

113TH CONGRESS
1ST SESSION

S. 1579

To amend the Servicemembers Civil Relief Act to improve the protections provided to members of the uniformed services and their families, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 2013

Mr. SANDERS (for himself and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend the Servicemembers Civil Relief Act to improve the protections provided to members of the uniformed services and their families, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “SCRA Enhancement and Improvement Act of 2013”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENHANCEMENT OF RIGHTS UNDER SERVICEMEMBERS
CIVIL RELIEF ACT

- Sec. 101. Extended period of protection under installment contracts for purchase or lease.
- Sec. 102. Modification of period determining which actions are covered under stay of proceedings and adjustment of obligation protections concerning mortgages and trust deeds of members of uniformed services.
- Sec. 103. Prohibition on collection of penalties for early prepayment of mortgage.
- Sec. 104. Protections for members of uniformed services regarding professional licenses.
- Sec. 105. Expansion of protections for members of uniformed services regarding taxes respecting real property occupied by businesses owned by such members.
- Sec. 106. Prohibition on denial of credit because of eligibility for protection.

TITLE II—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

- Sec. 201. Improved protection of members of uniformed services against default judgments.
- Sec. 202. Modification of period in which a waiver of a right pursuant to a written agreement may be made under Servicemembers Civil Relief Act.
- Sec. 203. Clarification regarding application of enforcement authority of Attorney General and private right of action under Servicemembers Civil Relief Act.
- Sec. 204. Expansion of protections relating to mortgages to include obligations on real or personal property for which a servicemember is personally liable as a guarantor or co-maker.

TITLE III—ENFORCEMENT OF RIGHTS UNDER SERVICEMEMBERS CIVIL RELIEF ACT

- Sec. 301. Election of arbitration to resolve controversies under Servicemembers Civil Relief Act.
- Sec. 302. Issuance and service of civil investigative demands by Attorney General under Servicemembers Civil Relief Act.
- Sec. 303. Increase in civil penalties for violation of Servicemembers Civil Relief Act.

TITLE IV—OTHER MATTERS

- Sec. 401. Clerical amendments.

1 **TITLE I—ENHANCEMENT OF**
 2 **RIGHTS UNDER SERVICE-**
 3 **MEMBERS CIVIL RELIEF ACT**

4 **SEC. 101. EXTENDED PERIOD OF PROTECTION UNDER IN-**
 5 **STALLMENT CONTRACTS FOR PURCHASE OR**
 6 **LEASE.**

7 Section 302(a)(1) of the Servicemembers Civil Relief
 8 Act (50 U.S.C. App. 532(a)(1)) is amended, in the matter
 9 following subparagraph (B), by striking “or during that
 10 person’s military service” and inserting “, during, or with-
 11 in one year after such servicemember’s period of military
 12 service”.

13 **SEC. 102. MODIFICATION OF PERIOD DETERMINING WHICH**
 14 **ACTIONS ARE COVERED UNDER STAY OF**
 15 **PROCEEDINGS AND ADJUSTMENT OF OBLI-**
 16 **GATION PROTECTIONS CONCERNING MORT-**
 17 **GAGES AND TRUST DEEDS OF MEMBERS OF**
 18 **UNIFORMED SERVICES.**

19 (a) IN GENERAL.—Section 303(b) of the
 20 Servicemembers Civil Relief Act (50 U.S.C. App. 533(b))
 21 is amended by striking “filed” and inserting “pending”.

22 (b) CONFORMING AMENDMENTS.—Section 710(d) of
 23 the Honoring America’s Veterans and Caring for Camp
 24 Lejeune Families Act of 2012 (Public Law 112–154; 126
 25 Stat. 1208) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph (1):

“(1) SUNSET AND REVIVAL.—

“(A) IN GENERAL.—Subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533), as amended by subsections (a) and (b) of this section, are amended by striking ‘within one year’ each place it appears and inserting ‘within 90 days’.

“(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect on January 1, 2015.”; and

(2) by striking paragraph (3).

**SEC. 103. PROHIBITION ON COLLECTION OF PENALTIES
FOR EARLY PREPAYMENT OF MORTGAGE.**

Section 203 of the Servicemembers Civil Relief Act (50 U.S.C. App. 523) is amended by adding at the end the following new subsection:

“(c) PROHIBITION ON PREPAYMENT PENALTIES FOR CERTAIN MORTGAGES.—

“(1) IN GENERAL.—When a servicemember discharges an obligation arising under a mortgage contract and would otherwise thereby incur a prepayment penalty, such penalty shall not accrue if—

1 “(A) the servicemember is in military serv-
2 ice at the time the prepayment penalty is in-
3 curred; and

4 “(B) the reason the servicemember dis-
5 charges the obligation, thereby incurring the
6 penalty, is materially affected by such military
7 service.

