

SERVICEMEMBERS CIVIL RELIEF ACT

APRIL 30, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of New Jersey, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 100]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 100) to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. RESTATEMENT OF ACT.

The Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) is amended to read as follows:

“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) SHORT TITLE.—This Act may be cited as the ‘Servicemembers Civil Relief Act’.

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

“Sec. 1. Short title; table of contents.

“Sec. 2. Purpose.

“TITLE I—GENERAL PROVISIONS

“Sec. 101. Definitions.

“Sec. 102. Jurisdiction and applicability of Act.

“Sec. 103. Protection of persons secondarily liable.

“Sec. 104. Extension of protections to citizens serving with allied forces.

“Sec. 105. Notification of benefits.

“Sec. 106. Extension of rights and protections to Reserves ordered to report for military service and to persons ordered to report for induction.

“Sec. 107. Waiver of rights pursuant to written agreement.

“Sec. 108. Exercise of rights under Act not to affect certain future financial transactions.

“Sec. 109. Legal representatives.

“TITLE II—GENERAL RELIEF

“Sec. 201. Protection of servicemembers against default judgments.

“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.

“SEC. 2. PURPOSE.

“The purposes of this Act are—

“(1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

“(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

“TITLE I—GENERAL PROVISIONS

“SEC. 101. DEFINITIONS.

“For the purposes of this Act:

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

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

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

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

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

“(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service.

“(3) PERIOD OF MILITARY SERVICE.—The term ‘period of military service’ means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

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

“(A) the servicemember’s spouse;

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

“(C) an individual for whom the servicemember provided more than one-half of the individual’s support for 180 days immediately preceding an application for relief under this Act.

“(5) COURT.—The term ‘court’ means a court or an administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record.

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

“(A) a commonwealth, territory, or possession of the United States; and

“(B) the District of Columbia.

“(7) SECRETARY CONCERNED.—The term ‘Secretary concerned’—

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

“(B) with respect to a commissioned officer of the Public Health Service, means the Secretary of Health and Human Services; and

“(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

“SEC. 102. JURISDICTION AND APPLICABILITY OF ACT.

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

“(1) the United States;

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

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

“(b) APPLICABILITY TO PROCEEDINGS.—This Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to criminal proceedings.

“(c) COURT IN WHICH APPLICATION MAY BE MADE.—When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

“SEC. 103. PROTECTION OF PERSONS SECONDARILY LIABLE.

“(a) EXTENSION OF PROTECTION WHEN ACTIONS STAYED, POSTPONED, OR SUSPENDED.—Whenever pursuant to this Act a court stays, postpones, or suspends (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

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

“(c) BAIL BOND NOT TO BE ENFORCED DURING PERIOD OF MILITARY SERVICE.—A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

“(d) WAIVER OF RIGHTS.—

“(1) WAIVERS NOT PRECLUDED.—This Act does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protections provided under subsections (a) and (b). Any such waiver is effective

only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

“(2) WAIVER INVALIDATED UPON ENTRANCE TO MILITARY SERVICE.—If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106.

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

“A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act if that service with the allied force is similar to military service as defined in this Act. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

“SEC. 105. NOTIFICATION OF BENEFITS.

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

“SEC. 106. EXTENSION OF RIGHTS AND PROTECTIONS TO RESERVES ORDERED TO REPORT FOR MILITARY SERVICE AND TO PERSONS ORDERED TO REPORT FOR INDUCTION.

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

“(b) PERSONS ORDERED TO REPORT FOR INDUCTION.—A person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

“SEC. 107. WAIVER OF RIGHTS PURSUANT TO WRITTEN AGREEMENT.

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

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

“(1) The modification, termination, or cancellation of—

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

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

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

“(A) is security for any obligation; or

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

“(c) COVERAGE OF PERIODS AFTER ORDERS RECEIVED.—For the purposes of this section—

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

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

“SEC. 108. EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

“Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

“(1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

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

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

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

“(C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

“(3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.

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

“(5) An annotation in a servicemember’s record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.

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

“SEC. 109. LEGAL REPRESENTATIVES.

“(a) REPRESENTATIVE.—A legal representative of a servicemember for purposes of this Act is either of the following:

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

“(2) An individual possessing a power of attorney.

“(b) APPLICATION.—Whenever the term ‘servicemember’ is used in this Act, such term shall be treated as including a reference to a legal representative of the servicemember.

“TITLE II—GENERAL RELIEF

“SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.

“(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant does not make an appearance.

“(b) AFFIDAVIT REQUIREMENT.—

“(1) PLAINTIFF TO FILE AFFIDAVIT.—In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

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

“(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

“(2) APPOINTMENT OF ATTORNEY TO REPRESENT DEFENDANT IN MILITARY SERVICE.—If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

“(3) DEFENDANT’S MILITARY STATUS NOT ASCERTAINED BY AFFIDAVIT.—If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

“(4) SATISFACTION OF REQUIREMENT FOR AFFIDAVIT.—The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

“(c) PENALTY FOR MAKING OR USING FALSE AFFIDAVIT.—A person who makes or uses an affidavit permitted under subsection (b) (or a statement, declaration, verification, or certificate as authorized under subsection (b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

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

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

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

“(e) INAPPLICABILITY OF SECTION 202 PROCEDURES.—A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202.

“(f) SECTION 202 PROTECTION.—If a servicemember who is a defendant in an action covered by this section receives actual notice of the action, the servicemember may request a stay of proceeding under section 202.

“(g) VACATION OR SETTING ASIDE OF DEFAULT JUDGMENTS.—

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

“(A) the servicemember was materially affected by reason of that military service in making a defense to the action; and

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

“(2) TIME FOR FILING APPLICATION.—An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

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

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

“(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section—

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

“(2) has received notice of the action or proceeding.

“(b) AUTOMATIC STAY.—

“(1) AUTHORITY FOR STAY.—At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

“(2) CONDITIONS FOR STAY.—An application for a stay under paragraph (1) shall include the following:

“(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember’s ability to appear and stating a date when the servicemember will be available to appear.

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

“(c) APPLICATION NOT A WAIVER OF DEFENSES.—An application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

“(d) ADDITIONAL STAY.—

“(1) APPLICATION.—A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on

continuing material affect of military duty on the servicemember's ability to appear. Such an application may be made by the servicemember at the time of the initial application under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information required under subsection (b)(2) shall be included in an application under this subsection.

“(2) APPOINTMENT OF COUNSEL WHEN ADDITIONAL STAY REFUSED.—If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.

“(e) COORDINATION WITH SECTION 201.—A servicemember who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 201.

“(f) INAPPLICABILITY TO SECTION 301.—The protections of this section do not apply to section 301.

“SEC. 203. FINES AND PENALTIES UNDER CONTRACTS.

“(a) PROHIBITION OF PENALTIES.—When an action for compliance with the terms of a contract is stayed pursuant to this Act, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

“(b) REDUCTION OR WAIVER OF FINES OR PENALTIES.—If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if—

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

“(2) the ability of the servicemember to perform the obligation was materially affected by such military service.

“SEC. 204. STAY OR VACATION OF EXECUTION OF JUDGMENTS, ATTACHMENTS, AND GARNISHMENTS.

“(a) COURT ACTION UPON MATERIAL AFFECT DETERMINATION.—If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

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

“(2) vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment.

“(b) APPLICABILITY.—This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 90 days after such service terminates.

“SEC. 205. DURATION AND TERM OF STAYS; CODEFENDANTS NOT IN SERVICE.

“(a) PERIOD OF STAY.—A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

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

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

“SEC. 206. STATUTE OF LIMITATIONS.

“(a) TOLLING OF STATUTES OF LIMITATION DURING MILITARY SERVICE.—The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

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

“(c) INAPPLICABILITY TO INTERNAL REVENUE LAWS.—This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

“SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.**“(a) INTEREST RATE LIMITATION.—**

“(1) LIMITATION TO 6 PERCENT.—An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember’s spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.

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

“(3) PREVENTION OF ACCELERATION OF PRINCIPAL.—The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which such payment is made.

“(b) IMPLEMENTATION OF LIMITATION.—

“(1) WRITTEN NOTICE TO CREDITOR.—In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember’s termination or release from military service.

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

“(c) CREDITOR PROTECTION.—A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember’s military service.

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

“TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES**“SEC. 301. 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 \$1,700, 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 under subsection (a)(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.”

“(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) PENALTIES.—

“(1) 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, United States Code, or imprisoned for not more than one year, or both.

“(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

“(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 202 is not applicable to this section.

“SEC. 302. 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; 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) PENALTIES.—

“(1) MISDEMEANOR.—A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 107 of this Act, or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

“(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

“(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.

“SEC. 303. 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 90 days 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 90 days 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 107.

“(d) PENALTIES.—

“(1) 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, United States Code, or imprisoned for not more than one year, or both.

“(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

“SEC. 304. SETTLEMENT OF STAYED CASES RELATING TO PERSONAL PROPERTY.

“(a) APPRAISAL OF PROPERTY.—When a stay is granted pursuant to this Act in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

“(b) EQUITY PAYMENT.—Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

“SEC. 305. TERMINATION OF LEASES BY LESSEES.

“(a) COVERED LEASES.—This section applies to the lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

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

“(2) the servicemember, while in military service, executes a lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.

“(b) NOTICE TO LESSOR.—

“(1) DELIVERY OF NOTICE.—A lease described in subsection (a) is terminated when written notice is delivered by the lessee to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee).

“(2) TIME FOR NOTICE.—The written notice may be delivered at any time after the lessee's entry into military service or the date of the military orders for a permanent change of station or to deploy for a period of not less than 90 days.

“(3) NATURE OF NOTICE.—Delivery may be accomplished—

“(A) by hand delivery;

“(B) by private business carrier; or

“(C) by placing the written notice in an envelope with sufficient postage and addressed to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee) and depositing the written notice in the United States mails.

“(c) EFFECTIVE DATE OF TERMINATION.—

“(1) LEASE WITH MONTHLY RENT.—Termination of a lease providing for monthly payment of rent shall be effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered.

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

“(d) ARREARAGES IN RENT.—Rents unpaid for the period preceding termination shall be paid on a prorated basis.

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

“(f) RELIEF TO LESSOR.—Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

“(g) PENALTIES.—

“(1) MISDEMEANOR.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember’s dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

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

“SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.

“(a) ASSIGNMENT OF POLICY PROTECTED.—If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

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

“(1) if the assignee has the written consent of the insured made during the period described in subsection (a)(1);

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

“(3) upon the death of the insured.

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

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

“(e) PENALTIES.—

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

“(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

“SEC. 307. ENFORCEMENT OF STORAGE LIENS.

“(a) LIENS.—

“(1) LIMITATION ON FORECLOSURE OR ENFORCEMENT.—A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

“(2) LIEN DEFINED.—For the purposes of paragraph (1), the term ‘lien’ includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason.

“(b) STAY OF PROCEEDINGS.—In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligation resulting in the proceeding is materially affected by military service—

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

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

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

“(c) PENALTIES.—

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

“(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

“SEC. 308. EXTENSION OF PROTECTIONS TO DEPENDENTS.

“Upon application to a court, a dependent of a servicemember is entitled to the protections of this title if the dependent’s ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember’s military service.

“TITLE IV—LIFE INSURANCE**“SEC. 401. DEFINITIONS.**

“For the purposes of this title:

“(1) **POLICY.**—The term ‘policy’ means any contract for whole, endowment, universal, or term life insurance, including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association which—

“(A) provides that the insurer may not—

“(i) decrease the amount of coverage or increase the amount of premiums if the insured is in military service; or

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

“(B) is in force not less than 180 days before the date of the insured’s entry into military service and at the time of application under this title.

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

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

“(4) **INSURER.**—The term ‘insurer’ includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

“SEC. 402. INSURANCE RIGHTS AND PROTECTIONS.

“(a) **RIGHTS AND PROTECTIONS.**—The rights and protections under this title apply to the insured when the insured, the insured’s designee, or the insured’s beneficiary applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured’s policy is not entitled to protection under this title.

“(b) **NOTIFICATION AND APPLICATION.**—The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. The applicant shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

“(c) **LIMITATION ON AMOUNT.**—The total amount of life insurance coverage protection provided by this title for a servicemember may not exceed \$250,000, or an amount equal to the Servicemember’s Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

“SEC. 403. APPLICATION FOR INSURANCE PROTECTION.

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

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

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

“(3) include an acknowledgement that the insured’s rights under the policy are subject to and modified by the provisions of this title.

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

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

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

“SEC. 404. POLICIES ENTITLED TO PROTECTION AND LAPSE OF POLICIES.

“(a) **DETERMINATION.**—The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title and shall notify the insured and the insurer of that determination.

“(b) **LAPSE PROTECTION.**—A policy that the Secretary determines is entitled to protection under this title shall not lapse or otherwise terminate or be forfeited for the

nonpayment of a premium, or interest or indebtedness on a premium, after the date of the application for protection.

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

“SEC. 405. POLICY RESTRICTIONS.

“(a) DIVIDENDS.—While a policy is protected under this title, a dividend or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs. If such approval is not obtained, the dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer.

“(b) SPECIFIC RESTRICTIONS.—While a policy is protected under this title, cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title.

“SEC. 406. DEDUCTION OF UNPAID PREMIUMS.

“(a) SETTLEMENT OF PROCEEDS.—If a policy matures as a result of a servicemember’s death or otherwise during the period of protection of the policy under this title, the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for policy loans.

“(b) INTEREST RATE.—If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued by the insurer at the time the insured’s policy was issued.

“(c) REPORTING REQUIREMENT.—The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

“SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY UNITED STATES.

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

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

“(2) POLICY TERMINATION.—If, at the expiration of insurance protection under this title, the cash surrender value of a policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

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

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

“(2) COLLECTION.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

“(3) DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

“(c) CREDITING OF AMOUNTS RECOVERED.—Any amounts received by the United States as repayment of debts incurred by an insured under this title shall be credited to the appropriation for the payment of claims under this title.

“SEC. 408. REGULATIONS.

“The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title.

“SEC. 409. REVIEW OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

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

“TITLE V—TAXES AND PUBLIC LANDS

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

“(a) APPLICATION.—This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember’s—

- “(1) personal property; or
- “(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember’s dependents or employees—
 - “(A) before the servicemember’s entry into military service; and
 - “(B) during the time the tax or assessment remains unpaid.

“(b) SALE OF PROPERTY.—

“(1) LIMITATION ON SALE OF PROPERTY TO ENFORCE TAX ASSESSMENT.—Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember’s ability to pay the unpaid tax or assessment.

“(2) STAY OF COURT PROCEEDINGS.—A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

“(c) REDEMPTION.—When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember’s property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

“(d) INTEREST ON TAX OR ASSESSMENT.—Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

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

“SEC. 502. RIGHTS IN PUBLIC LANDS.

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

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

“(c) REGULATIONS.—Regulations prescribed by the Secretary of the Interior shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

“SEC. 503. DESERT-LAND ENTRIES.

“(a) DESERT-LAND RIGHTS NOT FORFEITED.—A desert-land entry made or held under the desert-land laws before the entrance of the entryman or the entryman’s successor in interest into military service shall not be subject to contest or cancellation—

- “(1) for failure to expend any required amount per acre per year in improvements upon the claim;
- “(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman’s successor in interest is in the military service, or for 180 days after termination of or release from military service; or
- “(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

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

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

“SEC. 504. MINING CLAIMS.

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

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

“(c) PERIOD OF PROTECTION FROM FORFEITURE.—A mining claim or an interest in a claim owned by a servicemember that has been regularly located and recorded shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

“(d) FILING REQUIREMENT.—In order to obtain the protections of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office where the location notice or certificate is recorded a notice communicating the fact of military service and the desire to hold the mining claim under this section.

“SEC. 505. MINERAL PERMITS AND LEASES.

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

“(b) NOTIFICATION.—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered mail of the fact that military service has begun and of the desire to hold the claim under this section.

“(c) CONTRACT MODIFICATION.—This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

“SEC. 506. PERFECTION OR DEFENSE OF RIGHTS.

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

“(b) AFFIDAVITS AND PROOFS.—

“(1) IN GENERAL.—A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service before an officer authorized to provide notary services under section 1044a of title 10, United States Code, or any superior commissioned officer.

