

110TH CONGRESS  
1ST SESSION

# H. R. 3298

To amend the Servicemembers Civil Relief Act to allow individuals called to military service to terminate or suspend certain service contracts entered into before the individual receives notice of a permanent change of station or deployment orders and to provide penalties for violations of interest rate limitations.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2007

Mr. PATRICK J. MURPHY of Pennsylvania (for himself and Mr. WALZ of Minnesota) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend the Servicemembers Civil Relief Act to allow individuals called to military service to terminate or suspend certain service contracts entered into before the individual receives notice of a permanent change of station or deployment orders and to provide penalties for violations of interest rate limitations.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “21st Century  
5 Servicemembers Protection Act”.

1   **SEC. 2. TERMINATION OR SUSPENSION BY SERVICEMEM-**  
2                   **BERS OF CERTAIN SERVICE CONTRACTS EN-**  
3                   **TERED INTO BEFORE PERMANENT CHANGE**  
4                   **OF STATION OF DEPLOYMENT ORDERS.**

5       (a) TERMINATION.—Title III of the Servicemembers  
6 Civil Relief Act (50 U.S.C. App. 531 et seq.) is amended—

7                   (1) by redesignating section 308 as section 309;  
8                   and

9                   (2) by inserting after section 307 the following  
10                  new section 308:

11   **“SEC. 308. TERMINATION OR SUSPENSION OF SERVICE**  
12                   **CONTRACTS.**

13       “(a) TERMINATION BY SERVICEMEMBER.—A person  
14 in military service who is party to a contract described  
15 in subsection (b) may, at the person’s option, terminate  
16 or suspend the contract at any time after—

17                   “(1) the date of the entry of the person into  
18 military service; or

19                   “(2) the date of the military orders of the per-  
20 son described in subsection (b)(2), as the case may  
21 be.

22       “(b) COVERED CONTRACTS.—This section applies to  
23 a contract for cellular phone service, cable or satellite tele-  
24 vision service, internet service, automobile insurance,  
25 water, electricity, oil, gas, telephone, or other utility, if—

1           “(1) the contract is executed by or on behalf of  
2        a person (or the dependent of a person) who there-  
3        after and during the term of the contract enters  
4        military service (or receives orders to enter military  
5        service) under a call or order specifying a period of  
6        not less than 90 days (or who enters military service  
7        under a call or order specifying a period of 90 days  
8        or less and who, without a break in service, receives  
9        orders extending the period of military service to a  
10      period of not less than 90 days); or

11           “(2) the person enters into the contract while  
12      in military service and thereafter receives military  
13      orders—

14           “(A) for a change of permanent station—

15            “(i) from a location in the continental  
16        United States to a location outside the  
17        continental United States; or

18            “(ii) from a location in a State out-  
19        side the continental United States to any  
20        location outside that State; or

21           “(B) to deploy with a military unit, or as  
22        an individual in support of a military operation,  
23        for a period of not less than 180 days.

24           “(c) MANNER OF TERMINATION.—

1           “(1) IN GENERAL.—Termination of a contract  
2       under subsection (a) is made by delivery by the per-  
3       son in military service of written notice of such ter-  
4       mination, and a copy of the servicemember’s military  
5       orders, to the other party to the contract (or to that  
6       party’s grantee or agent).

7           “(2) NATURE OF NOTICE.—Delivery of notice  
8       under paragraph (1) may be accomplished—

9               “(A) by hand delivery;  
10              “(B) by private business carrier;  
11              “(C) by facsimile; or  
12              “(D) by placing the written notice in an  
13       envelope with sufficient postage and with return  
14       receipt requested, and addressed as designated  
15       by the party to be notified (or that party’s  
16       grantee or agent), and depositing the written  
17       notice in the United States mails.

18           “(d) DATE OF CONTRACT TERMINATION.—Termi-  
19       nation or suspension of a service contract under subsection  
20       (a) is effective as of the date on which the notice under  
21       subsection (c) is delivered.