8 “(2) MATERIALLY AFFECTING MILITARY SERV-
9 ICE.—For purposes of paragraph (1)(B), the re-
10 quirement that the reason a servicemember dis-
11 charged a mortgage obligation, thereby incurring a
12 prepayment penalty, be materially affected by mili-
13 tary services requires—

14 “(A) that the mortgage be secured by the
15 servicemember’s primary residence; and

16 “(B) that the servicemember receive per-
17 manent change of station orders.

18 “(3) RELIEF, COSTS, AND ATTORNEY FEES.—
19 An assessment of a penalty in violation of this sub-
20 section shall be considered a violation of this Act for
21 purposes of title VIII.”.

1 **SEC. 104. PROTECTIONS FOR MEMBERS OF UNIFORMED**
2 **SERVICES REGARDING PROFESSIONAL LI-**
3 **CENSES.**

4 (a) IN GENERAL.—Title VII of the Servicemembers
5 Civil Relief Act (50 U.S.C. App. 701 et seq.) is amended
6 by adding at the end the following new section:

7 **“SEC. 707. PROFESSIONAL LICENSES.**

8 “(a) EXPIRATION DURING PERIOD IN WHICH
9 SERVICEMEMBERS ARE ELIGIBLE FOR HOSTILE FIRE OR
10 IMMINENT DANGER SPECIAL PAY.—If a license issued by
11 a State or local licensing authority to a servicemember
12 would otherwise expire during a period in which such serv-
13 icemember is eligible for hostile fire or imminent danger
14 special pay under section 310 of title 37, United States
15 Code, such State or local licensing authority shall delay
16 the expiration of such license until not earlier than the
17 date that is 180 days after the date on which such period
18 of eligibility ends.

19 “(b) CONTINUING EDUCATION REQUIREMENTS DUR-
20 ING PERIOD IN WHICH SERVICEMEMBERS ARE ELIGIBLE
21 FOR HOSTILE FIRE OR IMMINENT DANGER SPECIAL
22 PAY.—If a State or local licensing authority otherwise re-
23 quires a servicemember to meet any continuing education
24 requirements to maintain a license for a trade or profes-
25 sion during a period in which such servicemember is eligi-
26 ble for hostile fire or imminent danger special pay under

1 section 310 of title 37, United States Code, such State
 2 or local licensing authority shall delay such continuing
 3 education requirement until not earlier than the date that
 4 is 180 days after the date on which such period of eligi-
 5 bility ends.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
 7 in section 1(b) of such Act (50 U.S.C. App. 501(b)) is
 8 amended by inserting after the item relating to section
 9 706 the following new item:

“Sec. 707. Professional licenses and certifications.”.

10 **SEC. 105. EXPANSION OF PROTECTIONS FOR MEMBERS OF**
 11 **UNIFORMED SERVICES REGARDING TAXES**
 12 **RESPECTING REAL PROPERTY OCCUPIED BY**
 13 **BUSINESSES OWNED BY SUCH MEMBERS.**

14 (a) IN GENERAL.—Subsection (a)(2) of section 501
 15 of the Servicemembers Civil Relief Act (50 U.S.C. App.
 16 561) is amended by striking the matter before subpara-
 17 graph (A) and inserting the following:

18 “(2) real property occupied for dwelling, profes-
 19 sional, trade, business, or agricultural purposes by a
 20 servicemember, the servicemember’s dependents or
 21 employees, or a business which (without regard to
 22 the form in which such profession, trade, business,
 23 or agricultural operation is organized or carried out)
 24 is owned entirely by a servicemember or by a service-
 25 member and the spouse of the servicemember—”.

1 (b) NOTICE.—Such section is further amended by
 2 adding at the end the following new subsection:

3 “(f) WRITTEN NOTICE TO TAXING AUTHORITIES.—
 4 In order for real property owned by a business which is
 5 owned entirely by a servicemember or by a servicemember
 6 and the spouse of the servicemember to be subject to the
 7 protections provided in this section, the servicemember
 8 shall provide to the applicable taxing authority written no-
 9 tice and a copy of the military orders calling the service-
 10 member to military service and any orders further extend-
 11 ing military service, not later than 180 days after the date
 12 of the servicemember’s termination or release from mili-
 13 tary service.”.

