

GAGES, LIENS, ASSIGNMENT, LEASES, TELEPHONE SERVICE CONTRACTS” in heading.

Pub. L. 111-275, title III, §302(b), Oct. 13, 2010, 124 Stat. 2876, inserted “, TELEPHONE SERVICE CONTRACTS” after “LEASES” in heading.

§ 3951. Evictions and distress

(a) Court-ordered eviction

(1) In general

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

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

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

(ii) for which the monthly rent does not exceed \$2,400, as adjusted under paragraph (2) for years after 2003; or

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

(2) Housing price inflation adjustment

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

(B) For purposes of this paragraph—

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

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

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

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

(3) Publication of housing price inflation adjustment

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

(b) Stay of execution

(1) Court authority

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

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

(B) adjust the obligation under the lease to preserve the interests of all parties.

(2) Relief to landlord

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

(c) Misdemeanor

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

(d) Rent allotment from pay of servicemember

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

(e) Limitation of applicability

Section 3932 of this title is not applicable to this section.

(Oct. 17, 1940, ch. 888, title III, §301, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2845; amended Pub. L. 111-275, title III, §303(b)(2), Oct. 13, 2010, 124 Stat. 2877.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 531 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 301 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1182; Oct. 6, 1942, ch. 581, §9(a), (c), (d), 56 Stat. 771; Pub. L. 102-12, §9(9), Mar. 18, 1991, 105 Stat. 40, related to installment contracts for purchase of property, prior to the general amendment of this Act by Pub. L. 108-189. See section 3952 of this title.

Provisions similar to this section were contained in section 300 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1181; Oct. 6, 1942, ch. 581, §8, 56 Stat. 771; Pub. L. 89-358, §10, Mar. 3, 1966, 80 Stat. 28; Pub. L. 102-12, §§2(a), (b), 9(8), Mar. 18, 1991, 105 Stat. 34, 39, prior to the general amendment of this Act by Pub. L. 108-189.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-275 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to penalties.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 3952. Protection under installment contracts for purchase or lease

(a) Protection upon breach of contract

(1) Protection after entering military service

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

(A) the purchase of real or personal property (including a motor vehicle); or

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

(2) Applicability

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

(b) Misdemeanor

A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 3918 of this title, or who knowingly attempts to do so, shall be fined as provided in title 18, or imprisoned for not more than one year, or both.

(c) Authority of court

In a hearing based on this section, the court—
(1) may order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

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

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

(Oct. 17, 1940, ch. 888, title III, §302, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2846; amended Pub. L. 111-275, title III, §303(b)(3), Oct. 13, 2010, 124 Stat. 2878.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 532 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 302 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1182; Oct. 6, 1942, ch. 581, §§9(b), (c), 10, 56 Stat. 771, 772; June 23, 1952, ch. 450, 66 Stat. 151; Pub. L. 102-12, §9(9), (10), Mar. 18, 1991, 105 Stat. 40, related to mortgages and trust deeds, prior to the general amendment of this Act by Pub. L. 108-189. See section 3953 of this title.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-275 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to penalties.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 3953. Mortgages and trust deeds

(a) Mortgage as security

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

(1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and

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

(b) Stay of proceedings and adjustment of obligation

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

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

(2) adjust the obligation to preserve the interests of all parties.

(c) Sale or foreclosure

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

(1) upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court; or

(2) if made pursuant to an agreement as provided in section 3918 of this title.

(d) Misdemeanor

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

(Oct. 17, 1940, ch. 888, title III, §303, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2847; amended Pub. L. 110-289, div. B, title II, §2203(a), July 30, 2008, 122 Stat. 2849; Pub. L. 111-275, title III, §303(b)(4), Oct. 13, 2010, 124 Stat. 2878; Pub. L. 112-154, title VII, §710(a), (b), (d)(3), Aug. 6, 2012, 126 Stat. 1208; Pub. L. 115-174, title III, §313, May 24, 2018, 132 Stat. 1356.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 533 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 303 of act Oct. 17, 1940, ch. 888, art. III, as added Oct. 6, 1942, ch. 581, §12, 56 Stat. 772, related to settlement of cases involving stayed proceedings to foreclose mortgage on, resume possession of, or terminate contract for purchase of, personal property, prior to the general amendment of this Act by Pub. L. 108-189. See section 3954 of this title.

Another prior section 303 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1183, related to stay of action to re-