22           “(e) ARREARAGES AND OTHER OBLIGATIONS AND  
23       LIABILITIES.—Contract amounts unpaid for the period  
24       preceding the effective date of the contract termination  
25       shall be paid on a prorated basis. The other party to the

1 contract may not impose an early termination or suspen-  
2 sion charge, but any tax or any other obligation or liability  
3 of the person in military service that, in accordance with  
4 the terms of the contract, is due and unpaid at the time  
5 of termination of the contract shall be paid by the person  
6 in military service.

7       “(f) FEES PAID IN ADVANCE.—A fee or amount paid  
8 in advance for a period after the effective date of the ter-  
9 mination of the contract shall be refunded to the person  
10 in military service by the other party (or that party’s  
11 grantee or agent) within 30 days of the effective date of  
12 the termination of the contract.

13       “(g) RELIEF TO OTHER PARTY.—Upon application  
14 by the other party to the contract to a court before the  
15 termination date provided in the written notice, relief  
16 granted by this section to a person in military service may  
17 be modified as justice and equity require.

18       “(h) PENALTIES.—

19       “(1) MISDEMEANOR.—Any person who know-  
20 ingly seizes, holds, or detains the personal effects,  
21 funds, or other property of a person in military serv-  
22 ice (or of a dependent of a person in military serv-  
23 ice) who lawfully terminates a contract covered by  
24 this section shall be fined as provided in title 18,

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

3           “(2) PRESERVATION.—The remedy and rights  
4       provided under this section are in addition to and do  
5       not preclude any remedy for wrongful conversion  
6       otherwise available under law to the person claiming  
7       relief under this section, including any award for  
8       consequential or punitive damages.

9           “(i) EQUITABLE RELIEF.—

10           “(1) IN GENERAL.—In addition to any other  
11       remedy available under law, if a person in military  
12       service has reason to believe that another party to  
13       a contract has violated or is violating this section,  
14       the person in military service may—

15            “(A) bring an action to enjoin the violation  
16        in any appropriate United States district court  
17        or in any other court of competent jurisdiction;  
18        or

19            “(B) bring an action in any appropriate  
20        United States district court or in any other  
21        court of competent jurisdiction to recover—

22                “(i) damages for which the other  
23        party is liable to the person in military  
24        service under this section; and

1                             “(ii) additional damages of not more  
2                             than \$10,000 for each willful or negligent  
3                             violation of this section.

4                             “(2) ATTORNEY FEES.—If a person in military  
5                             service is awarded damages under an action de-  
6                             scribed under paragraph (1), the person shall be  
7                             awarded, in addition, the costs of the action and rea-  
8                             sonable attorney fees, as determined by the court.

9                             “(j) MILITARY ORDER.—For the purposes of this sec-  
10                             tion, the term ‘military orders’, with respect to a  
11                             servicemember, means official military orders, or any noti-  
12                             fication, certification, or verification from the  
13                             servicemember’s commanding officer, with respect to the  
14                             servicemember’s current or future military duty status.”.

15                             (b) CLERICAL AMENDMENT.—The table of contents  
16                             in section 1(b) of such Act is amended by striking the  
17                             item relating to section 308 and inserting after the item  
18                             relating to section 307 the following new items:

“Sec. 308. Termination or suspension of service contracts.

“Sec. 309. Extension of protections to dependents.”.

19                             **SEC. 3. PENALTIES FOR VIOLATION OF INTEREST RATE**  
20                             **LIMITATION UNDER SERVICEMEMBERS CIVIL**  
21                             **RELIEF ACT.**

22                             Section 207 of such Act (50 U.S.C. App. 527) is  
23                             amended by adding at the end the following new sub-  
24                             section:

1       “(e) PENALTY.—Any person who knowingly violates  
2 subsection (a) shall be fined in accordance with in title  
3 18, United States Code, imprisoned for not more than one  
4 year, or both.