14 **SEC. 106. PROHIBITION ON DENIAL OF CREDIT BECAUSE**
 15 **OF ELIGIBILITY FOR PROTECTION.**

16 Section 108 of the Servicemembers Civil Relief Act
 17 (50 U.S.C. App. 518) is amended—

18 (1) by striking “Application by” and inserting
 19 “(a) APPLICATION OR RECEIPT.—Application by”;
 20 and

21 (2) by adding at the end the following new sub-
 22 section:

23 “(b) ELIGIBILITY.—

24 “(1) IN GENERAL.—In addition to the protec-
 25 tions under subsection (a), an individual who is enti-

1 tled to any right or protection provided under this
 2 Act may not be denied or refused credit or be sub-
 3 ject to any other action described under paragraphs
 4 (1) through (6) of subsection (a) solely by reason of
 5 such entitlement.

6 “(2) CONSTRUCTION.—Nothing in this sub-
 7 section shall be construed to prohibit a lender from
 8 considering all relevant factors, other than the enti-
 9 tlement of an individual to a right or protection pro-
 10 vided under this Act, in making a determination as
 11 to whether it is appropriate to extend credit.”.

12 **TITLE II—IMPROVEMENTS TO** 13 **SERVICEMEMBERS CIVIL RE-** 14 **LIEF ACT**

15 **SEC. 201. IMPROVED PROTECTION OF MEMBERS OF UNI-** 16 **FORMED SERVICES AGAINST DEFAULT JUDG-** 17 **MENTS.**

18 (a) MODIFICATION OF PLAINTIFF AFFIDAVIT FILING
 19 REQUIREMENT.—

20 (1) IN GENERAL.—Paragraph (1) of section
 21 201(b) of the Servicemembers Civil Relief Act (50
 22 U.S.C. App. 521(b)) is amended—

23 (A) by redesignating subparagraphs (A)
 24 and (B) as clauses (i) and (ii), respectively, and
 25 indenting such clauses two ems to the right;

1 (B) in the matter before clause (i), as re-
2 designated by subparagraph (A), by striking
3 “In any” and inserting the following:

4 “(A) IN GENERAL.—In any”; and

5 (C) by adding at the end the following new
6 subparagraph (B):

7 “(B) DUE DILIGENCE.—Before filing the
8 affidavit, the plaintiff shall conduct a diligent
9 and reasonable investigation to determine
10 whether or not the defendant is in military
11 service, including a search of available records
12 of the Department of Defense and any other in-
13 formation reasonably available to the plaintiff.
14 The affidavit shall set forth all steps taken to
15 determine the defendant’s military status and
16 shall have attached copies of the records on
17 which the plaintiff relied in drafting the affi-
18 davit.”.

19 (2) APPLICABILITY.—Paragraph (1)(B) of such
20 section, as added by paragraph (1), shall apply with
21 respect to actions and proceedings filed on or after
22 the date of the enactment of this Act.

23 (b) APPOINTMENT OF ATTORNEY TO REPRESENT
24 DEFENDANT IN MILITARY SERVICE.—Paragraph (2) of
25 such section (50 U.S.C. App. 521(b)) is amended—

1 (1) by striking “If in an action” and inserting
2 the following:

3 “(A) IN GENERAL.—If in an action”;

4 (2) in subparagraph (A), as designated by para-
5 graph (1), by striking “If an attorney” and inserting
6 the following:

7 “(C) LIMITATIONS ON APPOINTED ATTOR-
8 NEY.—If an attorney”;

9 (3) by inserting after subparagraph (A), as des-
10 ignated by paragraph (1), the following new sub-
11 paragraph:

12 “(B) DUE DILIGENCE.—If the court ap-
13 points an attorney to represent the defendant—

14 “(i) the attorney shall conduct a dili-
15 gent and reasonable investigation to deter-
16 mine whether or not the defendant is in
17 military service, including a search of
18 available records of the Department of De-
19 fense and any other information reasonably
20 available to the attorney; and

21 “(ii) the plaintiff shall submit to the
22 attorney such information as the plaintiff
23 may have concerning the whereabouts or
24 identity of the defendant.”; and

1 (4) by adding at the end the following new sub-
 2 paragraph:

3 “(D) TREATMENT OF ATTORNEYS FEES.—

4 The reasonable fees of an attorney appointed to
 5 represent a servicemember shall be treated as
 6 costs of court for court cost purposes, unless
 7 the creditor seeks relief from such charges from
 8 the court.”.

