department of the Interior,*  
11 *for the perfection, defense, or further assertion of rights ini-*  
12 *tiated or acquired before entering military service.*

13 “(b) *AFFIDAVITS AND PROOFS.*—

14 “(1) *IN GENERAL.*—*A servicemember during a*  
15 *period of military service may make any affidavit or*  
16 *submit any proof required by law, practice, or regula-*  
17 *tion of the Department of the Interior in connection*  
18 *with the entry, perfection, defense, or further assertion*  
19 *of rights initiated or acquired before entering mili-*  
20 *tary service before an officer authorized to provide no-*  
21 *tary services under section 1044a of title 10, United*  
22 *States Code, or any superior commissioned officer.*

23 “(2) *LEGAL STATUS OF AFFIDAVITS.*—*Such affi-*  
24 *davits shall be binding in law and subject to the same*



1 *time shall be suspended as to entry by a servicemember in*  
2 *military service until 180 days after termination of or re-*  
3 *lease from military service.*

4       “(c) *ENTRY APPLICATIONS.*—Applications for entry  
5 may be verified before a person authorized to administer  
6 oaths under section 1044a of title 10, United States Code,  
7 or under the laws of the State where the land is situated.

8 **“SEC. 509. REGULATIONS.**

9       “The Secretary of the Interior may issue regulations  
10 necessary to carry out this title (other than sections 501,  
11 510, and 511).

12 **“SEC. 510. INCOME TAXES.**

13       “(a) *DEFERRAL OF TAX.*—Upon notice to the Internal  
14 Revenue Service or the tax authority of a State or a polit-  
15 ical subdivision of a State, the collection of income tax on  
16 the income of a servicemember falling due before or during  
17 military service shall be deferred for a period not more than  
18 180 days after termination of or release from military serv-  
19 ice, if a servicemember’s ability to pay such income tax is  
20 materially affected by military service.

21       “(b) *ACCRUAL OF INTEREST OR PENALTY.*—No inter-  
22 est or penalty shall accrue for the period of deferment by  
23 reason of nonpayment on any amount of tax deferred under  
24 this section.

1       “(c) *STATUTE OF LIMITATIONS.*—*The running of a*  
2 *statute of limitations against the collection of tax deferred*  
3 *under this section, by seizure or otherwise, shall be sus-*  
4 *pending for the period of military service of the*  
5 *servicemember and for an additional period of 270 days*  
6 *thereafter.*

7       “(d) *APPLICATION LIMITATION.*—*This section shall not*  
8 *apply to the tax imposed on employees by section 3101 of*  
9 *the Internal Revenue Code of 1986.*

10   **“SEC. 511. RESIDENCE FOR TAX PURPOSES.**

11       “(a) *RESIDENCE OR DOMICILE.*—*A servicemember*  
12 *shall neither lose nor acquire a residence or domicile for*  
13 *purposes of taxation with respect to the person, personal*  
14 *property, or income of the servicemember by reason of being*  
15 *absent or present in any tax jurisdiction of the United*  
16 *States solely in compliance with military orders.*

17       “(b) *MILITARY SERVICE COMPENSATION.*—*Compensa-*  
18 *tion of a servicemember for military service shall not be*  
19 *deemed to be income for services performed or from sources*  
20 *within a tax jurisdiction of the United States if the*  
21 *servicemember is not a resident or domiciliary of the juris-*  
22 *isdiction in which the servicemember is serving in compliance*  
23 *with military orders.*

24       “(c) *PERSONAL PROPERTY.*—

1           “(1) *RELIEF FROM PERSONAL PROPERTY*  
2 *TAXES.—The personal property of a servicemember*  
3 *shall not be deemed to be located or present in, or to*  
4 *have a situs for taxation in, the tax jurisdiction in*  
5 *which the servicemember is serving in compliance*  
6 *with military orders.*

7           “(2) *EXCEPTION FOR PROPERTY WITHIN MEM-*  
8 *BER’S DOMICILE OR RESIDENCE.—This subsection ap-*  
9 *plies to personal property or its use within any tax*  
10 *jurisdiction other than the servicemember’s domicile*  
11 *or residence.*

12           “(3) *EXCEPTION FOR PROPERTY USED IN TRADE*  
13 *OR BUSINESS.—This section does not prevent taxation*  
14 *by a tax jurisdiction with respect to personal prop-*  
15 *erty used in or arising from a trade or business, if*  
16 *it has jurisdiction.*