5       “(f) STATE ACTION.—

6           “(1) AUTHORITY.—In addition to such other  
7 remedies as are provided under State law, if the  
8 chief law enforcement officer of a State, or an offi-  
9 cial or agency designated by a State, has reason to  
10 believe that any person or organization has violated  
11 or is violating this section, the chief law enforcement  
12 officer may—

13           “(A) may bring an action to enjoin such  
14 violation in any appropriate United States dis-  
15 trict court or in any other court of competent  
16 jurisdiction; and

17           “(B) may bring an action on behalf of the  
18 residents of the State to recover—

19           “(i) damages for which the creditor is  
20 liable to such residents under this section  
21 as a result of the violation; and

22           “(ii) damages of not more than  
23 \$10,000 for each willful or negligent viola-  
24 tion.

1                 “(2) NOTICE TO ATTORNEY GENERAL; RIGHTS  
2                 OF FEDERAL GOVERNMENT.—The chief law enforcement  
3                 officer of a State shall serve upon the Attorney  
4                 General or the appropriate official of the Federal  
5                 Government prior written notice of any action under  
6                 paragraph (1) and provide a copy of any complaint  
7                 in such action, except in any case in which such  
8                 prior notice is not feasible, in which case the chief  
9                 law enforcement officer shall serve such notice im-  
10                 mediately upon instituting such action. The Attorney  
11                 General or appropriate official of the Federal Gov-  
12                 ernment shall have the right to—

13                 “(A) intervene in the action;  
14                 “(B) upon so intervening, be heard on all  
15                 matters arising therein;  
16                 “(C) remove the action to the appropriate  
17                 United States district court; and  
18                 “(D) file petitions for appeal.

19                 “(3) INVESTIGATORY POWERS.—For purposes  
20                 of bringing any action under this subsection, nothing  
21                 in this subsection prevents a chief law enforcement  
22                 officer of a State, or an official or agency designated  
23                 by a State, from exercising the powers conferred on  
24                 the chief law enforcement officer or such official by  
25                 the laws of such State to conduct investigations or

1 to administer oaths or affirmations or to compel the  
2 attendance of witnesses or the production of docu-  
3 mentary and other evidence.

4 “(g) RIGHTS OF SERVICEMEMBERS.—

5 “(1) EQUITABLE RELIEF.—

6 “(A) IN GENERAL.—In addition to any  
7 other remedies as are provided under Federal  
8 or State law, if a servicemember has reason to  
9 believe that a creditor has violated or is vio-  
10 lating this section, the servicemember may—

11 “(i) bring an action to enjoin such  
12 violation in any appropriate United States  
13 district court or in any other court of com-  
14 petent jurisdiction; and

15 “(ii) bring an action to recover—

16 “(I) damages equal to the  
17 amount of the interest charged in vio-  
18 lation of this section (plus interest)  
19 for which the creditor is liable to the  
20 servicemember under this section as a  
21 result of the violation; and

22 “(II) damages of not more than  
23 \$10,000 for each willful or negligent  
24 violation.

1                     “(B) DETERMINATION OF NUMBER OF  
2                     VIOLATIONS.—In determining the number of  
3                     violations by a creditor for which a penalty shall  
4                     be imposed under subsection (f)(1)(B)(ii) or  
5                     (g)(1)(B)(ii), the court shall count as a single  
6                     violation each obligation or liability of a  
7                     servicemember with respect to which—

8                         “(i) the servicemember properly pro-  
9                     vided to the creditor written notice and a  
10                    copy of the military orders calling the  
11                    servicemember to military service and any  
12                    orders further extending military service  
13                    under subsection (b); and  
14                         “(ii) the creditor failed to treat in ac-  
15                     cordance with subsection (a).

16                     “(2) ATTORNEY FEES.—If a servicemember is  
17                     awarded damages under an action described under  
18                     paragraph (1), the servicemember shall be awarded,  
19                     in addition, the costs of the action and reasonable  
20                     attorney fees, as determined by the court.

21                     “(h) PRESERVATION OF OTHER REMEDIES.—The  
22                     rights and remedies provided under subsections (f) and (g)  
23                     are in addition to and do not preclude any other remedy  
24                     available under law to a person claiming relief under this

1 section, including any award for consequential or punitive  
2 damages.”.