9 **SEC. 202. MODIFICATION OF PERIOD IN WHICH A WAIVER**
 10 **OF A RIGHT PURSUANT TO A WRITTEN**
 11 **AGREEMENT MAY BE MADE UNDER SERVICE-**
 12 **MEMBERS CIVIL RELIEF ACT.**

13 Section 107(a) of the Servicemembers Civil Relief Act
 14 (50 U.S.C. App. 517) is amended in the third sentence
 15 by striking “during or after the servicemember’s period
 16 of military service” and inserting “after the occurrence of
 17 the event that gave rise to the rights or protections to be
 18 waived”.

19 **SEC. 203. CLARIFICATION REGARDING APPLICATION OF**
 20 **ENFORCEMENT AUTHORITY OF ATTORNEY**
 21 **GENERAL AND PRIVATE RIGHT OF ACTION**
 22 **UNDER SERVICEMEMBERS CIVIL RELIEF**
 23 **ACT.**

24 Sections 801 and 802 of the Servicemembers Civil
 25 Relief Act (50 U.S.C. App. 597 and 597a) shall apply as

1 if such sections were included in the enactment of the Sol-
 2 diers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1178,
 3 chapter 888) and included in the restatement of such Act
 4 in Public Law 108–189.

5 **SEC. 204. EXPANSION OF PROTECTIONS RELATING TO**
 6 **MORTGAGES TO INCLUDE OBLIGATIONS ON**
 7 **REAL OR PERSONAL PROPERTY FOR WHICH**
 8 **A SERVICEMEMBER IS PERSONALLY LIABLE**
 9 **AS A GUARANTOR OR CO-MAKER.**

10 Section 303(a) of the Servicemembers Civil Relief Act
 11 (50 U.S.C. App. 533) is amended, in the matter before
 12 paragraph (1), by inserting “or an obligation on real or
 13 personal property for which a servicemember is personally
 14 liable as a guarantor or co-maker” after “by a service-
 15 member”.

16 **TITLE III—ENFORCEMENT OF**
 17 **RIGHTS UNDER SERVICE-**
 18 **MEMBERS CIVIL RELIEF ACT**

19 **SEC. 301. ELECTION OF ARBITRATION TO RESOLVE CON-**
 20 **TROVERSIES UNDER SERVICEMEMBERS**
 21 **CIVIL RELIEF ACT.**

22 (a) IN GENERAL.—Section 102 of the Servicemem-
 23 bers Civil Relief Act (50 U.S.C. App. 512) is amended
 24 by adding at the end the following new subsection:

25 “(d) ELECTION OF ARBITRATION.—

1 “(1) CONSENT REQUIRED.—Notwithstanding
2 any other provision of law, whenever a contract with
3 a servicemember provides for the use of arbitration
4 to resolve a controversy subject to a provision of this
5 Act and arising out of or relating to such contract,
6 arbitration may be used to settle such controversy
7 only if, after such controversy arises, all parties to
8 such controversy consent in writing to use arbitra-
9 tion to settle such controversy.

10 “(2) EXPLANATION REQUIRED.—Notwithstand-
11 ing any other provision of law, whenever arbitration
12 is elected to settle a dispute pursuant to paragraph
13 (1), the arbitrator shall provide the parties to such
14 contract with a written explanation of the factual
15 and legal basis for any decision made by the arbi-
16 trator in the course of such arbitration.”.

17 (b) APPLICABILITY.—Subsection (d) of such section,
18 as added by subsection (a), shall apply with respect to con-
19 tracts entered into, amended, altered, modified, renewed,
20 or extended after the date of the enactment of this Act.

