

## SUBCHAPTER VII—FURTHER RELIEF

**§ 4021. Anticipatory relief****(a) Application for relief**

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

(1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or

(2) from a tax or assessment falling due before or during the servicemember's military service.

**(b) Tax liability or assessment**

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

**(1) Stay of enforcement of real estate contracts**

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

(i) during the servicemember's period of military service; and

(ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

(B) Any stay under this paragraph shall be—

(i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and

(ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument evidencing the obligation, and subject to other terms as may be equitable.

**(2) Stay of enforcement of other contracts**

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

(i) during the servicemember's military service; and

(ii) from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

(B) Any stay under this paragraph shall be—

(i) for a period of time equal to the period of the servicemember's military service or any part of such period; and

(ii) subject to payment of the balance of principal and accumulated interest due and

unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

**(c) Affect<sup>1</sup> of stay on fine or penalty**

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

(Oct. 17, 1940, ch. 888, title VII, §701, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2860.)

**Editorial Notes**

## CODIFICATION

Section was formerly classified to section 591 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

## PRIOR PROVISIONS

A prior section 701 of act Oct. 17, 1940, ch. 888, art. VII, as added Pub. L. 92-540, title V, §504(2), Oct. 24, 1972, 86 Stat. 1098; amended Pub. L. 102-12, §3, Mar. 18, 1991, 105 Stat. 34, related to power of attorney, prior to the general amendment of this Act by Pub. L. 108-189. See section 4022 of this title.

Provisions similar to this section were contained in section 700 of act Oct. 17, 1940, ch. 888, art. VII, as added Oct. 6, 1942, ch. 581, §18, 56 Stat. 777, prior to the general amendment of this Act by Pub. L. 108-189.

**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.

**§ 4022. Power of attorney****(a) Automatic extension**

A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in section 551(2) of title 37) if the power of attorney—

(1) was duly executed by the servicemember—

(A) while in military service; or

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

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

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

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

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

**(b) Limitation on power of attorney extension**

A power of attorney executed by a servicemember may not be extended under sub-

<sup>1</sup> So in original. Probably should be "Effect".

section (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

(Oct. 17, 1940, ch. 888, title VII, §702, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2861.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 592 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

##### PRIOR PROVISIONS

A prior section 702 of act Oct. 17, 1940, ch. 888, art. VII, as added Pub. L. 102-12, §4, Mar. 18, 1991, 105 Stat. 34; amended Pub. L. 104-106, div. A, title XV, §1501(e)(3), Feb. 10, 1996, 110 Stat. 501, related to professional liability protection for certain persons ordered to active duty in armed forces, prior to the general amendment of this Act by Pub. L. 108-189. See section 4023 of this title.

#### 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.

### § 4023. Professional liability protection

#### (a) Applicability

This section applies to a servicemember who—

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

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

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

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

#### (b) Suspension of coverage

##### (1) Suspension

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

##### (2) Premiums for suspended contracts

A professional liability insurance carrier—

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

(B) shall refund any amount paid for coverage for the period of such suspension or,

upon the election of such servicemember, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

#### (3) Nonliability of carrier during suspension

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

#### (4) Certain claims considered to arise before suspension

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

#### (c) Reinstatement of coverage

##### (1) Reinstatement required

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

##### (2) Time and premium for reinstatement

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

##### (3) Period of reinstated coverage

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

#### (d) Increase in premium

##### (1) Limitation on premium increases

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

##### (2) Exception

Paragraph (1) does not prevent an increase in premium to the extent of any general in-