“(2) LEGAL STATUS OF AFFIDAVITS.—Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United States Code.

“SEC. 507. DISTRIBUTION OF INFORMATION CONCERNING BENEFITS OF TITLE.

“(a) **DISTRIBUTION OF INFORMATION BY SECRETARY CONCERNED.**—The Secretary concerned shall issue to servicemembers information explaining the provisions of this title.

“(b) **APPLICATION FORMS.**—The Secretary concerned shall provide application forms to servicemembers requesting relief under this title.

“(c) **INFORMATION FROM SECRETARY OF THE INTERIOR.**—The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title (other than sections 501, 510, and 511) and related application forms.

“SEC. 508. LAND RIGHTS OF SERVICEMEMBERS.

“(a) **NO AGE LIMITATIONS.**—Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

“(b) **RESIDENCY REQUIREMENT.**—Any requirement related to the establishment of a residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

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

“SEC. 509. REGULATIONS.

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

“SEC. 510. INCOME TAXES.

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

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

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

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

“SEC. 511. RESIDENCE FOR TAX PURPOSES.

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

“(b) **MILITARY SERVICE COMPENSATION.**—Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

“(c) **PERSONAL PROPERTY.**—

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

“(2) **EXCEPTION FOR PROPERTY WITHIN MEMBER’S DOMICILE OR RESIDENCE.**—This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember’s domicile or residence.

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

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

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

other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

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

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

“(1) **PERSONAL PROPERTY.**—The term ‘personal property’ means intangible and tangible property (including motor vehicles).

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

“(3) **TAX JURISDICTION.**—The term ‘tax jurisdiction’ means a State or a political subdivision of a State.

“TITLE VI—ADMINISTRATIVE REMEDIES

“SEC. 601. INAPPROPRIATE USE OF ACT.

“If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

“SEC. 602. CERTIFICATES OF SERVICE; PERSONS REPORTED MISSING.

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

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

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

“(3) The person’s residence at the time the person entered military service.

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

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

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

“(7) The time and place of the person’s termination of or release from military service, or the person’s death during military service.

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

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

“SEC. 603. INTERLOCUTORY ORDERS.

“An interlocutory order issued by a court under this Act may be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

“TITLE VII—FURTHER RELIEF

“SEC. 701. 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 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.

“SEC. 702. 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, United States Code) 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 subsection (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.

“SEC. 703. 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, United States Code, 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, or the servicemember’s legal representative, 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 increase in the premiums charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

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

“(1) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

“(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

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

“(1) STAY OF ACTIONS.—A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

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

“(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

“(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the servicemember.

“(2) DATE OF COMMENCEMENT OF ACTION.—Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any servicemember, the action shall have been deemed to have been filed on the date on which the professional liability insurance coverage of the servicemember is reinstated under subsection (c).

“(g) EFFECT OF SUSPENSION UPON LIMITATIONS PERIOD.—In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

“(h) DEATH DURING PERIOD OF SUSPENSION.—If a servicemember whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

“(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember under subsection (f)(1) shall terminate on the date of the death of such servicemember; and

“(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased servicemember in the same manner and to the same extent as such carrier would be liable if the servicemember had died while covered by such insurance but before the claim was filed.

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

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

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

“(3) The term ‘professional’ includes occupational.

“SEC. 704. HEALTH INSURANCE REINSTATEMENT.

“(a) REINSTATEMENT OF HEALTH INSURANCE.—A servicemember who, by reason of military service as defined in section 703(a)(1), is entitled to the rights and protections of this Act shall also be entitled upon termination or release from such service to reinstatement of any health insurance that—

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

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

“(b) NO EXCLUSION OR WAITING PERIOD.—The reinstatement of health care insurance coverage for the health or physical condition of a servicemember described in subsection (a), or any other person who is covered by the insurance by reason of the coverage of the servicemember, shall not be subject to an exclusion or a waiting period, if—

“(1) the condition arose before or during the period of such service;

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

“(3) if the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

“(c) EXCEPTIONS.—Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

“(d) TIME FOR APPLYING FOR REINSTATEMENT.—An application under this section must be filed not later than 120 days after the date of the termination of or release from military service.

“SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

“For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

“(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

“(2) be deemed to have acquired a residence or domicile in any other State;

or

“(3) be deemed to have become a resident in or a resident of any other State.”.

SEC. 2. CONFORMING AMENDMENTS.

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

(b) **TITLE 5, UNITED STATES CODE.**—

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

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

(A) in paragraph (1), by striking “provided by the Soldiers’ and Sailors’ Civil Relief Act of 1940” and all that follows through “of such Act” and inserting “provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act”; and

(B) in paragraph (2)(A), by striking “person in the military service” and inserting “servicemember”.

(c) **TITLE 10, UNITED STATES CODE.**—Section 1408(b)(1)(D) of title 10, United States Code, is amended by striking “Soldiers’ and Sailors’ Civil Relief Act of 1940” and inserting “Servicemembers Civil Relief Act”.

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

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

(f) **ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.**—Section 8001 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701) is amended by striking “section 514 of the Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C. App. 574)” in the matter preceding paragraph (1) and inserting “section 511 of the Servicemembers Civil Relief Act”.

SEC. 3. EFFECTIVE DATE.

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

INTRODUCTION

The reported bill reflects the Committee’s consideration of H.R. 100, as amended.

On January 7, 2003, the Chairman and Ranking Member of the Veterans’ Affairs Committee, the Honorable Christopher H. Smith and the Honorable Lane Evans, introduced H.R. 100 to restate, clarify, and revise the Soldiers’ and Sailors’ Civil Relief Act of 1940.

On July 24 and July 25, 2002, the Subcommittee on Benefits held hearings on H.R. 5111, the Servicemembers’ Civil Relief Act, and H.R. 4017, the Soldiers’ and Sailors’ Civil Relief Equity Act. H.R. 5111, introduced on July 7, 2002, was a restatement and clarification of the Soldiers’ and Sailors’ Civil Relief Act of 1940, and is nearly identical to H.R. 100. H.R. 4017, introduced on March 20, 2002, added coverage under the Soldiers’ and Sailors’ Civil Relief Act of 1940 for those National Guard members called up under title 32, United States Code, for 30 days or more.

On July 24, the witnesses were Mr. Craig W. Duehring, Acting Assistant Secretary of Defense (Reserve Affairs); Ms. Judy Wilson,

Deputy Director, Government Relations, The Enlisted Association of the National Guard; Mr. Bob Manhan, Assistant Director, National Legislative Service, Veterans of Foreign Wars; Mr. Richard Jones, National Legislative Director, AMVETS; and Ms. Joyce Wessel Raezer, Director, Government Relations, the National Military Family Association, Inc.

On July 25, the witnesses were Robert Hirshon, Esq., President, American Bar Association; Eugene R. Fidell, Esq., Feldeman, Tucker, Leifer, Fidell & Bank, LLP; Mr. James Murphy, Chairman, Mortgage Bankers Association of America; Henry R. Desmarais, MD, M.P.A., Senior Vice President, Health Insurance Association of America; Ms. Kimberlee D. Vockel, Director of Legislative Affairs, Non Commissioned Officers Association; Mr. William B. Loper, Director of Government Affairs, Association of the United States Army; and Mr. James P. Tierney, Deputy Director of Legislative Programs, National Guard Association of the United States.

The Administration supported both bills in concept while opposing some specific provisions. Other witnesses also generally supported the bills in concept with suggestions for substantive or technical improvements.

On April 3, 2003, the full Committee met and ordered H.R. 100, with an amendment in the nature of a substitute, reported favorably to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 100, as amended, would:

1. Rename the Soldiers' and Sailors' Civil Relief Act of 1940 as the Servicemembers Civil Relief Act (the Act).
2. Restate the purposes of the Act and include among the purposes the temporary suspension of administrative proceedings.

TITLE I—GENERAL PROVISIONS

1. Define the following terms: (1) "servicemember" as meaning a member of the uniformed services as defined in section 101(a)(5) of title 10, United States Code; (2) "military service" for members of the Army, Navy, Marine Corps, Air Force or Coast Guard as meaning active duty as defined in section 101(d)(1) of title 10, United States Code, for members of the National Guard certain service for purposes of responding to a national emergency declared by the President and as meaning active service of commissioned officers of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA); (3) "period of military service" as meaning the period beginning on the date a servicemember enters military service and ending on the date a servicemember is released from military service or dies in military service; (4) "dependent" as meaning a servicemember's spouse or child as defined in section 101(4) of title 38, United States Code, or an individual for whom the servicemember provided more than one-half of support for 180 days before an application for relief under the Act; (5) "court" as meaning any court or administrative agency of the United States or of any State, including any political subdivi-

sion of a State, whether or not a court or administrative agency of record; (6) "State" as meaning a commonwealth, territory, or possession of the United States, and the District of Columbia; and (7) "Secretary concerned" as meaning for a member of the armed forces a Secretary as defined in section 101(a)(9) of title 10, United States Code, for a commissioned officer of the PHS, the Secretary of Health and Human Services, and for a commissioned officer of NOAA, the Secretary of Commerce.

2. Provide that the Act applies to the United States, each of the States, including their political subdivisions, and all territories under U.S. jurisdiction.
3. Provide that the Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction, but would not apply to criminal proceedings.
4. Provide that when any application under the Act is required to be made to a court in which no proceeding has already been commenced, the application may be made to any court which would have jurisdiction over the matter.
5. Protect persons secondarily liable, such as sureties, guarantors, endorsers, accommodation makers, and comakers, by: (1) extending to them the protections of the Act, (2) allowing courts, when a judgment or decree is vacated or set aside under the Act, to take similar action for persons secondarily liable, (3) providing that a court may not enforce a bail bond during the period of military service of the principal when military service prevents the surety from obtaining the attendance of the principal, and by allowing the court to discharge the surety and exonerate the bail. The Act would allow individuals otherwise covered under these provisions to waive their protection, but only by a waiver executed separately from the obligation or liability. The Act would invalidate waivers by an individual or a dependent after which the individual enters military service, unless the waiver was executed during the period beginning on the date the member or inductee received the order to report and ending on the reporting date or the date of revocation of the order to report.
6. Provide the relief and protections of the Act to citizens of the United States who serve in the armed forces of allies of the United States, terminating on the date of discharge or release from service.
7. Require the Secretary concerned to provide written notice to persons in military service or persons entering military service of their rights under the Act.
8. Provide that a member of a reserve component who is ordered to report for military service is entitled to rights and protections under the Act during the period beginning on the date the member receives the order and ending on the date the member reports for military service (or if the order is revoked before the member reports, or on the date the order is revoked). This provision would also extend rights and protections under the Act to those individuals who have been drafted during the period of time between the date they receive their induction orders and the date they report for in-

duction (or if the order to report for induction is revoked before the date on which the person reports for induction, on the date the order is revoked).

9. Authorize a servicemember to waive any rights and protections afforded under the Act; requires waivers that would permit the modification, termination, cancellation, repossession, sale, foreclosure, or forfeiture of property that was the subject of a legal instrument be made pursuant to a written agreement in order to be effective.
10. Provide that an application by a servicemember in military service for protections under the Act could not be: (1) the basis for denial or revocation of, or a change in, credit by creditors, (2) a presumption that such individual cannot pay his or her obligation or liability, (3) an adverse credit report, (4) or a refusal of an insurer to insure such individual. This provision would also treat a preexisting business debt or obligation of a servicemember ordered to active duty as an obligation of the servicemember for purposes of the Act.
11. Define that a legal representative of a servicemember for purposes of the Act is an attorney acting for a servicemember or an individual with a power of attorney, and that the term "servicemember" as used in the Act includes a servicemember's legal representative.

TITLE II—GENERAL RELIEF

1. Require a court in an action in which the defendant is in military service to grant a minimum 90-day stay of proceedings upon application of counsel or upon court motion if the court determines that: (1) there may be a defense to the action and a defense cannot be presented without the defendant, or (2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists. This provision would also protect bona fide purchasers for value if a default judgment is set aside on behalf of a servicemember.
2. Provide for a minimum 90-day stay of proceedings at any stage before final judgment in a civil action for a servicemember who is serving on active duty or is within 90 days after termination of such duty and who has received notice of such proceedings, upon appropriate application by the servicemember or his or her commanding officer. This provision would also allow application for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear; require the court to appoint counsel for the servicemember when such application for additional stay is refused; and specify that an application for stay under this provision does not constitute an appearance for jurisdictional purposes and is not a waiver of any substantive or procedural defense.
3. Prohibit a penalty from accruing against a person failing to carry out the terms of a contract during the period of a court issued stay in an action for compliance with the terms of the contract. This provision would also allow the court to reduce or waive a fine or penalty for failing to carry out the terms

of a contract if the servicemember is in military service at the time the fine or penalty was incurred, and the servicemember's ability to perform the obligation is materially affected by the military service.

4. Authorize a court to stay a judgment or order against a servicemember or vacate or stay an attachment when a servicemember's compliance is materially affected by military service; and authorize a court to grant such stays before or during the servicemember's military service or within 90 days after such service terminates.
5. Allow a stay of an action, proceeding, attachment, or execution granted by a court under the provisions of this Act to remain in effect for the period of military service, and up to 90 days thereafter. This provision would also allow a plaintiff to proceed with an action against other defendants who are not in military service, when a servicemember is a co-defendant, with the approval of the court, even though the action is stayed with respect to the servicemember.
6. Provide that in deciding when the period of time specified in a statute of limitations expires for any action or proceeding, the period of a servicemember's military service is not counted, and also provide that the period of a servicemember's military service may not be included in the period for redemption of real property that has been sold or forfeited to enforce a tax, obligation, or assessment.
7. Limit interest rates to 6 percent per year on obligations or liabilities incurred by the servicemember, or jointly by the servicemember and the servicemember's spouse, before the servicemember enters military service. This provision would forgive the payment of interest in excess of 6 percent a year on such obligations or liabilities, and require a servicemember, in order to be covered by the 6 percent cap, to provide creditors with written notice and a copy of his or her service orders, as well as any orders for service extension, within 180 days after termination or release from such service. This provision would also allow the court to grant a creditor relief from the 6 percent limit if the ability of the servicemember to pay interest in excess of the cap is not materially affected by reason of military service.

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

1. Protect against the eviction of a servicemember or his or her dependents during a period of military service from premises occupied primarily as a residence for which rent does not exceed \$1,700, except by court order and provide for increases in the rental amount based upon an annual housing price inflation adjustment. It would also allow a court to stay execution of an application for eviction or distress for 90 days or adjust the obligation under the lease if a servicemember's ability to pay rent is materially affected by military service; grant relief to the landlord; provide that knowing violation of this provision is a criminal misdemeanor; and authorize the Secretary

concerned to make an allotment from the servicemember's pay to the extent required by a court order.

2. Require a court order for rescission or termination for breach of contract during a period of military service for the purchase or lease of real or personal property entered into prior to such service, and for which a deposit or installment has been paid. It would also provide that a knowing violation of this provision is a criminal misdemeanor, provide that certain other remedies are not precluded for persons claiming relief under this provision, provide that a court may order repayment to servicemembers of installments or deposits before a contract may be terminated and the property repossessed, and provide that a court may stay the proceedings for a period of time as justice and equity require or make other equitable disposition.
3. Authorize a court to stay proceedings or adjust the obligation in the case of claims filed to enforce mortgage or trust deed payments for up to 90 days after a servicemember's period of military service when the servicemember's ability to comply with the obligation has been materially affected by military service. This provision would only apply to obligations on real or personal property owned by a servicemember that originated before the period of the servicemember's military service and for which the servicemember is still obligated when the property is secured by a mortgage, trust, deed, or other security in the nature of a mortgage. It would make knowing violation of this provision a criminal misdemeanor and preserve other remedies available to a person claiming relief under this provision.
4. Authorize a court to appoint three disinterested parties to appraise a property if a stay has been granted pursuant to this Act in a proceeding to foreclose on a mortgage, repossess personal property, or to rescind or terminate a contract for the purchase of personal property. This provision also would allow, based on the appraisal and if undue hardship to the servicemember's dependents would not result, the court to order the amount of the servicemember's equity in the property to be paid to the servicemember or the servicemember's dependents as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.
5. Allow termination of leases of premises occupied or intended to be occupied by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural or similar purpose if the lease is executed by a person who thereafter and during the term of the lease enters military service, or the servicemember while in military service executes a lease and thereafter receives orders for a permanent change of station or to deploy for not less than 90 days. It would establish the requirements for the lessee to provide written notice to the lessor or to the lessor's agent and provide the effective date of termination for leases with monthly rent and for all other leases. It would require that arrearages in rent be paid on a prorated basis and require that rents paid in advance be refunded to the lessee. It also would authorize a court to grant certain relief to lessors as justice and equity

require. It would provide that knowing violation of this provision is a criminal misdemeanor and provide that remedies otherwise available under law are not precluded.