17           “(4) *RELATIONSHIP TO LAW OF STATE OF DOMI-*  
18 *CILE.—Eligibility for relief from personal property*  
19 *taxes under this subsection is not contingent on*  
20 *whether or not such taxes are paid to the State of*  
21 *domicile.*

22           “(d) *INCREASE OF TAX LIABILITY.—A tax jurisdiction*  
23 *may not use the military compensation of a nonresident*  
24 *servicemember to increase the tax liability imposed on other*

1 *income earned by the nonresident servicemember or spouse*  
 2 *subject to tax by the jurisdiction.*

3       “(e) *FEDERAL INDIAN RESERVATIONS.*—*An Indian*  
 4 *servicemember whose legal residence or domicile is a Fed-*  
 5 *eral Indian reservation shall be taxed by the laws applicable*  
 6 *to Federal Indian reservations and not the State where the*  
 7 *reservation is located.*

8       “(f) *DEFINITIONS.*—*For purposes of this section:*

9               “(1) *PERSONAL PROPERTY.*—*The term ‘personal*  
 10 *property’ means intangible and tangible property (in-*  
 11 *cluding motor vehicles).*

12               “(2) *TAXATION.*—*The term ‘taxation’ includes li-*  
 13 *censes, fees, or excises imposed with respect to motor*  
 14 *vehicles and their use, if the license, fee, or excise is*  
 15 *paid by the servicemember in the servicemember’s*  
 16 *State of domicile or residence.*

17               “(3) *TAX JURISDICTION.*—*The term ‘tax jurisdic-*  
 18 *tion’ means a State or a political subdivision of a*  
 19 *State.*

20       **“TITLE VI—ADMINISTRATIVE**  
 21               **REMEDIES**

22       **“SEC. 601. INAPPROPRIATE USE OF ACT.**

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

1 *just enforcement of such right by taking advantage of this*  
2 *Act, the court shall enter such judgment or make such order*  
3 *as might lawfully be entered or made concerning such trans-*  
4 *fer or acquisition.*

5 ***“SEC. 602. CERTIFICATES OF SERVICE; PERSONS REPORTED***  
6 ***MISSING.***

7 *“(a) PRIMA FACIE EVIDENCE.—In any proceeding*  
8 *under this Act, a certificate signed by the Secretary con-*  
9 *cerned is prima facie evidence as to any of the following*  
10 *facts stated in the certificate:*

11 *“(1) That a person named is, is not, has been,*  
12 *or has not been in military service.*

13 *“(2) The time and the place the person entered*  
14 *military service.*

15 *“(3) The person’s residence at the time the per-*  
16 *son entered military service.*

17 *“(4) The rank, branch, and unit of military*  
18 *service of the person upon entry.*

19 *“(5) The inclusive dates of the person’s military*  
20 *service.*

21 *“(6) The monthly pay received by the person at*  
22 *the date of the certificate’s issuance.*

23 *“(7) The time and place of the person’s termi-*  
24 *nation of or release from military service, or the per-*  
25 *son’s death during military service.*

1       “(b) *CERTIFICATES.*—*The Secretary concerned shall*  
2 *furnish a certificate under subsection (a) upon receipt of*  
3 *an application for such a certificate. A certificate appear-*  
4 *ing to be signed by the Secretary concerned is prima facie*  
5 *evidence of its contents and of the signer’s authority to issue*  
6 *it.*

7       “(c) *TREATMENT OF SERVICEMEMBERS IN MISSING*  
8 *STATUS.*—*A servicemember who has been reported missing*  
9 *is presumed to continue in service until accounted for. A*  
10 *requirement under this Act that begins or ends with the*  
11 *death of a servicemember does not begin or end until the*  
12 *servicemember’s death is reported to, or determined by, the*  
13 *Secretary concerned or by a court of competent jurisdiction.*

14       **“SEC. 603. INTERLOCUTORY ORDERS.**

15       *“An interlocutory order issued by a court under this*  
16 *Act may be revoked, modified, or extended by that court*  
17 *upon its own motion or otherwise, upon notification to af-*  
18 *ected parties as required by the court.*

19       **“TITLE VII—FURTHER RELIEF**

20       **“SEC. 701. ANTICIPATORY RELIEF.**

21       “(a) *APPLICATION FOR RELIEF.*—*A servicemember*  
22 *may, during military service or within 180 days of termi-*  
23 *nation of or release from military service, apply to a court*  
24 *for relief—*

1           “(1) from any obligation or liability incurred by  
2           the servicemember before the servicemember’s military  
3           service; or

4           “(2) from a tax or assessment falling due before  
5           or during the servicemember’s military service.