1 **SEC. 302. ISSUANCE AND SERVICE OF CIVIL INVESTIGATIVE**
 2 **DEMANDS BY ATTORNEY GENERAL UNDER**
 3 **SERVICEMEMBERS CIVIL RELIEF ACT.**

4 (a) IN GENERAL.—Section 801 of the Servicemem-
 5 bers Civil Relief Act (50 U.S.C. App. 597) is amended
 6 by adding at the end the following:

7 “(d) ISSUANCE AND SERVICE OF CIVIL INVESTIGA-
 8 TIVE DEMANDS.—

9 “(1) IN GENERAL.—Whenever the Attorney
 10 General has reason to believe that any person may
 11 be in possession, custody, or control of any docu-
 12 mentary material relevant to an investigation under
 13 this Act, the Attorney General may, before com-
 14 mencing a civil action under subsection (a), issue in
 15 writing and serve upon such person, a civil investiga-
 16 tive demand requiring—

17 “(A) the production of such documentary
 18 material for inspection and copying;

19 “(B) that the custodian of such documen-
 20 tary material answer in writing written ques-
 21 tions with respect to such documentary mate-
 22 rial; or

23 “(C) the production of any combination of
 24 such documentary material or answers.

25 “(2) FALSE CLAIMS.—The provisions of section
 26 3733 of title 31, United States Code, governing the

1 authority to issue, use, and enforce civil investigative
2 demands shall apply with respect to the authority to
3 issue, use, and enforce civil investigative demands
4 under this section, except that, for purposes of ap-
5 plying such section 3733—

6 “(A) references to false claims law inves-
7 tigators or investigations shall be considered
8 references to investigators or investigations
9 under this Act;

10 “(B) references to interrogatories shall be
11 considered references to written questions, and
12 answers to such need not be under oath;

13 “(C) the definitions relating to ‘false
14 claims law’ shall not apply; and

15 “(D) provisions relating to qui tam rela-
16 tors shall not apply.

17 “(3) ANNUAL REPORT.—

18 “(A) IN GENERAL.—Not later than one
19 year after the date of the enactment of the
20 SCRA Enhancement and Improvement Act of
21 2013 and not less frequently than once each
22 year thereafter, the Attorney General shall sub-
23 mit to the Committee on Veterans’ Affairs of
24 the Senate and the Committee on Veterans’ Af-
25 fairs of the House of Representatives a report

1 on the issuance of civil investigative demands
 2 under this subsection during the previous one-
 3 year period.

4 “(B) ELEMENTS.—Each report submitted
 5 under subparagraph (A) shall include the fol-
 6 lowing for the year covered by the report:

7 “(i) The number of times that a civil
 8 investigative demand was issued under this
 9 subsection.

10 “(ii) For each civil investigative de-
 11 mand issued under this subsection with re-
 12 spect to an investigation, whether such in-
 13 vestigation resulted in a settlement or con-
 14 viction.”.

15 (b) EFFECTIVE DATE.—Subsection (d) of such sec-
 16 tion, as added by subsection (a), shall take effect on the
 17 date of the enactment of this Act and shall apply with
 18 respect to all violations of the Servicemembers Civil Relief
 19 Act (50 U.S.C. App. 501 et seq.), regardless of when the
 20 violations are alleged to have occurred.

21 **SEC. 303. INCREASE IN CIVIL PENALTIES FOR VIOLATION**
 22 **OF SERVICEMEMBERS CIVIL RELIEF ACT.**

23 (a) IN GENERAL.—Section 801(b)(3) of the
 24 Servicemembers Civil Relief Act (50 U.S.C. App.
 25 597(b)(3)) is amended—

1 (1) in subparagraph (A), by striking “\$55,000”
 2 and inserting “\$110,000”; and

3 (2) in subparagraph (B), by striking
 4 “\$110,000” and inserting “\$220,000”.

5 (b) EFFECTIVE DATE.—The amendments made by
 6 subsection (a) shall take effect on the date that is 180
 7 days after the date of the enactment of this Act and shall
 8 apply with respect to violations of the Servicemembers
 9 Civil Relief Act (50 U.S.C. App. 501 et seq.) that occur
 10 on or after such date.

11 **TITLE IV—OTHER MATTERS**

12 **SEC. 401. CLERICAL AMENDMENTS.**

13 (a) IN GENERAL.—The heading for section 305 of
 14 the Servicemembers Civil Relief Act (50 U.S.C. App. 535)
 15 is amended by striking “**RESIDENTIAL OR MOTOR VE-**
 16 **HICLE LEASES**” and inserting “**LEASES OF PREMISES**
 17 **OCCUPIED AND MOTOR VEHICLES USED**”.

18 (b) TABLE OF CONTENTS.—The table of contents in
 19 section 1(b) of such Act (50 U.S.C. App. 501(b)) is
 20 amended by striking the item relating to section 305 and
 21 inserting the following new item:

“Sec. 305. Termination of leases of premises occupied and motor vehicles
 used.”.