6. Provide that where any life insurance policy on the life of a person who enters active military service has been assigned by that person before entering active duty to secure payment of a debt, the assignee of the policy (except the insurance company in connection with a policy loan) may not exercise during the period of military service or within one year thereafter any right or option obtained under the assignment without a court order. This prohibition would not apply: (1) if the assignee has the written consent of the insured, (2) when any premiums on the policy are due and unpaid, and (3) upon the death of the insured. It would provide that a court may refuse to grant an order under this provision if the ability of the servicemember to comply with the terms of the obligation is materially affected by military service. It would provide that premiums guaranteed under title IV of the Act would not be considered due and unpaid. It also would provide that knowing violation of this provision is a criminal misdemeanor and provide that remedies otherwise available under law are not precluded.
7. Prohibit the enforcement of any storage lien of any person on active duty in military service while the person is on active duty and for 90 days thereafter without a court order. It would authorize a court to stay proceedings to enforce a lien or to adjust the obligation if a servicemember's ability to comply with the obligation is materially affected by military service. It also would provide that knowing violation of this provision is a criminal misdemeanor and provide that remedies otherwise available under law are not precluded.
8. Entitle a dependent of a servicemember, upon application to a court, to the protections of this title if the dependent's ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember's military service.

TITLE IV—LIFE INSURANCE

1. Define the term "policy" for the purposes of this title on life insurance, and define the terms "premium," "insured," and "insurer."
2. Allow the insured, the insured's designee, or the insured's beneficiary to apply in writing for the protection from a lapse of a life insurance policy by providing for a guarantee of payment of premiums and interest on premiums by the United States, unless the Secretary of Veterans Affairs determines the insured's policy is not entitled to protection. It would require the Secretary of Veterans Affairs to notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. It would require the applicant to send the original application to the insurer and a copy to the Secretary of Veterans Affairs. It also would increase the total amount of life insurance coverage protection under this title to \$250,000, or an amount equal to the Servicemembers' Group Life Insurance maximum amount, whichever is greater.

3. Require that an application for protection under this title be: (1) in writing and signed by the insured, the insured's designee, or the insured's beneficiary, (2) identify the policy and the insurer, and (3) include an acknowledgment that the insured's rights under the policy are subject to and modified by the provisions of the title. It would allow the Secretary of Veterans Affairs to require additional information from the applicant, the insured and the insurer to determine if the policy is entitled to protection; and provide that upon receipt of the application of the insured, the insurer must furnish a report concerning the policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary. It also would provide that an application for protection under this title constitutes agreement to any policy modification necessary to give this title full force and effect.
4. Require the Secretary of Veterans Affairs to determine whether a policy is entitled to protection under this title and to notify the insured and insurer of that determination. It would provide that a policy the Secretary determines to be entitled to protection would not, after the date of application for protection, lapse or otherwise terminate or be forfeited for non-payment of a premium, or interest or indebtedness on a premium, and provide that the protection under this title applies during the insured's period of military service and for two years thereafter.
5. Prohibit a dividend or other monetary benefit under a policy to be paid to an insured or used to purchase dividend additions while the policy is protected under this title, without the approval of the Secretary of Veterans Affairs. It would also prohibit cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character to be available while the policy is protected under the provisions of the title without the approval of the Secretary. It would provide that provisions under this title do not affect the right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary.
6. Require the insurer to deduct from the insurance proceeds the amount of the unpaid premiums guaranteed, together with the interest due at the rate fixed in the policy for policy loans if a policy matures as a result of a servicemember's death or otherwise during the period of protection. It would require the interest rate to be the same for policy loans in other policies issued by the insurer at the time the policy was issued and require that the amount deducted, if any, be reported by the insurer to the Secretary of Veterans Affairs.
7. Provide that the payment of premiums, and interest on premiums at a rate specified by this title, is guaranteed by the United States. It would provide that the insurer treat the amount guaranteed as a policy loan on the policy, if it is not paid to the insurer before the period of insurance protection expires. It would require the termination of the policy, if at the time of the expiration of insurance protection under this title, the cash surrender value of the policy is less than the amount due to pay premiums and interest on premiums on

the policy and require that upon termination, the United States pay the insurer the difference between the amount due and the cash surrender value. It would provide that the amount paid by the United States to the insurer is a debt payable to the United States by the policy holder, and provide that this amount may be collected by the United States, either as an offset from any amount due to the policy holder by the United States, or as otherwise authorized by law. It also would provide that such a debt payable to the United States is not dischargeable in bankruptcy proceedings and require any amounts received by the United States as repayment of debts incurred by an insured be credited to the appropriation for the payment of claims under this provision.

8. Authorize the Secretary to prescribe regulations for implementation of this title.
9. Allow the findings of fact and conclusions of law made by the Secretary of Veterans Affairs in administering this title to be reviewed by the Board of Veterans' Appeals and the United States Court of Appeals for Veterans Claims.

TITLE V—TAXES AND PUBLIC LANDS

1. Apply to any cases of tax assessments (except taxes on personal income) falling due and remaining unpaid before or during military service for personal property, or real property before entry into military service and during the time the tax or assessment remains unpaid. It would prohibit sale of such property to enforce a tax assessment without a court order determining that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment. It would provide for a stay of court proceedings to enforce the collection of such a tax or assessment for not more than 180 days after termination of military service, and provide for a servicemember's right of redemption of such property during military service or within 180 days after termination of military service. It would provide for a 6 percent interest cap on such tax or assessments due and unpaid. It would apply these provisions to property jointly owned by a servicemember and a dependent or dependents.
2. Provide that the rights of a servicemember to public lands are not forfeited or prejudiced as a result of being absent from the land during the period of military service. It would provide that certain permittees or licensees who have entered military service may suspend the permits and licenses held before entering military service, during military service, and for 180 days after termination of military service. It would authorize the Secretary of the Interior to prescribe regulations regarding this provision.
3. Exempt the servicemember and former servicemembers from certain desert-land entry requirements during military service and for 180 days after termination of military service, and during any period of rehabilitation from injury or illness incurred during military service. It would provide that an honorably discharged entryman or claimant who is disabled in the line of duty may make proof without further reclamation

- or payments. The servicemember must notify the land office where the claim is located within 180 days after entering military service that he or she has entered military service.
4. Provide that certain requirements of law to keep a mining claim in effect are suspended when the claim is held by a servicemember while on active duty and for 180 days after termination of military service, or during a period of hospitalization because of wounds or disability incurred in the line of duty. It also would provide a 180-day period of protection from forfeiture for a mining claim owned by a servicemember and establish certain filing requirements for claimants who desire to hold a mining claim under this provision.
 5. Provide that a person holding a permit or a lease under the Federal mineral laws who enters military service may suspend all operations, and prohibit the period the servicemember is on active duty and 180 days thereafter from being counted as part of the term of the servicemember's permit or license. It would prohibit the charge of rental fees or royalties during the period of suspension and require the permittee or lessee to notify the Secretary of the Interior within 180 days after entry into military service in order to obtain the protections of this provision. It also would provide that this provision does not supersede the terms of any contract for operation of a permit or lease.
 6. Provide that this title does not affect the right of a servicemember to perfect or defend rights initiated or acquired prior to entry into military service. It also would provide for affidavits and proofs required by the Department of the Interior, and provide that such affidavits are binding in law and subject to certain penalties.
 7. Authorize the Secretary concerned to issue to servicemembers information explaining the provisions of this title and to provide application forms to servicemembers requesting relief under this title. It would authorize the Secretary of Interior to furnish the Secretary concerned information explaining the provisions of this title and related application forms.
 8. Entitle any servicemember under the age of 21 to the same rights of laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers over the age of 21.
 9. Authorize the Secretary of the Interior to issue regulations necessary to carry out this title.
 10. Provide that, upon notice to the Internal Revenue Service or other tax authority, collection of taxes on the income of a servicemember falling due before or during military service is deferred while the person in military service and for not more than 180 days after termination of military service if the person's ability to pay the taxes is materially affected by military service. It would provide that no interest or other penalty may accrue for the period of deferment for non-payment and provide that the statute of limitations against collection of a deferred tax under this provision is suspended

during the servicemember's military service and for 270 days thereafter. It also would provide that this provision does not apply to the tax imposed on employees by section 3101 of the Internal Revenue Code of 1986.

11. Provide that a servicemember neither loses nor acquires a residence or domicile for tax purposes with respect to the person, personal property, or income by reason of being absent or present in any U.S. tax jurisdiction solely in compliance with military orders. It would provide that military service compensation is not deemed to be income for services performed or from sources within a U.S. tax jurisdiction if the servicemember is not a resident or domiciliary of that jurisdiction. It would provide that personal property may be taxed only in the tax jurisdiction of the servicemember's domicile or residence. It would prohibit a tax jurisdiction from using the military compensation of a non-resident servicemember to increase the tax liability imposed on other income earned by such servicemember or spouse. It also would provide that an Indian servicemember whose legal residence or domicile is a Federal Indian reservation is taxed under the laws applicable to such reservation and not to the State where the reservation is located.

TITLE VI—ADMINISTRATIVE REMEDIES

1. Provide that a court may prevent inappropriate use of the Act by entering judgments or orders.
2. Provide that a certificate of service signed by the Secretary concerned is prima-facie evidence of military service and require the Secretary concerned to furnish certain certificates upon receipt of an application. It would establish a presumption that a servicemember who is declared missing is in military service until accounted for.
3. Authorize an interlocutory order issued by a court under the Act to be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

TITLE VII—FURTHER RELIEF

1. Allow a servicemember to apply for anticipatory relief from any obligation or liability incurred before the servicemember's military service, or from a tax or assessment falling due before or during the servicemember's military service or within 180 days of termination from military service. It would provide that in a case covered by this provision, if the ability of the servicemember to comply with the terms of an obligation or liability or pay a tax or assessment has been materially affected by military service, after appropriate notice and hearing, a court may grant: (1) a stay of enforcement of certain real estate contracts, and (2) a stay of enforcement of certain other contracts. It also would provide that, if a court grants a stay under this provision, no fine or penalty may accrue during the period of compliance with the terms and conditions of the stay.

2. Extend automatically a servicemember's power of attorney when the servicemember is in a missing status.
3. Provide for suspension of a professional liability insurance policy for the period of active duty military service in the case of a person providing professional health care or legal services (or other services determined by the Secretary of Defense to be professional services) under a professional liability insurance contract and who entered into certain active duty under title 10, United States Code. It would establish requirements for suspension of coverage and reinstatement of coverage, and prohibit the insurance carrier from requiring payments to be made during the period of such suspended coverage. It would define for the purposes of this provision the terms "active duty," "profession," and "professional."
4. Provide that a servicemember entitled to the rights and protections of the Act is also entitled upon termination of military service to reinstatement of any health insurance that: (1) was in effect on the day before service commenced, and (2) was terminated effective on a date during the period of service. It would prohibit any exclusions or waiting periods from being imposed upon a returning servicemember for health insurance coverage if: (1) the condition arose before or during the servicemember's military service, (2) such exclusion or waiting period would not have been imposed for the condition during the period of coverage, and (3) such condition is not determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty. It would require that an application for reinstatement be filed not later than 120 days after termination of military service.
5. Provide a guarantee of residency for military personnel for purposes of voting for any Federal office or a State or local office, if that person is absent from a State in compliance with military or naval orders.

BACKGROUND AND DISCUSSION

Congress has long recognized that the men and women of our military services should have civil legal protections so they can "devote their entire energy to the defense needs of the Nation." With hundreds of thousands of servicemembers fighting in the war on terrorism and the war in Iraq, many of them mobilized from the reserve components, the Committee believes the Soldiers' and Sailors' Civil Relief Act (SSCRA) should be restated and strengthened to ensure that its protections meet their needs in the 21st century.

The earliest recognition of the need to provide civil protections for servicemembers in the United States dates back to the "stay laws" promulgated by Louisiana during the War of 1812. Louisiana suspended all proceedings in civil cases for four months as the British were advancing on New Orleans. Experience of persons serving in the military during the Civil War led the Federal government and some states to enact stay laws which had the effect of suspending legal actions to which the soldier or sailor was a party. *Soldiers' and Sailors' Civil Relief Bill: Hearing on S. 2859 and H.R.*

6361 *Before the Senate Subcommittee on the Judiciary*, 65th Cong., 38 (1917). Following the decision of the United States to enter the war in Europe in 1917, the first modern version of the Soldiers' and Sailors' Civil Relief Act was drafted in six weeks by Major John Wigmore, the eminent Dean of Northwestern University's Law School and author of the authoritative treatise, *Wigmore on Evidence*. He had been called to active duty and attached to the Army Judge Advocate General Corps (JAGC). *Id.* at 83–84.

The original SSCRA provisions covered default judgments, stays of proceedings, evictions, mortgage foreclosure, insurance, and installment contracts. In a letter transmitting the draft bill to Congress, Newton Baker, Secretary of War, and Josephus Daniels, Secretary of the Navy, summed up the purpose of the legislation, "On the whole, the method of the act consists mainly in suspending proceedings and transactions during the soldier's or sailor's absence, so that he may have an opportunity, when he returns, to be heard and to take measures to protect his interests." *Id.* at 5.

The Senate hearings considered the authority of Congress to enact this type of legislation under the authority of the Constitution's war powers, as well as provisions on protection of insurance premiums. The Senate Subcommittee on the Judiciary in the end determined in a resolution "that the Congress has the power to enact a reasonable stay law, which may control the processes and proceedings of State courts." *Id.* This conclusion relied on *Stewart v. Kahn*, 78 U.S. 493, 11 Wallace 493 (1870), a decision in which the U.S. Supreme Court expressly held that the Federal statutes of the Civil War (13 Stat. L., 123, June 11, 1864) were controlling upon the state as well as the Federal courts. *Id.* at 89. The SSCRA of 1918 terminated under its own provisions six months after World War I ended.

In 1940, with the looming involvement of the United States in World War II, Congress re-enacted the SSCRA almost verbatim. *Civil Liabilities of Military Personnel: Hearing on S. 4270 Before the Senate Committee on Military Affairs*, 76th Cong. Vol. 8, 7 (1940). The 1940 version added the method for administering insurance protection and protections with respect to public lands, and raised the rent eviction ceiling from \$50 to \$80. *Civil Liabilities of Military Personnel: Hearing on S. 4270 Before the Senate Committee on Military Affairs*, 76th Cong., Vol. 8, 18 (1940).

Within two years it became apparent that new social and business realities made a major update necessary. While the amendments were being considered, Congressman Overton Brooks (D-LA), observed on the floor of the House:

This bill springs from the desire of the people of the United States to make sure as far as possible that men in service are not placed at a civil disadvantage during their absence. It springs from the inability of men who are in service to properly manage their normal business affairs while away. It likewise arises from the differences in pay which a soldier receives and what the same man normally earns in civil life. (Cong. Rec. H. 5553, June 11, 1942).

The U.S. Supreme Court later supported this interpretation when it declared that the Act must be read with "an eye friendly to those

who dropped their affairs to answer their country's call." *Le Maistre v. Leffers*, 333 U.S. 1, 6 (1948).

A team headed by Major William Partlow, U.S. Army, JAGC, drafted major revisions to the SSCRA. During the 1942 hearings, Major Partlow reaffirmed that the purpose of the Act was "toward the withholding of remedies, rather than the extinguishments of rights." *Soldiers' and Sailors' Civil Relief Act: Hearings on H.R. 7029 Before the House Committee on Military Affairs*, 77th Cong., 11 (1942). The 1942 amendments modified existing provisions and expanded protections of the Act. The most notable of these was the creation of the 6 percent interest rate cap on indebtedness and the prohibition on multiple state taxation of the property and income of a servicemember.