6           “(b) *TAX LIABILITY OR ASSESSMENT.*—In a case cov-  
7           ered by subsection (a), the court may, if the ability of the  
8           servicemember to comply with the terms of such obligation  
9           or liability or pay such tax or assessment has been materi-  
10          ally affected by reason of military service, after appropriate  
11          notice and hearing, grant the following relief:

12           “(1) *STAY OF ENFORCEMENT OF REAL ESTATE*  
13          *CONTRACTS.*—

14           “(A) In the case of an obligation payable in  
15           installments under a contract for the purchase of  
16           real estate, or secured by a mortgage or other in-  
17           strument in the nature of a mortgage upon real  
18           estate, the court may grant a stay of the enforce-  
19           ment of the obligation—

20           “(i) during the servicemember’s period  
21           of military service; and

22           “(ii) from the date of termination of or  
23           release from military service, or from the  
24           date of application if made after termi-  
25           nation of or release from military service.

1           “(B) Any stay under this paragraph shall  
2           be—

3                   “(i) for a period equal to the remain-  
4                   ing life of the installment contract or other  
5                   instrument, plus a period of time equal to  
6                   the period of military service of the  
7                   servicemember, or any part of such com-  
8                   bined period; and

9                   “(ii) subject to payment of the balance  
10                  of the principal and accumulated interest  
11                  due and unpaid at the date of termination  
12                  or release from the applicant’s military  
13                  service or from the date of application in  
14                  equal installments during the combined pe-  
15                  riod at the rate of interest on the unpaid  
16                  balance prescribed in the contract or other  
17                  instrument evidencing the obligation, and  
18                  subject to other terms as may be equitable.

19           “(2) *STAY OF ENFORCEMENT OF OTHER CON-*  
20           *TRACTS.—*

21                   “(A) In the case of any other obligation, li-  
22                   ability, tax, or assessment, the court may grant  
23                   a stay of enforcement—

24                           “(i) during the servicemember’s mili-  
25                           tary service; and

1           “(ii) from the date of termination of or  
2           release from military service, or from the  
3           date of application if made after termi-  
4           nation or release from military service.

5           “(B) Any stay under this paragraph shall  
6           be—

7                   “(i) for a period of time equal to the  
8                   period of the servicemember’s military serv-  
9                   ice or any part of such period; and

10                   “(ii) subject to payment of the balance  
11                   of principal and accumulated interest due  
12                   and unpaid at the date of termination or  
13                   release from military service, or the date of  
14                   application, in equal periodic installments  
15                   during this extended period at the rate of  
16                   interest as may be prescribed for this obli-  
17                   gation, liability, tax, or assessment, if paid  
18                   when due, and subject to other terms as  
19                   may be equitable.

20           “(c) *EFFECT OF STAY ON FINE OR PENALTY.*—When  
21           a court grants a stay under this section, a fine or penalty  
22           shall not accrue on the obligation, liability, tax, or assess-  
23           ment for the period of compliance with the terms and condi-  
24           tions of the stay.

1 **“SEC. 702. POWER OF ATTORNEY.**

2 “(a) *AUTOMATIC EXTENSION.*—A power of attorney of  
3 a servicemember shall be automatically extended for the pe-  
4 riod the servicemember is in a missing status (as defined  
5 in section 551(2) of title 37, United States Code) if the  
6 power of attorney—

7 “(1) was duly executed by the servicemember—

8 “(A) while in military service; or

9 “(B) before entry into military service but  
10 after the servicemember—

11 “(i) received a call or order to report  
12 for military service; or

13 “(ii) was notified by an official of the  
14 Department of Defense that the person could  
15 receive a call or order to report for military  
16 service;

17 “(2) designates the servicemember’s spouse, par-  
18 ent, or other named relative as the servicemember’s  
19 attorney in fact for certain, specified, or all purposes;  
20 and

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

23 “(b) *LIMITATION ON POWER OF ATTORNEY EXTEN-*  
24 *SION.*—A power of attorney executed by a servicemember  
25 may not be extended under subsection (a) if the document  
26 by its terms clearly indicates that the power granted expires

1 *on the date specified even though the servicemember, after*  
2 *the date of execution of the document, enters a missing sta-*  
3 *tus.*

4 ***“SEC. 703. PROFESSIONAL LIABILITY PROTECTION.***

5 *“(a) APPLICABILITY.—This section applies to a*  
6 *servicemember who—*

7 *“(1) after July 31, 1990, is ordered to active*  
8 *duty (other than for training) pursuant to sections*  
9 *688, 12301(a), 12301(g), 12302, 12304, 12306, or*  
10 *12307 of title 10, United States Code, or who is or-*  
11 *dered to active duty under section 12301(d) of such*  
12 *title during a period when members are on active*  
13 *duty pursuant to any of the preceding sections; and*

14 *“(2) immediately before receiving the order to ac-*  
15 *tive duty—*

16 *“(A) was engaged in the furnishing of*  
17 *health-care or legal services or other services de-*  
18 *termined by the Secretary of Defense to be pro-*  
19 *fessional services; and*

20 *“(B) had in effect a professional liability*  
21 *insurance policy that does not continue to cover*  
22 *claims filed with respect to the servicemember*  
23 *during the period of the servicemember’s active*  
24 *duty unless the premiums are paid for such cov-*  
25 *erage for such period.*

1       “(b) *SUSPENSION OF COVERAGE.*—

2               “(1) *SUSPENSION.*—Coverage of a servicemember  
3 referred to in subsection (a) by a professional liability  
4 insurance policy shall be suspended by the insurance  
5 carrier in accordance with this subsection upon re-  
6 ceipt of a written request from the servicemember, or  
7 the servicemember’s legal representative, by the insur-  
8 ance carrier.

9               “(2) *PREMIUMS FOR SUSPENDED CONTRACTS.*—  
10 A professional liability insurance carrier—

11               “(A) may not require that premiums be  
12 paid by or on behalf of a servicemember for any  
13 professional liability insurance coverage sus-  
14 pended pursuant to paragraph (1); and

15               “(B) shall refund any amount paid for cov-  
16 erage for the period of such suspension or, upon  
17 the election of such servicemember, apply such  
18 amount for the payment of any premium becom-  
19 ing due upon the reinstatement of such coverage.

20               “(3) *NONLIABILITY OF CARRIER DURING SUSPEN-*  
21 *SION.*—A professional liability insurance carrier shall  
22 not be liable with respect to any claim that is based  
23 on professional conduct (including any failure to take  
24 any action in a professional capacity) of a  
25 servicemember that occurs during a period of suspen-

1        *sion of that servicemember's professional liability in-*  
2        *urance under this subsection.*

3            *“(4) CERTAIN CLAIMS CONSIDERED TO ARISE*  
4        *BEFORE SUSPENSION.—For the purposes of para-*  
5        *graph (3), a claim based upon the failure of a profes-*  
6        *sional to make adequate provision for a patient, cli-*  
7        *ent, or other person to receive professional services or*  
8        *other assistance during the period of the professional's*  
9        *active duty service shall be considered to be based on*  
10       *an action or failure to take action before the begin-*  
11       *ning of the period of the suspension of professional li-*  
12       *ability insurance under this subsection, except in a*  
13       *case in which professional services were provided after*  
14       *the date of the beginning of such period.*

15       *“(c) REINSTATEMENT OF COVERAGE.—*

16            *“(1) REINSTATEMENT REQUIRED.—Professional*  
17        *liability insurance coverage suspended in the case of*  
18        *any servicemember pursuant to subsection (b) shall be*  
19        *reinstated by the insurance carrier on the date on*  
20        *which that servicemember transmits to the insurance*  
21        *carrier a written request for reinstatement.*

22            *“(2) TIME AND PREMIUM FOR REINSTATE-*  
23        *MENT.—The request of a servicemember for reinstate-*  
24        *ment shall be effective only if the servicemember*  
25        *transmits the request to the insurance carrier within*

1       30 days after the date on which the servicemember is  
2       released from active duty. The insurance carrier shall  
3       notify the servicemember of the due date for payment  
4       of the premium of such insurance. Such premium  
5       shall be paid by the servicemember within 30 days  
6       after receipt of that notice.

7               “(3) *PERIOD OF REINSTATED COVERAGE.*—The  
8       period for which professional liability insurance cov-  
9       erage shall be reinstated for a servicemember under  
10       this subsection may not be less than the balance of the  
11       period for which coverage would have continued under  
12       the insurance policy if the coverage had not been sus-  
13       pended.