Not until 1953 was the constitutionality of the Act challenged. The U.S. Supreme Court in *Dameron v. Brodhead*, 345 U.S. 322 (1953), settled the issue by holding that Congress could pass legislation such as the Act by virtue of its power "to declare war" (U.S. Const. Art. I, sec. 8, cl. 11) and "to raise and support armies" (U.S. Const. Art. I, sec. 8, cl. 12).

Including the major 1942 revisions, Congress has amended the SSCRA 13 times. Lt. Colonel Gregory M. Huckabee, *Operations Desert Shield and Desert Storm: Resurrection of the Soldiers' and Sailors' Civil Relief Act*, 132 Mil. L. Rev. 141 154–157 (1991). The SSCRA tolling provision was amended again in 1942 to exclude the Internal Revenue Service, thus allowing the collection of taxes from all citizens for the war effort regardless of status. (56 Stat. 964, ch. 619 (1942)). In 1944, Congress provided that servicemembers did not lose their domicile by being absent due to military orders. (58 Stat. 722, ch. 397, sec. 1 (1944)). In 1948, Congress changed the way life insurance premium refunds were credited in an attempt to make the funds self-sustaining. (62 Stat. 160, ch. 170, Sec. 6 (1948)).

Four years later, Congress added a criminal penalty for anyone who sold, foreclosed or seized property under a mortgage or trust deed involving a servicemember without a court order. (66 Stat. 151, ch. 450 (1952)). In 1958, Congress made a minor change removing the requirement by the Administrator of the Veterans Administration to make annual reports to Congress on the guaranteed life insurance program. (72 Stat. 1272, ch. 857, Sec. 14(76) (1958)).

In 1960, Congress permitted a declaration under penalty of perjury instead of an affidavit in default proceedings. This amendment conformed federal law to state law for the purposes of default proceedings. (74 Stat. 820 (1960)). A new protection was added in 1962 excluding from taxation by nondomiciliary states personal property belonging to a servicemember who resided outside of their domicile due to military orders. (76 Stat. 768, ch. 771 (1962)). In 1966, Congress raised the eviction rent ceiling from \$80 to \$150. (80 Stat. 28, ch. 358, sec. 10 (1966)).

In 1972, Congress indefinitely extended the effective life of powers of attorney executed during the Vietnam era (1963–1972). This was in response to the prisoner of war issues from the Vietnam War. (86 Stat. 1098, ch. 540, tit. V, sec. 504 (1972)). As a consequence of the Persian Gulf War in 1990, Congress amended several sections of the SSCRA. Amy J. McDonough, et al., *Crisis of the Soldiers' and Sailors' Civil Relief Act: A Call for the Ghost of Major*

(Professor) *John Wigmore*, 43 *Mercer L. Rev.* 667, 671–76 (Winter 1992). The 1991 amendments raised the eviction rent ceiling again from \$150 to \$1,200, created a new section suspending professional liability insurance for medical professionals, and enacted another new section to prohibit retaliatory action by creditors and insurers if the servicemember requested relief under the Act. (105 Stat. 34).

In 2001, in response to a legal challenge to absentee military votes cast in the November 1996 election, Congress again amended the Act with a new section to guarantee residency for servicemembers for voting purposes. (115 Stat. 1023, tit. XVI, sec. 1603). The most recent amendment in 2002 came about after the terrorist attacks of September 11, 2001, and extended the protections of the Act to certain members of the National Guard called to active duty under section 502(f) of title 32, United States Code, in response to national emergencies. (116 Stat. 2821, tit. III, sec. 305).

The Soldiers' and Sailors' Civil Relief Act of 1940 was to remain in force until May 15, 1945, or six months after the President proclaimed a treaty of peace. In 1948, after the SSCRA had expired, Congress added a provision to the Military Selective Service Act, requiring that the Soldiers' and Sailors' Civil Relief Act continue in force until it was "repealed or otherwise terminated by a subsequent Act of Congress. . . ." (50 U.S.C. App. 464 (1948)). Congress has not repealed or terminated the Act, and it continues in effect.

RESTATEMENT OF THE ACT

The Committee intends H.R. 100, as amended, to be a comprehensive restatement of the Act. The bill would clarify and strengthen many of its protections. Section 1 of the bill would give the Act a more inclusive short title, the "Servicemembers Civil Relief Act," because soldiers, sailors, marines and airmen are collectively referred to as "servicemembers" in other statutes. The bill updates and restates the current provisions of the Act in plain English for improved comprehension. It is drafted in modern legislative form with "titles" rather than "articles," and divides many of the sections into subsections and paragraphs for improved readability. Descriptive headings are added throughout the bill. The same general order of subject matter is preserved.

Section 2 of the bill restates the purposes of the Act for greater clarity, removes redundant language, and expands the statement of purposes to provide for the temporary suspension of administrative proceedings.

TITLE I—GENERAL PROVISIONS

Section 101 would modernize the definitions for "military service," "period of military service," and "court". The section would add to the definition for "military service" the provision from section 305 of Public Law 107-330 (116 Stat. 2821, tit. III, sec. 305) that extends coverage under the Act to members of the National Guard called to active service by the President or Secretary of Defense for more than 30 consecutive days under section 502(f) of title 32, United States Code, for the purpose of responding to national emergencies. The section would also expand the term "court" to expressly include administrative agencies. Civil matters handled in

1940 as judicial proceedings are often dealt with as administrative proceedings today. American courts have been divided on whether Congress intended the Act to apply to administrative proceedings. These proceedings, including family law cases, would now clearly be subject to the Act.

Section 101 would also add definitions for the terms “servicemember,” “state,” “Secretary concerned,” and “dependent.” The Committee observes with approval that the courts have liberally construed the term “dependent” over the years to include persons whose financial support is tied to the servicemember. See *Balconi v. Dvascas*, 507 N.Y.S. 2d 788 (1986). The definition does not require a family relationship or that the individual reside in the same house. It is meant to include parents and parents-in-law who are supported by a servicemember, as well as disabled adult children. The Committee believes that the critical connection for a relationship of dependency is the financial support from the servicemember.

The Act employs a test that a servicemember must be “materially affected” by military service for a number of its protections to be available. The courts have interpreted the term “materially affected” many times over the years in the context of the effect of military service on a servicemember. During the 1917 Congressional hearings, Major Wigmore explained the intent behind the term:

In the original draft that read, ‘unless in the opinion of the court the defendant is not embarrassed by reason of his military service.’ The House insisted on making that more explicit. In other words, he might be embarrassed, but that embarrassment might not be at all due to his having gone into the service and lost some money thereby; so that they insisted that it should read, unless the court shall say that the soldier’s ability ‘to comply with the judgment is not materially affected by reason of his being a soldier.’ In other words, you and I may go into the service and may be already insolvent. The going into the service has not made us insolvent, and there is no reason there why legal proceedings should not go on just the same. We have tried to hitch up those provisions so that no relief shall be given to any person in the military service, unless he needs the relief, just because he is in military service. *Soldiers’ and Sailors’ Civil Relief Bill: Hearing on S. 2859 and H.R. 6361 Before the Senate Subcommittee on the Judiciary*, 65th Cong., 217 (1917).

The Committee received suggestions that the term “materially affected” be included with the definitions of section 101. However, the Committee has not done so because it finds that courts, in considering the facts and circumstances of specific cases, have generally interpreted the term in ways that are consistent with the intent of the Act as Major Wigmore explained it.

Section 102 would make a specific statement that the Act “does not apply to criminal proceedings.” This would codify prior court decisions and clarify congressional intent. See *Dotseth v. Justice Court, Tucson, Precinct No. One, Pima County*, 427 P.2d 558 (1967).

Section 103 in addition to restating the section, would add the term “comaker” to clarify the legislative intent and case law regarding persons who qualify for extension of the Act’s protections as persons secondarily liable. *Soldiers’ and Sailors’ Civil Relief Act: Hearings on H.R. 7029 Before the House Committee on Military Affairs*, 77th Cong., 11 (1942); *Modern Industrial Bank v. Zaentz*, 29 N.Y.S. 2d 969 (1941).

Section 104 would create a single section pertaining to citizens serving with allied forces by combining the limited protections of current section 512 [50 U.S.C. App. 572] with current section 104 [50 U.S.C. App. 514]. The 1942 amendments added section 104, which extended protection of the entire Act to citizens serving with allied forces. The 1942 legislative history indicates the intent of the section was to protect U.S. citizens serving with the Canadian Royal Air Force, the British Royal Air Force and the Flying Tigers in China. *Soldiers’ and Sailors’ Civil Relief Act: Hearings on H.R. 7029 Before the House Committee on Military Affairs*, 77th Cong., 12 (1942). Further, the Act’s current section 104 is inapplicable if it appears that the person does not intend to resume citizenship, in effect presuming that the citizen gave up or relinquished citizenship by serving with an allied force. In *Afroyim v. Rusk*, 387 U.S. 253 (1967), the U.S. Supreme Court held that Congress does not have the power to take away citizenship without the citizen’s assent. The deletion of this language in the new section would be consistent with this U.S. Supreme Court ruling.

Section 108 was added in the 1991 amendments. The bill would add subsections (5) and (6) to prohibit discriminatory practices that have been identified since those amendments.

Section 109 would be added to incorporate legal representatives of servicemembers into the term servicemembers throughout the Act, to clarify that such legal representatives can act for the servicemember in all matters covered by the Act.

TITLE II—GENERAL RELIEF

Section 201 on protections against default judgments would clarify that the protections under this section are intended to apply when a servicemember does not receive notice of an action or proceeding. The section would state plainly what should be done when appointed counsel is unable to locate the servicemember or determine whether a meritorious defense might exist. *See Soldiers’ and Sailors’ Civil Relief Bill: Hearings on S. 2859 and H.R. 6361 Before the Senate Subcommittee on Judiciary*, 65th Cong. (1918).

In light of the realities of current legal process and military service, the Committee recognizes the shortcomings of section 202 as originally drafted in 1918. The 1940 Act incorporated the 1918 Act’s section on stays of proceedings verbatim. *See Civil Liabilities of Military Personnel: Hearings on S. 4270 Before the Senate Committee on Military Affairs*, 76th Cong., Vol. 1, 15 (1940) (statement of Senator Gurney). This expanded section would require a 90-day stay upon application of the servicemember if certain conditions are met. With delayed mail delivery and diminished opportunities to consult with legal counsel so common to military service, a period of time is needed to allow an adequate opportunity for servicemembers to consult with military or civilian counsel, and to respond to the courts.

Since there is confusion among courts as to whether a stay request may constitute a waiver of legal defenses, clarifying language is included in the section reflecting the Committee's intent that the protection provided by this section should not serve to deprive servicemembers of other rights, such as the right to assert lack of personal jurisdiction. See *Kramer v. Kramer*, 668 S.W. 2d 457 (Tex. Ct. App. 1984) (defendant's letter invoking the SSCRA and requesting a stay did not provide personal jurisdiction that otherwise was lacking; *contra Skates v. Stockton*, 140 Ariz. 505, 683 P. 2d 304 (Ariz. Ct. App. 1980) (letter sent by military legal assistance attorney requesting stay constituted a general appearance)). An application for a stay under this section would be treated as a special appearance.

Stays should be automatic if they meet several important criteria which adequately place the court on notice when a case may proceed. First, section 202 would place an obligation on the servicemember to demonstrate material affect by providing a factual basis for supporting the stay request. See *Boone v. Lightner*, 319 U.S. 561 (1943) (trial courts must use discretion in determining material affect based on facts presented); *Plesniak v. Wiegand*, 31 Ill. 3d 923, 335 N.E. 2d 131 (Ill. App. Ct. 1st District 1975) (party must establish that military status is proximate cause of inability to appear); *Lackey v. Lackey*, 222 Va. 49, 278 S.E. 2d 811 (Va. 1981) (affidavit from the commander revealing sailor was serving sea duty and unable to attend sufficient to establish right to a stay); *Hibbard v. Hibbard*, 230 Neb. 364, 431 N.W. 2d 637 (Neb. 1988) (determination of a stay depends upon the facts and circumstances of each case). An important component of this requirement would be the servicemember's responsibility to provide a date on which the he or she would be available to appear. See *Tabor v. Miller*, 389 F. 2d 645, *cert. denied*, *Stearns v. Tabor*, 391 U.S. 915 (3d Cir. 1968) (servicemember did not provide evidence it was impossible for him to appear); *Zitomer v. Holdsworth*, 449 F.2d 724 (3d Cir. 1971) (servicemember failed to avail himself of SSCRA provisions).

Second, section 202 would require a letter from the servicemember's unit commander affirming that the servicemember's military duty prevents an appearance. Equipped with this information, the court would be able to make a more informed judgment as to when the litigation may proceed. See *Hackman v. Postel*, 675 F. Supp. 1132 (N.D. Ill. 1988). In the interim 90 day period, the servicemember would have not only an opportunity to retain and consult with counsel, but also a reasonable period of time to assist in the preparation of a defense. The issue of availability of military leave is an important consideration affecting the determination of a servicemember's ability to appear. See *Underhill v. Barnes*, 288 S.E. 2d 905 (Ga. App. 1982) (court found absence of facts about obtaining leave helped determine the servicemember had not exercised due diligence or acted in good faith to make himself available for trial). The requirement that a commander specifically address this issue would officially inform the court that military leave is not authorized for the servicemember. *Palo v. Palo*, 299 N.W. 2d 577 (S.Ct. S.D. 1980) (appellant failed to show leave was unavailable or any attempt to

obtain leave, therefore, no protection was provided under the SSCRA).

Recognizing the current nature of military deployments, many of which extend beyond 90 days, section 202 would permit requests for additional stays containing the same relevant information. This would enable a court to make a factual determination regarding the continuing material affect of military duty on a servicemember's ability to appear. Unlike the initial application, approval of this further stay would be within the court's discretion. The court would be expected to consider the equities of all parties involved in granting an additional stay, but military service should not place a servicemember at a geographic or legal disadvantage. *See Keefe v. Spangenberg*, 533 F. Supp. 49 (W.D. Ok. 1981). A requirement would also be included in section 202 that counsel be appointed to protect the servicemember's rights if an additional stay request is denied.

Section 206 would replace the term "government" with "a State (or political subdivision if a State) or the United States" to clarify the intent that this section on the tolling of statutes of limitations would apply to all levels of government: local, state and federal. *See Parker v. State*, 57 N.Y.S. 2d 242 (Ct. Cl. 1945); *Calderon v. City of New York*, 55 N.Y.S. 2d 674 (Sup. Ct. 1945); *Shell Oil Co. v. Industrial Comm'n*, 94 N.E. 2d 888 (1950). This section would add a specific provision on redemption of real property. To consolidate similar sections, subsection (c) would incorporate section 207 of the current Act on the tolling of internal revenue laws.

To resolve lingering questions about congressional intent, section 207 (dealing with the maximum rate of interest on debts incurred before military service) would clearly provide that interest above the 6 percent rate is to be forgiven, and that the amount of the monthly payment is to be reduced. Not to forgive interest above the 6 percent maximum rate would place the servicemember in precisely the same financial dilemma Congress sought to ameliorate with the 1942 amendments. *See H. Rept. 2198, 4* (1942). In addition, section 207 would clarify that joint debts between a servicemember and his or her spouse are entitled to the 6 percent interest relief protection.

The original section provided no guidance on how the servicemember should initiate an interest rate reduction. The Committee believes the burden should be on the servicemember to inform the creditor of the order for military service within a specific time. Section 207 would codify the practices established during the Persian Gulf War. The servicemember would be required to submit to the creditor written notice and a copy of military orders. These orders indicate the period of time for which the servicemember is called to duty. If there is an extension of the military duty obligation, the servicemember receives amended orders and would be required to provide the amended orders to the creditor in order to extend further the 6 percent protection. The Committee notes that, while the section would allow for notice to the creditor of up to 180 days after the servicemember's termination or release from military service, it would obviously be of advantage to servicemembers to provide notice to creditors more quickly so that their monthly payments are reduced during the period of military service when their income may be reduced.