14              “(d) *INCREASE IN PREMIUM.*—

15               “(1) *LIMITATION ON PREMIUM INCREASES.*—An  
16       insurance carrier may not increase the amount of the  
17       premium charged for professional liability insurance  
18       coverage of any servicemember for the minimum pe-  
19       riod of the reinstatement of such coverage required  
20       under subsection (c)(3) to an amount greater than the  
21       amount chargeable for such coverage for such period  
22       before the suspension.

23               “(2) *EXCEPTION.*—Paragraph (1) does not pre-  
24       vent an increase in premium to the extent of any gen-  
25       eral increase in the premiums charged by that carrier

1       *for the same professional liability coverage for persons*  
2       *similarly covered by such insurance during the period*  
3       *of the suspension.*

4       “(e) *CONTINUATION OF COVERAGE OF UNAFFECTED*  
5 *PERSONS.—This section does not—*

6               “(1) *require a suspension of professional liability*  
7       *insurance protection for any person who is not a per-*  
8       *son referred to in subsection (a) and who is covered*  
9       *by the same professional liability insurance as a per-*  
10       *son referred to in such subsection; or*

11              “(2) *relieve any person of the obligation to pay*  
12       *premiums for the coverage not required to be sus-*  
13       *pending.*

14       “(f) *STAY OF CIVIL OR ADMINISTRATIVE ACTIONS.—*

15              “(1) *STAY OF ACTIONS.—A civil or administra-*  
16       *tive action for damages on the basis of the alleged*  
17       *professional negligence or other professional liability*  
18       *of a servicemember whose professional liability insur-*  
19       *ance coverage has been suspended under subsection (b)*  
20       *shall be stayed until the end of the period of the sus-*  
21       *pension if—*

22                      “(A) *the action was commenced during the*  
23       *period of the suspension;*

1           “(B) the action is based on an act or omis-  
2           sion that occurred before the date on which the  
3           suspension became effective; and

4           “(C) the suspended professional liability in-  
5           surance would, except for the suspension, on its  
6           face cover the alleged professional negligence or  
7           other professional liability negligence or other  
8           professional liability of the servicemember.

9           “(2) *DATE OF COMMENCEMENT OF ACTION.*—

10          *Whenever a civil or administrative action for dam-*  
11          *ages is stayed under paragraph (1) in the case of any*  
12          *servicemember, the action shall have been deemed to*  
13          *have been filed on the date on which the professional*  
14          *liability insurance coverage of the servicemember is*  
15          *reinstated under subsection (c).*

16          “(g) *EFFECT OF SUSPENSION UPON LIMITATIONS PE-*  
17          *RIOD.*—*In the case of a civil or administrative action for*  
18          *which a stay could have been granted under subsection (f)*  
19          *by reason of the suspension of professional liability insur-*  
20          *ance coverage of the defendant under this section, the period*  
21          *of the suspension of the coverage shall be excluded from the*  
22          *computation of any statutory period of limitation on the*  
23          *commencement of such action.*

24          “(h) *DEATH DURING PERIOD OF SUSPENSION.*—*If a*  
25          *servicemember whose professional liability insurance cov-*

1 *erage is suspended under subsection (b) dies during the pe-*  
2 *riod of the suspension—*

3           “(1) *the requirement for the grant or continu-*  
4 *ance of a stay in any civil or administrative action*  
5 *against such servicemember under subsection (f)(1)*  
6 *shall terminate on the date of the death of such*  
7 *servicemember; and*

8           “(2) *the carrier of the professional liability in-*  
9 *surance so suspended shall be liable for any claim for*  
10 *damages for professional negligence or other profes-*  
11 *sional liability of the deceased servicemember in the*  
12 *same manner and to the same extent as such carrier*  
13 *would be liable if the servicemember had died while*  
14 *covered by such insurance but before the claim was*  
15 *filed.*

16           “(i) *DEFINITIONS.—For purposes of this section:*

17           “(1) *The term ‘active duty’ has the meaning*  
18 *given that term in section 101(d)(1) of title 10,*  
19 *United States Code.*

20           “(2) *The term ‘profession’ includes occupation.*

21           “(3) *The term ‘professional’ includes occupa-*  
22 *tional.*

23 **“SEC. 704. HEALTH INSURANCE REINSTATEMENT.**

24           “(a) *REINSTATEMENT OF HEALTH INSURANCE.—A*  
25 *servicemember who, by reason of military service as defined*

1 *in section 703(a)(1), is entitled to the rights and protections*  
2 *of this Act shall also be entitled upon termination or release*  
3 *from such service to reinstatement of any health insurance*  
4 *that—*

5           “(1) *was in effect on the day before such service*  
6           *commenced; and*

7           “(2) *was terminated effective on a date during*  
8           *the period of such service.*

9           “(b) *NO EXCLUSION OR WAITING PERIOD.—The rein-*  
10 *statement of health care insurance coverage for the health*  
11 *or physical condition of a servicemember described in sub-*  
12 *section (a), or any other person who is covered by the insur-*  
13 *ance by reason of the coverage of the servicemember, shall*  
14 *not be subject to an exclusion or a waiting period, if—*

15           “(1) *the condition arose before or during the pe-*  
16           *riod of such service;*

17           “(2) *an exclusion or a waiting period would not*  
18           *have been imposed for the condition during the period*  
19           *of coverage; and*

20           “(3) *if the condition relates to the servicemember,*  
21 *the condition has not been determined by the Sec-*  
22 *retary of Veterans Affairs to be a disability incurred*  
23 *or aggravated in the line of duty (within the meaning*  
24 *of section 105 of title 38, United States Code).*



1 **SEC. 2. CONFORMING AMENDMENTS.**

2 (a) *MILITARY SELECTIVE SERVICE ACT.*—Section 14  
3 of the Military Selective Service Act (50 U.S.C. App. 464)  
4 is repealed.

5 (b) *TITLE 5, UNITED STATES CODE.*—

6 (1) Section 5520a(k)(2)(A) of title 5, United  
7 States Code, is amended by striking “Soldiers’ and  
8 Sailors’ Civil Relief Act of 1940” and inserting  
9 “Servicemembers Civil Relief Act”; and

10 (2) Section 5569(e) of title 5, United States  
11 Code, is amended—

12 (A) in paragraph (1), by striking “provided  
13 by the Soldiers’ and Sailors’ Civil Relief Act of  
14 1940” and all that follows through “of such Act”  
15 and inserting “provided by the Servicemembers  
16 Civil Relief Act, including the benefits provided  
17 by section 702 of such Act but excluding the ben-  
18 efits provided by sections 104, 105, and 106, title  
19 IV, and title V (other than sections 501 and 510)  
20 of such Act”; and

21 (B) in paragraph (2)(A), by striking “per-  
22 son in the military service” and inserting  
23 “servicemember”.

24 (c) *TITLE 10, UNITED STATES CODE.*—Section  
25 1408(b)(1)(D) of title 10, United States Code, is amended

1 *by striking “Soldiers’ and Sailors’ Civil Relief Act of 1940”*  
2 *and inserting “Servicemembers Civil Relief Act”.*

3 (d) *INTERNAL REVENUE CODE.—Section 7654(d)(1) of*  
4 *the Internal Revenue Code of 1986 is amended by striking*  
5 *“Soldiers’ and Sailors’ Civil Relief Act” and inserting*  
6 *“Servicemembers Civil Relief Act”.*

7 (e) *PUBLIC HEALTH SERVICE ACT.—Section 212(e) of*  
8 *the Public Health Service Act (42 U.S.C. 213(e)) is amend-*  
9 *ed by striking “Soldiers’ and Sailors’ Civil Relief Act of*  
10 *1940” and inserting “Servicemembers Civil Relief Act”.*

11 (f) *ELEMENTARY AND SECONDARY EDUCATION ACT OF*  
12 *1965.—Section 8001 of the Elementary and Secondary*  
13 *Education Act of 1965 (20 U.S.C. 7701) is amended by*  
14 *striking “section 514 of the Soldiers’ and Sailors’ Civil Re-*  
15 *lief Act of 1940 (50 U.S.C. App. 574)” in the matter pre-*  
16 *ceding paragraph (1) and inserting “section 511 of the*  
17 *Servicemembers Civil Relief Act”.*

18 **SEC. 3. EFFECTIVE DATE.**

19 *The amendment made by section 1 shall apply to any*  
20 *case that is not final before the date of the enactment of*  
21 *this Act.*

**Union Calendar No. 45**

108TH CONGRESS  
1ST SESSION

**H. R. 100**

**[Report No. 108-81]**

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**A BILL**

To restate, clarify, and revise the Soldiers' and  
Sailors' Civil Relief Act of 1940.

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APRIL 30, 2003

Reported with an amendment, committed to the Com-  
mittee of the Whole House on the State of the Union,  
and ordered to be printed