The Committee expects that the written notice by the Secretary concerned to the servicemembers and persons about to enter military service, as required by section 105 regarding the protections of the Act, would include specific information concerning the reduction in the interest rate and the responsibility of the servicemember to provide notice of military service to the creditor.

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

Section 301, which addresses evictions and distress, would include the parenthetical, “(or another person with paramount title),” to eliminate the conflict between courts regarding the relationship required to invoke the eviction protections of this section. *See Clinton Cotton Mills v. United States*, 164 F.2d 173 (4th Cir. 1947) (holding that if a person merely has superior title and attempts to evict a servicemember, the Act’s protections apply); *but see Arkless v. Kilstein et al.*, 61 F. Supp. 886 (E.D. Pa. 1944) (holding that there must be an actual landlord-tenant relationship). The words “intended to be occupied” would be added to eliminate any question about the section’s coverage when a servicemember has signed a contract or deposited money for premises, but is unable to initiate or complete occupancy due to military service. Also, the maximum rental amount for which eviction protection is available would be increased from \$1200 to \$1,700, and automatic increases in coverage would be tied to the Consumer Price Index for residential rent maintained by the Bureau of Labor Statistics. This would cure the recurring problem of the section’s coverage lagging behind inflation. The Committee observes that the rental amount has been raised only three times in more than sixty years.

Section 302, which addresses protection under installment contracts for purchase or lease, would remove the language “with a view to purchase” from the current provision to expand the section’s protections to non-purchase leases, including leases for automobiles, business or professional equipment, farm equipment and other similar property.

Section 303(c) on mortgages and trust deeds removes the words “unless upon an order previously granted by the court” and inserts the words “upon a court order granted before such sale, foreclosure, or seizure.” Two courts construing the original language have disagreed as to when the order must have been previously granted. One court held that the order must have been granted prior to the servicemember’s entry onto active duty. *Stability Building and Loan Ass’n v. Liebowitz*, 132 N.J. Eq. 477, 28 A. 2d 653 (1942). Another court held that the order must issue prior to foreclosure on the property rather than entry onto active duty. *Syracuse Savings Bank v. Brown*, 181 Misc. 999, 42 N.Y.S. 2d 156 (N.Y. Sup. Ct. 1943). The Committee believes the latter interpretation is the correct view, being more consistent with the provision’s language, “In any proceedings commenced in any court during the period of military service. . . .”

Section 305 would create a new protection for a servicemember who, while in military service, executes a lease and thereafter receives military orders for a permanent change of station (PCS) or deployment with a military unit for at least 90 days. The need for this protection is demonstrated by the situation of unmarried

servicemembers who are forced to pay rent for an entire term on premises that can go unoccupied for many months due to rapid and unexpected deployments around the world. Leases that include a military clause do not generally protect a servicemember ordered to deploy (not a PCS) with a unit. In addition, this section would add the words “security deposit” to the penalty section to deter landlords from wrongfully keeping security deposits when servicemembers are required to break a lease due to military requirements. *See Patrikes et al. v. J.C.H. Service Stations Inc.*, 180 Misc. 917, 41 N.Y.S. 2d 158 (N.Y. City Ct.), *aff’d*, 180 Misc. 927, 46 N.Y.S. 2d 233 (N.Y. Sup. Ct. 1943) (court held “the lessor should not be permitted to retain a security for the faithful performance of that which has become impossible through the command of the sovereign.”)

Section 306, protection of life insurance policy, and section 307 of the bill, enforcement of storage liens, would be technical revisions that divide the subject matter of current section 305 into two new sections.

Section 308, which concerns extension of the Act’s protections to dependents, replaces the term “materially impaired,” a holdover from the 1918 version of the SSCRA, with the term “materially affected” to maintain consistent usage throughout the restated Act.

TITLE IV—LIFE INSURANCE

Coverage under this title applies to commercial life insurance policies in order to protect a servicemember’s dependents from sudden destitution in the event of the servicemember’s death. The period during which a servicemember may purchase an insurance policy eligible for the Act’s protection was retained at not less than 180 days prior to entry in military service.

Section 402 addresses life insurance rights and protections. It would increase the amount of life insurance coverage protected from \$10,000 to \$250,000, or an amount equal to the Servicemembers’ Group Life Insurance (SGLI) maximum limit, whichever is greater. The amount of life insurance covered by this provision has not been increased since the 1940 Act and obviously lags far behind today’s life insurance needs. Indexing the amount to the maximum coverage authorized under the SGLI program would permit prospective increases in coverage commensurate with increases in SGLI, which has had adequate increases in maximum coverage.

Section 408, concerning regulations, and section 409, concerning review of findings of fact and conclusions of law, are technical revisions that divide the subject matter of current section 407 of the Act into two new sections. Section 409 would strike the current language of section 407 that states findings of facts and conclusions of law made by the Secretary of Veterans Affairs are final and would replace it with language permitting review of the Secretary’s determination regarding finding of facts and conclusions of law by the Board of Veterans’ Appeals and the United States Court of Appeals for Veterans Claims. This revision would conform the Act to the Veterans’ Judicial Review Act, Public Law 100–687 (1988).

TITLE V—TAXES AND PUBLIC LANDS

Section 501 on taxes respecting personal property, money, credits and real property would add an additional subsection clearly stating that this section applies to joint ownership of all forms of personal and real property by a servicemember and his or her dependents. This would relieve servicemembers from having to title property solely in their own name to ensure the protections of this section in a state where they live pursuant to military orders but are not state residents. Titling property solely in the servicemember's name for tax purposes also may create probate difficulties for servicemembers or their heirs if property is not jointly titled upon death. However, the most common difficulty is in the area of automobile titling. Separate titling of automobiles by servicemembers to avail themselves of the protections of the current provision, when they would prefer joint titling, undercuts the overall SSCRA policy objective of protecting the civil legal rights of servicemembers and their dependents.

The restatement would omit the provisions of sections 502, 503, and 510 of the current Act on homestead protections for servicemembers because the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1701 et seq.) repealed all homestead laws applying to public lands in title 43, United States Code. The restatement would also omit the provisions of section 508 of the current Act on suspension of residency requirements concerning irrigation rights of servicemembers because the section is no longer needed. Under section 390kk of title 43, United States Code, the Reclamation Reform Act of 1982, residency is no longer required for delivery of irrigation water.

Section 508 on land rights of servicemembers would restate the language that entitles servicemembers under the age of 21 to the same rights as servicemembers who are 21 years of age under the laws relating to lands owned or controlled by the United States. This section creates an exception to 43 CFR 2521.1, which designates categories regarding land entry and sets an age requirement of 21.

Section 511 on residence for tax purposes would add clear guidance in subsection (d) that a nonresident servicemember's military compensation cannot be used to increase the tax liability for other income of the servicemember or spouse. *See United States v. Kansas*, 810 F.2d 935 (10th Cir. 1987). Some state taxation schemes calculate the tax bracket of a nonmilitary spouse who earns income in the state by including the servicemember's military income if the couple files a joint federal return. The result is an increase in the servicemember's family tax burden, which the Committee believes is contrary to the purposes of the Act. This new provision would prohibit this type of taxation.

Section 511 also codifies in subsection (e) existing case law concerning personal income of Indians. *McClanahan v. Arizona State Tax Commission*, 411 U.S. 164 (1973) (Indians who reside on a Federal Indian Reservation are not subject to state income taxation on income earned exclusively on the reservation.) Because servicemembers are considered to be liable to taxation only by their jurisdiction of residence or domicile, the same principle should hold

true for Indians possessing a Federal Indian Reservation residence or domicile.

TITLE VI—ADMINISTRATIVE REMEDIES

The restatement would omit the provision of section 603 of the current Act on severability because the U.S. Supreme Court has clearly indicated that invalid portions of statutes are to be severed “unless it is evident that the Legislature would not have enacted those provisions which are within its powers, independently of that which is not”. *INS v. Chadha*, 462 U.S. 919, 931 (1983). Therefore, a severability clause is unnecessary.

The restatement would also omit section 604 of the current Act on termination of the Act because the Military Selective Service Act, (50 U.S.C App. 464), made the SSCRA applicable to all servicemembers until it is either repealed or terminated by a subsequent act. Therefore, a section stating a specific termination date is unnecessary.

TITLE VII—FURTHER RELIEF

Section 703 on professional liability protection would add legal services to the express coverage of the provision. Attorneys take out professional liability insurance in a similar manner and for similar reasons as medical professionals. The Committee notes that the Secretary of Defense would continue under this section to have discretion to make a determination on coverage for other types of professional services. However, the Committee finds that sufficient numbers of attorneys serve in the reserve components to warrant their specific statutory inclusion.

Section 704 on health insurance reinstatement would add a new provision specifying that a servicemember must file an application for reinstatement not later than 120 days after termination or release from military service. The current section 703 of the Act provides no guidance on how long a servicemember has to file for reinstatement.

SECTION-BY-SECTION ANALYSIS

Parallel statutory references are first to the Soldiers’ and Sailors’ Civil Relief Act of 1940 (the Act), Public Law 861, 76th Congress; and then to title 50, United States Code Appendix, e.g., “section 100 of the Act [50 U.S.C. App. 510].”

Section 1 of the bill would amend the Soldiers’ and Sailors’ Civil Relief Act of 1940 as follows:

Section 1(a) would provide that the short title of the Act may be cited as the “Servicemembers Civil Relief Act.”; section 1(b) is the table of contents consisting of titles I through VII.

Section 2 would amend section 100 of the Act [50 U.S.C. App. 510] by restating the purposes of the Act and would further amend section 510 by adding the temporary suspension of administrative proceedings to the proceedings explicitly covered by the Act.

Title I—General Provisions

Section 101(1) would amend section 101 of the Act [50 U.S.C. 511] by defining the term “servicemember” as meaning a “member

of the uniformed services” as defined in section 101(a)(5) of title 10, United States Code.

Section 101(2) would amend section 101 of the Act [50 U.S.C. 511(1)] by defining the term “military service” as meaning for a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, active duty as defined in section 101(d)(1) of title 10, United States Code, and for a member of the National Guard, active service authorized by the President or Secretary of Defense for more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds. The term “military service” replaces the current definition for the terms “person in the military service,” “persons in the military service,” and “persons in the military service of the United States.”

Section 101(3) would amend section 101(2) of the Act [50 U.S.C. App. 511(2)] by restating the definition of “period of military service” in modern legislative language.

Section 101(4) would amend section 101 of the Act [50 U.S.C. App. 511] by defining the term “dependent” as meaning the servicemember’s spouse, child (as defined in section 101(4) of title 38, United States Code), or an individual for whom the servicemember provides more than one half of the support in the 180 days immediately before requesting relief under the Act.

Section 101(5) would amend section 101(4) of the Act [50 U.S.C. App. 511(4)] by expanding the definition of the term “court” to include an administrative agency of the United States or any State, including any political subdivision of a State.

Section 101(6) would amend section 101 of the Act [50 U.S.C. App. 511] by defining the term “State” to include a commonwealth, territory or possession of the United States and the District of Columbia.

Section 101(7) would amend section 101 of the Act [50 U.S.C. App. 511] by defining the term “Secretary concerned” with respect to a member of the armed forces, having the meaning given in section 101(a)(9) of title 10 United State Code; with respect to a commissioned officer of the Public Health Service, the Secretary of Health and Human Services; and with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, the Secretary of Commerce.

Section 101 would also amend section 101 of the Act [50 U.S.C. App. 511(3)] by omitting the definition for the term “person” because the definition for this term found in section 1 of title 1, United States Code, applies to all Acts of Congress.

Section 102 would amend section 102 of the Act [50 U.S.C. App. 512] by restating it and dividing it into three subsections for clarity, and adding a sentence stating that the Act does not apply to criminal proceedings.

Section 103 would amend section 103 of the Act [50 U.S.C. App. 513] by restating it for clarity and adding “comakers” to those categories of persons covered by this section.

Section 104 would amend section 104 of the Act [50 U.S.C. App. 514] by restating it for clarity and by combining section 512 of the Act [50 U.S.C. App. 572] with it so that all references to citizens serving with allied forces would be contained in the same section.

Section 105 would amend section 105 of the Act [50 U.S.C. App. 515] by restating it to require the Secretary concerned to give written notice to persons in military service and persons entering military service of their benefits under the Act, and by deleting reference to the Director of the Selective Service.

Section 106 would amend section 106 of the Act [50 U.S.C. App. 516] by restating it and dividing it into two subsections for clarity.

Section 107 would amend section 107 of the Act [50 U.S.C. App. 517] by restating it and dividing it into three subsections for clarity.

Section 108 would amend section 108 of the Act [50 U.S.C. App. 518] by restating it for clarity and by adding subsections to specifically prohibit a creditor or person engaged in assembling or evaluating consumer credit information from annotating a servicemember's record to identify the servicemember as a member of the National Guard or a reserve component, and to prohibit a change in the terms offered or conditions required for the issuance of insurance.

Section 109 would amend the Act by adding a new section that would define a legal representative as an attorney acting on behalf of a Servicemember or as an individual who possesses a power of attorney; the section would also state that the term "servicemember" as used in the Act shall be treated as including a reference to a servicemember's legal representative.

Title II—General Relief

Section 201 would amend section 200 of the Act [50 U.S.C. App. 520] by restating the provisions regarding protections of servicemembers against default judgments for clarity. It adds language requiring a stay of proceedings for defendants in military service for a minimum of 90 days if the court finds that there may be a defense that cannot be presented without the defendant's presence or that, after due diligence, counsel has not been able to contact the defendant or to determine if a meritorious defense exists. It also adds language that clearly distinguishes between a court granted stay of proceeding prior to default judgment and a stay of proceeding made at the request of the servicemember under section 202 of this Act when the servicemember has notice of a hearing. It allows a servicemember to apply to a court to vacate or set aside default judgments entered within 60 days, rather than within 30 days, after the servicemember's termination or release from military service.

Section 202 would amend section 201 of the Act [50 U.S.C. App. 521] by restating the provisions regarding stay of proceedings when the servicemember defendant has notice for clarity. It expands protections by permitting a servicemember to request a stay of proceedings within 90 days, rather than within 60 days, after termination or release from military service. It adds a requirement for an automatic stay of 90 days if requested by the servicemember, if the servicemember communicates to the court the facts stating how current military duty materially affects the ability to appear and states a date when the servicemember will be available to appear and if the servicemember's commanding officer communicates to the court that military leave is not authorized for the servicemember. It clarifies that an application for a stay does not

constitute an appearance for jurisdictional purposes nor does it waive any substantive or procedural defense. It adds a procedure to request an additional stay; it clarifies that a servicemember who is unsuccessful in obtaining a stay under this section may not seek the protections of section 201 and it provides that a stay of proceedings under this section does not apply to section 301.

Section 203 would amend section 202 of the Act [50 U.S.C. App. 522] by restating it for clarity.

Section 204 would amend section 203 of the Act [50 U.S.C. App. 523] by restating it and reorganizing its subsections; and by expanding its protection to a court action or proceeding against a servicemember begun before or during the servicemember's military service or within 90 days, rather than within 60 days, after such service terminates.

Section 205 would amend section 204 of the Act [50 U.S.C. App. 524] by restating it by dividing it into three subsections for clarity and by specifying that this section does not apply to section 202 and section 701.

Section 206 would amend section 205 of the Act [50 U.S.C. App. 525] by restating it, dividing it into three subsections and including all provisions concerning statutes of limitations and tolling of time periods for redemption of real property in one section of the Act. It clarifies that it applies to both States (including political subdivisions) and the United States. The current section 207 of the Act regarding the exclusion of limitations prescribed by the internal revenue laws is placed in this section.

Section 207 would amend section 206 of the Act [50 U.S.C. App. 526] by restating it and dividing it into four subsections for clarity. It adds coverage of an obligation or liability held jointly by the servicemember and the servicemember's spouse. It clarifies that interest incurred in excess of 6 percent per year is forgiven and adds a provision that requires reduction of the periodic payment by the amount of the interest forgiven. It adds provisions that establish the written notice procedure a servicemember must follow to receive the interest rate limitation from the creditor. It specifies that the creditor apply the interest rate limitation as of the date the servicemember was called to military service. It clarifies that the term "interest" as used in this section means simple interest.

Title III—Rent, Installment Contracts, Mortgages, Liens, Assignment, Leases

Section 301 would amend section 300 of the Act [50 U.S.C. App. 530] by restating and reorganizing it. It clarifies that this section applies to a landlord or another person with paramount title and adds the words "intended to be occupied" to expand the section's protection to include premises that a servicemember or a servicemember's dependents have not yet occupied. It increases the maximum monthly lease amount that qualifies for protection under this section from \$1,200 to \$1,700 and adds a provision to require an annual housing price inflation adjustment for the maximum monthly lease amount that qualifies for the protection under this section. It adopts the language used in title 18, United States Code, concerning penalties. It specifies that section 202 is not applicable to this section.

Section 302 would amend section 301 of the Act [50 U.S.C. App. 531] by restating it for clarity. It also deletes the language “with a view to purchase” regarding the types of property the section covers in order to expand this section’s breach of contract protections to non-purchase property leases or bailments. It adopts the language used in title 18, United States Code, concerning penalties.

Section 303 would amend section 302 of the Act [50 U.S.C. App. 532] by restating it for clarity and by including an action to enforce an obligation filed within 90 days after the servicemember’s period of service as an action in which a court may stay the proceeding or adjust a servicemember’s obligation. It adopts the language used in title 18, United States Code, concerning penalties. It specifies that any other remedies under law for wrongful conversion, including consequential and punitive damages are preserved for a person claiming relief under this section.

Section 304 would amend section 303 of the Act [50 U.S.C. App. 533] by restating it and by dividing it into two subsections for clarity.

Section 305 would amend section 304 of the Act [50 U.S.C. App. 534] by restating it and dividing it into seven subsections for clarity. It adds the words “intended to be occupied” to expand the section’s protection to include when a servicemember or a servicemember’s dependent has not yet occupied the premises. It adds a new subsection that allows a servicemember to terminate a lease of premises executed during military service if the servicemember receives military orders for a permanent change of station, or deployment with a military unit for not less than 90 days. It specifically adds “security deposit” to personal effects or other property covered by the penalties provision. It specifically adopts the language used in title 18, United States Code, concerning penalties.

Section 306 would amend section 305 of the Act [50 U.S.C. App. 535] by restating it as a separate section on protection of life insurance policies and by dividing it into five subsections for clarity. It adopts the language used in title 18, United States Code, concerning penalties.

Section 307 would amend section 305 of the Act [50 U.S.C. App. 535] by restating this provision as a separate section on enforcement of storage liens and by dividing it into three subsections for clarity. It adopts the language used in title 18, United States Code, concerning penalties.

Section 308 would amend section 306 of the Act [50 U.S.C. App. 536] by restating it to improve clarity and by replacing the term “materially impaired” with the term “materially affected” for consistent usage throughout the Act.

Title IV—Life Insurance

Section 401 would amend section 400 of the Act [50 U.S.C. App. 540] by restating it for clarity and by updating the definitions of the terms “policy,” “premium,” “insured,” and “insurer.”

Section 402 would amend section 401 of the Act [50 U.S.C. App. 541] by restating it and dividing it into three subsections for clarity. The language regarding insureds outside the continental United States is deleted, allowing the insured’s beneficiary to apply for protection under this title whether within the continental

United States or not. It increases the total amount of life insurance coverage protection under this title from \$10,000 to \$250,000 or an amount equal to the Servicemembers' Group Life Insurance maximum limit, whichever is greater.

Section 403 would amend section 402 of the Act [50 U.S.C. App. 542] by restating it and dividing it into four subsections for clarity.

Section 404 would amend section 403 of the Act [50 U.S.C. App. 543] by restating and dividing it into three subsections for clarity.

Section 405 would amend section 404 of the Act [50 U.S.C. App. 544] by restating it and dividing it into two subsections for clarity.

Section 406 would amend section 405 of the Act [50 U.S.C. App. 545] by restating it and dividing it into three subsections for clarity.

Section 407 would amend section 406 of the Act [50 U.S.C. App. 546] by restating it and dividing it into three subsections for clarity. It expressly states that the amount paid by the United States to an insurer under this title becomes a debt payable to the United States by the insured that is not dischargeable in bankruptcy proceedings.

Section 408 would amend section 407 of the Act [50 U.S.C. App. 547] by restating it as a separate section regarding regulations to be prescribed by the Secretary of Veterans Affairs to implement this title.

Section 409 would amend section 407 of the Act [50 U.S.C. App. 547] by replacing the outdated provision of section 407 on the finality of findings of fact and conclusions of law made by the Secretary of Veterans Affairs with language that provides for review by the Board of Veterans' Appeals and the U.S. Court of Appeals for Veterans Claims of findings of fact and conclusions of law made by the Secretary of Veterans Affairs.

Title V—Taxes and Public Lands

Section 501 would amend section 500 of the Act [50 U.S.C. App. 560] by restating it for clarity and by adding a subsection providing that this section applies to all real and personal property described by the section that is owned individually by a Servicemember or jointly by a Servicemember and a dependent or dependents.

Section 502 would amend section 501 of the Act [50 U.S.C. App. 561] by restating it for clarity.

The bill would omit sections 502 and 503 of the Act [50 U.S.C. App. 562 and 563] on servicemember homestead protections because the Federal Land Management and Policy Act of 1976, 43 U.S.C. 1701 et seq., repealed all homestead laws in title 43 applying to public lands.

Section 503 would amend section 504 of the Act [50 U.S.C. App. 564] by restating it for clarity and removing outdated language.

Section 504 would amend section 505 of the Act [50 U.S.C. App. 565] by restating it and by adding two subsections for clarity. Outdated language is removed. The filing requirement period is increased to 60 days after the end of the assessment year in which military service began.

Section 505 would amend section 506 of the Act [50 U.S.C. App. 566] by restating it for clarity.

Section 506 would amend section 507 of the Act [50 U.S.C. App. 567] by restating it and by dividing it into two subsections for clarity. References to the Bureau of Land Management are replaced by references to the Department of the Interior. It provides that affidavits made pursuant to this section are subject to the same the penalties as prescribed by section 1001 of title 18, United States Code.

The bill would omit section 508 of the Act [50 U.S.C. App. 568] on suspension of the Reclamation Act residence requirement for persons in military service securing irrigation water, because the Reclamation Reform Act of 1982, 43 U.S.C. 390kk, eliminated the residency requirement for securing irrigation water.

Section 507 would amend section 509 of the Act [50 U.S.C. App. 569] by restating it and by dividing it into three subsections to improve clarity; and by updating language of provision to give the Secretaries concerned the responsibility for disseminating information concerning the benefits under Title V of this Act.

The bill would omit section 510 of the Act [50 U.S.C. App. 570] on servicemember homestead entryman protections because the Federal Land Management and Policy Act of 1976, 43 U.S.C. 1701, repealed all homestead laws in title 43, United States Code, applying to public lands.

Section 508 would amend section 511 of the Act [50 U.S.C. App. 571] by restating it and by dividing it into three subsections for clarity. Current language regarding duration, “while this Act remains in force,” is deleted because the Act is now of permanent duration.

The bill would omit section 512 of the Act [50 U.S.C. App. 572] and combine its provisions with those of section 104.

Section 509 would amend the Act by adding a new section restating the last sentence from section 507 of the Act [50 U.S.C. App. 567] and giving the Secretary of the Interior authority to issue regulations necessary to carry out title V, other than sections 501, 510, and 511.

Section 510 would amend section 513 of the Act [50 U.S.C. App. 573] by restating it and dividing it into four subsections for clarity regarding the circumstance under which protection is provided to servicemembers regarding the payment of income taxes. It replaces the current term “materially impaired” with the term “materially affected” for consistent usage throughout the Act.

Section 511 would amend section 514 of the Act [50 U.S.C. App. 574] by restating it and dividing it into six subsections for clarity. A provision is added to prohibit a tax jurisdiction from using a non-resident servicemember’s military compensation to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse otherwise subject to tax by the jurisdiction. A new section is added to codify existing law that requires an Indian servicemember whose legal residence or domicile is a Federal Indian reservation to be taxed under the laws of the Federal Indian reservation and not the State where the reservation is located. A definition for the term “tax jurisdiction,” meaning a State or a political subdivision of a State is added.

Title VI—Administrative Remedies

Section 601 would amend section 600 of the Act [50 U.S.C. App. 580] by restating it for clarity regarding inappropriate use of the Act.

Section 602 would amend section 601 of the Act [50 U.S.C. App. 581] by restating it for clarity regarding certificates of service and persons reported missing.

Section 603 would amend section 602 of the Act [50 U.S.C. App. 582] by restating it for clarity.

The bill would omit section 603 of the Act [50 U.S.C. App. 583] regarding severability of provisions because under current law a severability clause is unnecessary.

The bill would omit section 604 of the Act [50 U.S.C. App. 584] regarding a termination date for the Act because under the Military Selective Service Act, 50 U.S.C. App. 464 (1948), the SSCRA is applicable to all servicemembers until repeal or termination by a subsequent act.

The bill would omit section 605 of the Act [50 U.S.C. App. 585] because it is outdated.

Title VII—Further Relief

Section 701 would amend section 700 of the Act [50 U.S.C. App. 590] by restating it and by adding an additional subsection for clarity.

Section 702 would amend section 701 of the Act [50 U.S.C. App. 591] by restating it and reorganizing it with one less subsection for clarity. This section also removes the restrictions in section 701(c) [50 U.S.C. App. 591(c)] that limited an automatic extension of powers of attorney to those executed during the Vietnam era and those expiring after July 31, 1990.

Section 703 would amend section 702 of the Act [50 U.S.C. App. 592] by dividing certain subsections into paragraphs for clarity and by expanding its coverage to expressly include legal services.

Section 704 would amend section 703 of the Act [50 U.S.C. App. 593] by making minor improvements to wording. It adds a new subsection that requires the servicemember to apply for reinstatement of health insurance within 120 days of termination or release from military service.

Section 705 would not change section 704 of the Act [50 U.S.C. App. 594] that was added in 2001 by section 1603 Public Law 107–107 (115 Stat. 1023, tit. XVI, sec. 1603) regarding the guarantee of residency for military personnel for voting purposes.

Section 2 of the bill would make conforming amendments.

Section 3 of the bill would provide that the bill applies to any case that is not final before the date of enactment.

PERFORMANCE GOALS AND OBJECTIVES

The application and efficacy of H.R. 100, the Servicemembers Civil Relief Act, if enacted, would be subject to the Committee's regular oversight. The specific requirements of the Government Performance and Results Act of 1993 are inapplicable.

STATEMENT OF THE VIEWS OF THE ADMINISTRATION

1. The Committee held hearings on H.R. 5111, a bill to which H.R. 100 is nearly identical. The statement of Mr. Craig W. Duehring, Acting Assistant Secretary of Defense, Reserve Affairs, Department of Defense, before the Subcommittee on Benefits, Committee on Veterans' Affairs, July 24, 2002:

Mr. Chairman and members of the Subcommittee, thank you for giving me the opportunity to come before you this morning to discuss H.R. 5111, the Servicemembers' Civil Relief Act and H.R. 4017, the Soldiers' and Sailors' Civil Relief Equity Act.

The Department of Defense supports H.R. 5111's re-statement of the Soldiers' and Sailors' Civil Relief Act as the Servicemembers' Civil Relief Act. The need to modernize the language of the Act, incorporate over 60 years of case law, and add generally accepted practices is evident. The Department of Defense believes H.R. 5111 accomplishes this goal and would like to thank the Committee and its staff for their work on this important bill.

The Soldiers' and Sailors' Civil Relief Act of 1940 has been an essential ingredient in the total quality of life package for our military men and women, and their families, since its passage. In passing this Act and its Civil War and World War I era predecessors, Congress recognized that active military service may cause severe, often insurmountable, problems in handling personal affairs back home: frequent involuntary moves, extended deployments overseas, long separations from families sometimes with little advance notice. Congress also recognized the need to have military men and women focused on their operational mission free from worry about the welfare of their families or their personal affairs.

Congress addressed these problems adequately and equitably through the Act's skillfully crafted balance among the needs of our nation for a strong national defense, the needs of Servicemembers—and their families—for security in their personal affairs, and the needs of those who have dealt with and depend upon Servicemembers for fulfillment of their obligations.

H.R. 5111 maintains this important balance while addressing three areas where our experience with the Act indicates that change is needed: clarifying and simplifying the language; incorporating generally accepted procedures; and updating the Act to reflect 60 years of change in America. With the on-going war and reserve mobilization, now is a good time to update and clarify the Act so it can remain vital and continue to serve the needs of military members and those with whom they do business.

The questions most frequently asked by Servicemembers, their families, and those who deal with them reveal that parts of the Act are difficult to read and understand, and therefore difficult to follow. It is apparent from these questions that the entire Act needs to be rewritten in plain English and in modern legislative drafting

form. H.R. 5111 redrafts each section, updating the language and removing much ambiguity.

Additionally, the Act fails to provide necessary procedural guidance in many areas. For example, although the Act specifically provides protections for Servicemembers in the form of a request for a stay of proceedings, it does not explain how to go about obtaining the needed relief. H.R. 5111 provides this missing procedural guidance.

Finally, the world of 1940 could not have foreseen all the changes in American life that more than 60 years of technological advances and business practices would bring. The extensive use of leases for automobiles and business equipment could not possibly have been imagined over 60 years ago. H.R. 5111 reflects over 60 years of progress in America.

The Department of Defense has only a few concerns with H.R. 5111. First, the requirement of Section 105 that all persons in military service and entering military service be notified in writing of the benefits of this Act is unnecessary and would impose a significant administrative burden that would accomplish little. As under the current law, Congress should allow the Military Services to choose the most appropriate means for notifying servicemembers of their civil liability protections. Our experience indicates that handing everyone a list of the many provisions of this lengthy law would not be effective. Currently, the most widely used provisions are typically explained in briefings by legal assistance attorneys and in command newspapers and other command information forums. Also, servicemembers having civil legal problems are routinely referred to a legal assistance office, where even the infrequently used provisions of the Act are explained, if applicable to a servicemember's situation.

Additionally, the Department would like the Committee to consider adding language to H.R. 5111 that would define the meaning of the important term "material effect," incorporate case law holding that the Act's protections apply to business debts for which a servicemember is personally liable, and index the maximum rental amount covered by section 301 to account for inflation.

Finally, it appears that both sections 302 and 303 may have inadvertently been drafted to include a reference to section 108. We believe that the reference should be to section 107.

Before moving to H.R. 4017, I would again like to thank the Committee and its staff for all of the effort that has gone into this important bill.

The Department of Defense opposes H.R. 4017.

Members of the National Guard called or ordered to duty by a governor under section 502(f) of title 32 of the United States Code are under the command and control of state authorities and are subject to the laws and protections afforded by that state. This is true even though National Guard members serving in this status are paid by the United States. A Congressional determination of which

civil liability protections to provide to Guardsmen serving under state control is inconsistent with our federal system. The Department believes the states should make this determination.

The Department would support a concurrent resolution in which Congress would urge the states, territories, and government of the District of Columbia to enact laws and implement policies to provide civil liability protections similar to those provided under the Soldiers' and Sailors' Civil Relief Act (SSCRA) to members of their respective National Guard when serving other than on active duty under title 10 of the United States Code. We recently canvassed the states and territories and found that 21 of them have laws providing some type of SSCRA protections, with 12 of those states providing protections that are identical or nearly identical to those provided under SSCRA; several other states currently are considering legislation that would extend such protections to its Guardsmen. We appreciate this opportunity to discuss these bills with you.

2. A letter from Mr. Hector V. Barreto, Administrator, U.S. Small Business Administration:

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, April 2, 2003

Hon. CHRISTOPHER H. SMITH
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: This letter expresses the views of the U.S. Small Business Administration (SBA) on H.R. 100, intended to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940.

SBA does not have any objections to the proposed legislation. However, we note that both the current law and the bill reduce the interest rate of a debt to six percent only when an individual incurs the debt in his or her own personal capacity before being called up to active military duty. The interest rate is not reduced to six percent, under either the current law or H.R. 100, if the debt was incurred by the small legal entity, (e.g. a partnership, professional corporation, or limited liability company) owned and operated by the individual who is called to active military service, and who is an essential employee of the business. This issue was of interest during the Gulf War.

SBA is authorized through the Veterans Entrepreneurship and Small Business Development Act of 1999, PL 106-50, to provide economic injury disaster loan assistance to small businesses that employ a military reservist. Small businesses may apply for SBA's Military Reservist Economic Injury Disaster Loan (MREIDL) for up to \$1.5 million if they have been financially affected by essential employees that have been called up for active duty during a period of military conflict. To date, SBA has approved approximately \$3 million in loans for this program and has

on-going outreach activities to inform the Armed Forces and business community of these services.

Thank you for your continued interest in issues affecting the small business community.

Sincerely,

HECTOR V. BARRETO,
Administrator

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 11, 2003

Hon. CHRISTOPHER H. SMITH
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 100, the Servicemembers Civil Relief Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Michelle S. Patterson, who can be reached at 226-2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director

Enclosure.

Congressional Budget Office Cost Estimate

*H.R. 100, Servicemembers Civil Relief Act, As ordered reported by
the House Committee on Veterans' Affairs on April 3, 2003*

Summary

H.R. 100 would restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940, which provides for financial protection and temporary suspension of certain judicial proceedings for servicemembers on active duty. The bill contains provisions that would increase the rent level under which a servicemember or family members are protected from eviction, limit a state's ability to increase the tax liability of a servicemember's spouse, and increase the value of life insurance coverage that is protected by the government if premiums are not paid. CBO estimates that implementing H.R. 100 would cost \$2 million in 2004 and \$4 million over the 2004-2008 period, assuming appropriation of the necessary amounts. Enacting this legislation would not affect direct spending or receipts.

H.R. 100 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the cost would not exceed the threshold established by UMRA (\$59 million in 2003, adjusted annually for inflation).

The bill also contains a private-sector mandate as defined by UMRA, but CBO estimates that the cost would not exceed the threshold established by UMRA for private-sector mandates (\$117 million in 2003, adjusted annually for inflation).

Estimated cost to the Federal Government

Under current law, a servicemember may apply to the Department of Veterans Affairs (VA) for protection to prevent a life insurance policy from being terminated for nonpayment of the premiums. If VA determines the servicemember is entitled to protection, then it will guarantee the payment of the premiums and attempt to collect any amounts paid by VA from the servicemember. Section 402 of the bill would increase the maximum value of a life insurance policy that is eligible for protection from cancellation for nonpayment of premiums from \$10,000 to an amount equal to the Servicemembers' Group Life Insurance limit, which is currently \$250,000.

CBO estimates that implementing this legislation would cost \$2 million in 2004 and \$4 million over the 2004–2008 period, assuming appropriation of the necessary amounts. Almost all of that amount would result from payments made by VA to guarantee life insurance protection. According to VA, the costs of providing this additional protection would be \$186,000 a year for every 10,000 reservists called to active duty. According to the Department of Defense, as of April 9, 2003, there were over 220,000 reservists mobilized to fight the war with Iraq and support the global war on terrorism. For this estimate, CBO assumes that the number of reservists on active duty will decline to about 100,000 in 2004 and about 15,000 by 2008 as tensions around the globe subside. If the number of reservists called to active duty were to remain at current levels over the 2004–2008 period, then the estimated costs would be correspondingly higher. CBO also estimates that VA's cost to administer this guarantee would increase somewhat—but by less than \$100,000 a year. The costs of this legislation fall within budget function 700 (veterans benefits and services).

Estimated impact on state, local, and tribal governments

H.R. 100 contains an intergovernmental mandate as defined in UMRA because it would prohibit jurisdictions from imposing income taxes in certain instances. Under the current Soldiers' and Sailors' Relief Act (section 574), servicemembers may only be taxed on their military income by the tax jurisdiction of which they are a resident. Servicemembers may not be taxed on their military pay by the state in which they are stationed if it is not their state of legal residence. However, if a servicemember or a servicemember's spouse earns additional payoff-base, the nonresident state may tax that off-base income.

In certain states with graduated income tax rates, the income tax rate which is applied to the off-base pay may be based on the servicemembers' total income, including military pay, and not the off-base pay only. Including military pay in the calculation can push the off-base pay into a higher tax bracket. That method of calculating state income tax is, sometimes called the "California Method" (although as many as 18 or more other states also use it). If the servicemember's state of legal residence also charges income tax, the resident state will offer an income tax credit for the income tax on the off-base pay that the individual paid to the nonresident state.

Section 511 would prohibit a tax jurisdiction from using the military compensation of a nonresident servicemember to increase the

tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction. Thus, a state where a servicemember is stationed could not use the “California method” to determine the income tax rate for the off-base pay, which may result in a lower income tax rate on that off-base pay. This provision would preempt state law under UMRA and would impose costs (in the form of lost revenues) in certain cases.

For states with a graduated tax structure that use the “California method” to calculate nonresident income taxes, enacting section 511 could result in a lower income tax rate on off-base earnings. But the net effect on the servicemember’s overall income tax payments to states would depend on the income tax structure of the servicemember’s resident state. In no case would section 511 increase the overall income tax payments to states by the servicemember and their spouse. In some cases, the provision would have no net effect on income tax payments to states by servicemembers and their spouses, and in some cases the provision would reduce income tax payments to states. Thus, states as a group would lose some income tax revenue. CBO estimates that the cost of enacting section 511 would total about \$20 million annually and thus would be below the threshold established by UMRA (\$59 million in 2003, adjusted annually for inflation).

Other provisions in H.R. 100 would restate provisions in the Soldiers’ and Sailors’ Civil Relief Act of 1940 or would otherwise have no impact on state, local, or tribal governments.

Estimated impact on the private sector

H.R. 100 contains a private-sector mandate as defined by UMRA. The bill requires a landlord who wishes to evict an active-duty tenant or his or her dependents for nonpayment of rent to obtain a court order authorizing the eviction. If the court finds that the servicemember’s military service materially affects the ability to pay rent, it can stay eviction for up to three months. Under current law, the stay of eviction proceedings covers premises for which the rent does not exceed \$1,200 per month. Section 301 of this bill would increase the mandate by raising the monthly lease amount that is protected to \$1,700 and requiring that this amount be adjusted annually by a housing price index. CBO estimates, however, that the cost of complying with this mandate would not exceed the threshold as specified in UMRA for private-sector mandates (\$117 million in 2003, adjusted annually for inflation).

Estimate prepared by:

Federal Costs: Michelle S. Patterson

Impact on State, Local, and Tribal Government: Victoria Heid Hall

Impact on the Private Sector: Adebayo Adedeji

Estimate approved by:

Peter H. Fontaine, Deputy Assistant Director for Budget Analysis

STATEMENT OF FEDERAL MANDATES

The foregoing Congressional Budget Office estimate states that the costs of the intergovernmental and private sector mandates of

the reported bill would not exceed the thresholds of the Unfunded Mandates Reform Act.

STATEMENT OF CONSTITUTIONAL AUTHORITY

The constitutional authority for the reported bill is the power of Congress “to . . . provide for the common defense” (U.S. Const. Art. I, sec. 8, cl. 1), “to declare war” (U.S. Const. Art. I, sec. 8, cl. 11) and “to raise and support armies” (U.S. Const. Art. I, sec. 8, cl. 12).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SOLDIERS’ AND SAILORS’ CIVIL RELIEF ACT OF 1940

An Act to promote and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the Military and Naval Establishments, including the Coast Guard.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That this Act may be cited as the Soldiers’ and Sailors’ Civil Relief Act of 1940.

[ARTICLE I.—GENERAL PROVISIONS

[SEC. 100. In order to provide for, strengthen, and expedite the national defense under the emergent conditions which are threatening the peace and security of the United States and to enable the United States the more successfully to fulfill the requirements of the national defense, provision is hereby made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation, and to this end the following provisions are made for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons in such service during the period herein specified over which this Act remains in force.

[SEC. 101. (1) The term “person in the military service”, the term “persons in military service”, and the term “persons in the military service of the United States” as used in this Act, shall include the following persons and no others: All members of the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy, and all members of the National Guard on service described in the following sentence. The term “military service”, as used in this Act, shall signify Federal service on active duty with any branch of service heretofore referred to or mentioned as well as training or education under the supervision of the United States preliminary to induction into the military service, and, in the case of a member of the National Guard, shall include service under a

call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds. The terms "active service" or "active duty" shall include the period during which a person in military service is absent from duty on account of sickness, wounds, leave, or other lawful cause.

[(2) The term "period of military service", as used in this Act, means, in the case of any person, the period beginning on the date on which the person enters active service and ending on the date of the person's release from active service or death while in active service, but in no case later than the date when this Act ceases to be in force.

[(3) The term "person", when used in this Act with reference to the holder of any right alleged to exist against a person in military service or against a person secondarily liable under such right, shall include individuals, partnerships, corporations, and any other forms of business association.

[(4) The term "court", as used in this Act, shall include any court of competent jurisdiction of the United States or of any State, whether or not a court of record.

[SEC. 102. (1) The provisions of this Act shall apply to the United States, the several States and Territories, the District of Columbia, and all territory subject to the jurisdiction of the United States, and to proceedings commenced in any court therein, and shall be enforced through the usual forms of procedure obtaining in such courts or under such regulations as may be by them prescribed.

[(2) When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court.

[SEC. 103. (1) Whenever pursuant to any of the provisions of this Act the enforcement of any obligation or liability, the prosecution of any suit or proceeding, the entry or enforcement of any order, writ, judgment, or decree, or the performance of any other act, may be stayed, postponed, or suspended, such stay, postponement, or suspension may, in the discretion of the court, likewise be granted to sureties, guarantors, endorsers, accommodation makers, and others, whether primarily or secondarily subject to the obligation or liability, the performance or enforcement of which is stayed, postponed, or suspended.

[(2) When a judgment or decree is vacated or set aside in whole or in part, as provided in this Act, the same may, in the discretion of the court, likewise be set aside and vacated as to any surety, guarantor, endorser, accommodation maker, or other person whether primarily or secondarily liable upon the contract or liability of the enforcement of which the judgment or decree was entered.

[(3) Whenever, by reason of the military service of a principal upon a criminal bail bond the sureties upon such bond are prevented from enforcing the attendance of their principal and performing their obligation the court shall not enforce the provisions of such bond during the military service of the principal thereon and may in accordance with principles of equity and justice either

during or after such service discharge such sureties and exonerate the bail.

[(4) Nothing contained in this Act shall prevent a waiver in writing of the benefits afforded by subsections (1) and (2) of this section by any surety, guarantor, endorser, accommodation maker, or other person whether primarily or secondarily liable upon the obligation or liability, except that no such waiver shall be valid unless it is executed as an instrument separate from the obligation or liability in respect of which it applies, and no such waiver shall be valid after the beginning of the period of military service if executed by an individual who subsequent to the execution of such waiver becomes a person in military service, or if executed by a dependent of such individual, unless executed by such individual or dependent during the period specified in section 106.

[SEC. 104. Persons who serve with the forces of any nation with which the United States may be allied in the prosecution of any war in which the United States engages while this Act remains in force and who immediately prior to such service were citizens of the United States shall, except in those cases provided for in section 512, be entitled to the relief and benefits afforded by this Act if such service is similar to military service as defined in this Act, unless they are dishonorably discharged therefrom, or it appears that they do not intend to resume United State citizenship.

[SEC. 105. The Secretary of Defense and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, shall ensure the giving of notice of the benefits accorded by this Act to persons in and to persons entering military service. The Director of Selective Service shall cooperate with the Secretary of Defense and the Secretary of Transportation in carrying out the provisions of this section.

[SEC. 106. Any person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) shall be entitled to the relief and benefits accorded persons in military service under articles I, II, and III of this Act during the period beginning on the date of receipt of such order and ending on the date upon which such person reports for induction; and any member of a reserve component of the Armed Forces who is ordered to report for military service shall be entitled to such relief and benefits during the period beginning on the date of receipt of such order and ending on the date upon which such member reports for military service or the date on which the order is revoked, whichever is earlier.

[SEC. 107. Nothing contained in this Act shall prevent—

[(a) the modification, termination, or cancellation of any contract, lease, or bailment or any obligation secured by mortgage, trust, deed, lien, or other security in the nature of a mortgage, or

[(b) the repossession, retention, foreclosure, sale, forfeiture, or taking possession of property which is security for any obligation or which has been purchased or received under a contract, lease, or bailment,

pursuant to a written agreement of the parties thereto (including the person in military service concerned, or the person to whom section 106 is applicable, whether or not such person is a party to the obligation), or their assignees executed during or after the pe-

riod of military service of the person concerned or during the period specified in section 106.

【SEC. 108. Application by a person in military service for, or receipt by a person in military service of, a stay, postponement, or suspension pursuant to the provisions of this Act in the payment of any tax, fine, penalty, insurance premium, or other civil obligation or liability of that person shall not itself (without regard to other considerations) provide the basis for any of the following:

【(1) A determination by any lender or other person that such person in military service is unable to pay such civil obligation or liability in accordance with its terms.

【(2) With respect to a credit transaction between a creditor and such person in military service—

【(A) a denial or revocation of credit by the creditor;

【(B) a change by the creditor in the terms of an existing credit arrangement; or

【(C) a refusal by the creditor to grant credit to such person in substantially the amount or on substantially the terms requested.

【(3) An adverse report relating to the creditworthiness of such person in military service by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

【(4) A refusal by an insurer to insure such person.

【ARTICLE II.—GENERAL RELIEF

【SEC. 200. (1) In any action or proceeding commenced in any court, if there shall be a default of any appearance by the defendant, the plaintiff, before entering judgment shall file in the court an affidavit setting forth facts showing that the defendant is not in military service. If unable to file such affidavit plaintiff shall in lieu thereof file an affidavit setting forth either that the defendant is in the military service or that plaintiff is not able to determine whether or not defendant is in such service. If an affidavit is not filed showing that the defendant is not in the military service, no judgment shall be entered without first securing an order of court directing such entry, and no such order shall be made if the defendant is in such service until after the court shall have appointed an attorney to represent defendant and protect his interest, and the court shall on application make such appointment. Unless it appears that the defendant is not in such service the court may require, as a condition before judgment is entered, that the plaintiff file a bond approved by the court conditioned to indemnify the defendant, if in military service, against any loss or damage that he may suffer by reason of any judgment should the judgment be thereafter set aside in whole or in part. And the court may make such other and further order or enter such judgment as in its opinion may be necessary to protect the rights of the defendant under this Act. Whenever, under the laws applicable with respect to any court, facts may be evidenced, established, or proved by an unsworn statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury, the filing of such an unsworn statement, declaration, verification, or certificate shall satisfy the requirement of this subdivision that facts be established by affidavit.

[(2) Any person who shall make or use an affidavit required under this section, or a statement, declaration, verification, or certificate certified or declared to be true under penalty of perjury permitted under subdivision (1), knowing it to be false, shall be guilty of a misdemeanor and shall be punishable by imprisonment not to exceed one year or by fine not to exceed \$1,000, or both.

[(3) In any action or proceeding in which a person in military service is a party if such party does not personally appear therein or is not represented by an authorized attorney, the court may appoint an attorney to represent him; and in such case a like bond may be required and an order made to protect the rights of such person. But no attorney appointed under this Act to protect a person in military service shall have power to waive any right of the person for whom he is appointed or bind him by his acts.

[(4) If any judgment shall be rendered in any action or proceeding governed by this section against any person in military service during the period of such service or within thirty days thereafter, and it appears that such person was prejudiced by reason of his military service in making his defense thereto, such judgment may, upon application, made by such person or his legal representative, not later than ninety days after the termination of such service, be opened by the court rendering the same and such defendant or his legal representative let in to defend; provided it is made to appear that the defendant has a meritorious or legal defense to the action or some part thereof. Vacating, setting aside, or reversing any judgment because of any of the provisions of this Act shall not impair any right or title acquired by any bona fide purchaser for value under such judgment.

[SEC. 201. At any stage thereof any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within sixty days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this Act unless, in the opinion of the court, the ability of plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.

[SEC. 202. When an action for compliance with the terms of any contract is stayed pursuant to this Act no fine or penalty shall accrue by reason of failure to comply with the terms of such contract during the period of such stay, and in any case where a person fails to perform any obligation and a fine or penalty for such non-performance is incurred a court may, on such terms as may be just, relieve against the enforcement of such fine or penalty if it shall appear that the person who would suffer by such fine or penalty was in the military service when the penalty was incurred and that by reason of such service the ability of such person to pay or perform was thereby materially impaired.

[SEC. 203. In any action or proceeding commenced in any court against a person in military service, before or during the period of such service, or within sixty days thereafter, the court may, in its discretion, on its own motion, or on application to it by such person or some person on his behalf shall, unless in the opinion of the court the ability of the defendant to comply with the judgment or

order entered or sought is not materially affected by reason of his military service—

[(a) Stay the execution of any judgment or order entered against such person, as provided in this Act; and

[(b) Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this Act.

[SEC. 204. Any stay of any action, proceeding, attachment, or execution, ordered by any court under the provisions of this Act may, except as otherwise provided, be ordered for the period of military service and three months thereafter or any part of such period, and subject to such terms as may be just, whether as to payment in installments of such amounts and at such times as the court may fix or otherwise. Where the person in military service is a codefendant with others the plaintiff may nevertheless by leave of court proceed against the others.

[SEC. 205. The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any person in military service or by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such action or proceeding shall have accrued prior to or during the period of such service, nor shall any part of such period which occurs after October 6, 1942, be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax, or assessment.

[SEC. 206. No obligation or liability bearing interest at a rate in excess of 6 percent per year incurred by a person in military service before that person's entry into that service shall, during any part of the period of military service, bear interest at a rate in excess of 6 percent per year unless, in the opinion of the court, upon application thereto by the obligee, the ability of such person in military service to pay interest upon such obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of such service, in which case the court may make such order as in its opinion may be just. As used in this section the term "interest" includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) in respect of such obligation or liability.

[SEC. 207. Section 205 of this Act shall not apply with respect to any period of limitation prescribed by or under the internal revenue laws of the United States.

[ARTICLE III.—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS,
ASSIGNMENTS, LEASES

[SEC. 300. (a) No eviction or distress shall be made during the period of military service in respect of any premises for which the agreed rent does not exceed \$1,200 per month, occupied chiefly for dwelling purposes by the wife, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession.

[(b) On any such application or in any such action the court may, in its discretion, on its own motion, and shall, on application, unless in the opinion of the court the ability of the tenant to pay the agreed rent is not materially affected by reason of such military service, stay the proceedings for not longer than three months, as provided in this Act, or it may make such other order as may be just. Where such stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application therefor, to relief in respect of such premises similar to that granted persons in military service in sections 301, 302, and 500 of this Act to such extent and for such period as may appear to the court to be just.

[(c) Any person who shall knowingly take part in any eviction or distress otherwise than as provided in subsection (a), or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

[(d) Secretary of Defense or Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, is hereby empowered, subject to such regulations as he may prescribe, to order an allotment of the pay of a person in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by the wife, children, or other dependents of such person.

[SEC. 301. (1) No person who has received, or whose assignor has received, under a contract for the purchase of real or personal property, or of lease or bailment with a view to purchase of such property, a deposit or installment of the purchase price, or a deposit or installment under the contract, lease, or bailment, from a person or from the assignor of a person who, after the date of payment of such deposit or installment, has entered military service, shall exercise any right or option under such contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment thereunder due or for any other breach of the terms thereof occurring prior to or during the period of such military service, except by action in a court of competent jurisdiction.

[(2) Any person who shall knowingly resume possession of property which is the subject of this section otherwise than as provided in subsection (1) of this section or in section 107, or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

[(3) Upon the hearing of such action the court may order the repayment of prior installments or deposits or any part thereof, as a condition of terminating the contract and resuming possession of the property, or may, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, order a stay of proceedings as provided in this Act unless, in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of such service; or it may make such other disposition of the case as may be equitable to conserve the interests of all parties.

[SEC. 302. The provisions of this section shall apply only to obligations secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service at the commencement of the period of the

military service and still so owned by him which obligations originated prior to such person's period of military service.

[(2) In any proceedings commenced in any court during the period of military service to enforce such obligation arising out of nonpayment of any sum thereunder due or out of any other breach of the terms thereof occurring prior to or during the period of such service the court may, after hearing, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of his military service—

[(a) stay the proceedings as provided in this Act; or

[(b) make such other disposition of the case as may be equitable to conserve the interests of all parties.

[(3) No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made October 6, 1942, during the period of military service or within three months thereafter, except pursuant to an agreement as provided in section 107, unless upon an order previously granted by the court and a return thereto made and approved by the court.

[(4) Any person who shall knowingly make or cause to be made any sale, foreclosure, or seizure of property, defined as invalid by subsection (3) hereof, or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

[SEC. 303. Where a proceeding to foreclose a mortgage upon or to resume possession of personal property, or to rescind or terminate a contract for the purchase thereof, has been stayed as provided in this Act, the court may, unless in its opinion an undue hardship would result to the dependents of the person in military service, appoint three disinterested parties to appraise the property and, based upon the report of the appraisers, order such sum, if any, as may be just, paid to the person in military service or his dependent, as the case may be, as a condition of foreclosing the mortgage, resuming possession of the property, or rescinding or terminating the contract.

[SEC. 304. (1) The provisions of this section shall apply to any lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes in any case in which (a) such lease was executed by or on the behalf of a person who, after the execution of such lease, entered military service, and (b) the premises so leased have been occupied for such purposes, or for a combination of such purposes, by such person or by him and his dependents.

[(2) Any such lease may be terminated by notice in writing delivered to the lessor (or his grantee) or to the lessor's (or his grantee's) agent by the lessee at any time following the date of the beginning of his period of military service. Delivery of such notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor (or his grantee) or to the lessor's (or his grantee's) agent and depositing the notice in the United States

mails. Termination of any such lease providing for monthly payment of rent shall not be effective until thirty days after the first date on which the next rental payment is due and payable subsequent to the date when such notice is delivered or mailed. In the case of all other leases, termination shall be effected on the last day of the month following the month in which such notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be proratably computed and any rental paid in advance for a period succeeding termination shall be refunded by the lessor (or his assignee). Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this subsection shall be subject to such modifications or restrictions as in the opinion of the court justice and equity may in the circumstances require.

[(3) Any person who shall knowingly seize, hold, or detain the personal effects, clothing, furniture, or other property, of any person who has lawfully terminated a lease covered by this section, or in any manner interfere with the removal of such property from the premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

[SEC. 305. (1) Where any life insurance policy on the life of a person in military service has been assigned prior to such person's period of military service to secure the payment of any obligation of such person, no assignee of such policy (except the insurer in connection with a policy loan) shall, during the period of military service of the insured or within one year thereafter, except upon the consent in writing of the insured made during such period or when the premiums thereon are due and unpaid or upon the death of the insured, exercise any right or option by virtue of such assignment unless upon leave of court granted upon an application made therefor by such assignee. The court may thereupon refuse to grant such leave unless in the opinion of the court the ability of the obligor to comply with the terms of the obligation is not materially affected by reason of his military service. For the purpose of this subsection premiums which are guaranteed under the provisions of article IV of this Act shall not be deemed to be due and unpaid.

[(2) No person shall exercise any right to foreclose or enforce any lien for storage of household goods, furniture, or personal effects of a person in military service during such person's period of military service and for three months thereafter except upon an order previously granted by a court upon application therefor and a return thereto made and approved by the court. In such proceeding the court may, after hearing, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to pay the storage charge due is not materially affected by reason of his military service—

[(a) stay the proceedings as provided in this Act; or

[(b) make such other disposition of the case as may be equitable to conserve the interest of all parties.

The enactment of the provisions of this subsection shall not be construed in any way as affecting or as limiting the scope of section 302 of this Act.

[(3) Any person who shall knowingly take any action contrary to the provisions of this section, or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

[SEC. 306. Dependents of a person in military service shall be entitled to the benefits accorded to persons in military service under the provisions of this article upon application to a court therefor, unless in the opinion of the court the ability of such dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the military service of the person upon whom the applicants are dependent.

[ARTICLE IV.—INSURANCE

[SEC. 400. As used in this article—

[(a) The term “policy” shall include any contract of life insurance or policy on a life, endowment, or term plan, including any benefit in the nature of life insurance arising out of membership in any fraternal or beneficial association, which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums if the insured engages in the military service of the United States as defined in section 101 of article I of this Act or which does not contain any limitation or restriction upon coverage relating to engagement in or pursuit of certain types of activities which a person might be required to engage in by virtue of his being in such military service, and (1) which is in force on a premium-paying basis at the time of application for benefits hereunder, and (2) which was made and a premium paid thereon October 6, 1942, not less than 180 days before the date the insured entered into the military service. The provisions of this Act shall not be applicable to policies or contracts of life insurance issued under the War Risk Insurance Act, as amended, the World War Veterans Act, as amended, or the National Service Life Insurance Act of 1940, as amended.

[(b) The term “premium” shall include the amount specified in the policy as the stipend to be paid by the insured at regular intervals during the period therein stated.

[(c) The term “insured” shall include any person in the military service of the United States as defined in section 101, article I, of this Act, whose life is insured under and who is the owner and holder of and has an interest in a policy as above defined.

[(d) The term “insurer” shall include any firm, corporation, partnership, or association chartered or authorized to engage in the insurance business and to issue a policy as above defined by the laws of a State of the United States or the United States.

[SEC. 401. The benefits and privileges of this article shall apply to any insured, when such insured, or a person designated by him, or, in case the insured is outside the continental United States (excluding Alaska and the Panama Canal Zone), a beneficiary, shall make written application for protection under this article, unless the Secretary of Veterans Affairs in passing upon such application as provided in this article shall find that the policy is not entitled

to protection hereunder. The Secretary shall give notice to the military and naval authorities of the provisions of this article, and shall include in such notice an explanation of such provisions for the information of those desiring to make application for the benefits thereof. The original of such application shall be sent by the insured to the insurer, and a copy thereof to the Secretary. The total amount of insurance on the life of one insured under policies protected by the provisions of this article shall not exceed \$10,000. If an insured makes application for protection of policies on his life totaling insurance in excess of \$10,000, the Secretary is authorized to have the amount of insurance divided into two or more policies so that the protection of this article may be extended to include policies for a total amount of insurance not to exceed \$10,000, and a policy which affords the best security to the Government shall be given preference.

【SEC. 402. Any writing signed by the insured and identifying the policy and the insurer, and agreeing that his rights under the policy are subject to and modified by the provisions of this article, shall be sufficient as an application for the benefits of this article, but the Secretary of Veterans Affairs may require the insured and insurer to execute such other forms as may be deemed advisable. Upon receipt of the application of the insured the insurer shall furnish such report to the Secretary concerning the policy as shall be prescribed by regulations. The insured who has made application for protection under this article and the insurer shall be deemed to have agreed to such modification of the policy as may be required to give this article full force and effect with respect to such policy.

【SEC. 403. The Secretary of Veterans Affairs shall find whether the policy is entitled to protection under this article and shall notify the insured and the insurer of such finding. Any policy found by the Secretary to be entitled to protection under this article shall not, subsequent to date of application, and during the period of military service of the insured or during two years after the expiration of such service, lapse or otherwise terminate or be forfeited for the nonpayment of a premium becoming due and payable, or the nonpayment of any indebtedness or interest.

【SEC. 404. No dividend or other monetary benefit under a policy shall be paid to an insured or used to purchase dividend additions while a policy is protected by the provisions of this article except with the consent and approval of the Secretary of Veterans Affairs. If such consent is not procured, such dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer. No cash value, loan value, or withdrawal of dividend accumulation, or unearned premium, or other value of similar character shall be available to the insured while the policy is protected under this article except upon approval by the Secretary of Veterans Affairs. The insured's right to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this article.

【SEC. 405. In the event of maturity of a policy as a death claim or otherwise before the expiration of the period of protection under the provisions of this article, the insurer in making settlement will deduct from the amount of insurance the premiums guaranteed

under this article, together with interest thereon at the rate fixed in the policy for policy loans. If no rate of interest is specifically fixed in the policy, the rate shall be the rate fixed for policy loans in other policies issued by the insurer at the time the policy brought under the Act was issued. The amount deducted by reason of the protection afforded by this article shall be reported by the insurer to the Secretary of Veterans Affairs.

【SEC. 406. Payment of premiums and interest thereon at the rate specified in section 405 hereof becoming due on a policy while protected under the provisions of this article is guaranteed by the United States, and if the amount so guaranteed is not paid to the insurer prior to the expiration of the period of insurance protection under this article, the amount then due shall be treated by the insurer as a policy loan on such policy, but if at the expiration of said period the cash surrender value is less than the amount then due, the policy shall then cease and terminate and the United States shall pay the insurer the difference between such amount and the cash surrender value. The amount paid by the United States to an insurer on account of applications approved under the provisions of this article as amended, shall become a debt due to the United States by the insured on whose account payment was made and, notwithstanding any other Act, such amount may be collected either by deduction from any amount due said insured by the United States or as otherwise authorized by law. Any moneys received as repayment of debts incurred under this article, as originally enacted and as amended, shall be credited to the appropriation for the payment of claims under this article.

【SEC. 407. The Secretary of Veterans Affairs shall provide by regulations for such rules of procedures and forms as he may deem advisable in carrying out the provisions of this article. The findings of fact and conclusions of law made by the Secretary in administering the provisions of this article shall be final, and shall not be subject to review by any other official or agency of the Government.

【ARTICLE V.—TAXES AND PUBLIC LANDS

【SEC. 500. (1) The provisions of this section shall apply when any taxes or assessments, whether general or special (other than taxes on income), whether falling due prior to or during the period of military service, in respect of personal property, money, or credits, or real property owned and occupied for dwelling, professional, business, or agricultural purposes by a person in military service or his dependents at the commencement of his period of military service and still so occupied by his dependents or employees are not paid.

【(2) No sale of such property shall be made to enforce the collection of such tax or assessment, or any proceeding or action for such purpose commenced, except upon leave of court granted upon application made therefor by the collector of taxes or other officer whose duty it is to enforce the collection of taxes or assessments. The court thereupon, unless in its opinion the ability of the person in military service to pay such taxes or assessments is not materially affected by reason of such service, may stay such proceedings or such sale, as provided in this Act, for a period extending not more

than six months after the termination of the period of military service of such person.

[(3) When by law such property may be sold or forfeited to enforce the collection of such tax or assessment, such person in military service shall have the right to redeem or commence an action to redeem such property, at any time not later than six months after the termination of such service, but in no case later than six months after the date when this Act ceases to be in force; but this shall not be taken to shorten any period, now or hereafter provided by the laws of any State or Territory for such redemption.

[(4) Whenever any tax or assessment shall not be paid when due, such tax or assessment due and unpaid shall bear interest until paid at the rate of 6 per centum per annum, and no other penalty or interest shall be incurred by reason of such nonpayment. Any lien for such unpaid taxes or assessment shall also include such interest thereon.

[SEC. 501. (1) No right to any lands owned or controlled by the United States initiated or acquired under any laws of the United States, including the mining and mineral leasing laws, by any person prior to entering military service shall during the period of such service be forfeited or prejudiced by reason of his absence from the land or his failure to perform any work or make any improvements thereon or his failure to do any other act required by or under such laws.

[(2) If a permittee or licensee under the Act of June 28, 1934 (48 Stat. 1269), enters military service he may elect to suspend his permit or license for the period of his military service and six months thereafter, and the Secretary of the Interior by regulations shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during such suspension.

[(3) This section shall not be construed to control specific requirements contained in this article.

[SEC. 502. If any person whose application for a homestead entry has been allowed or who has made application for homestead entry which may thereafter be allowed, after such entry or application enters military service, or if any person who has a valid settlement claim enters military service, the Department of the Interior shall construe his military service to be equivalent to residence and cultivation upon the tract entered or settled upon for the period of such service. From the effective date of this Act no contest shall be initiated on the ground of abandonment and no allegation of abandonment shall be sustained against any such person, unless it shall be alleged in the preliminary affidavit or affidavits of contest and proved at the hearing in cases initiated subsequent to the effective date of this Act that the alleged absence from the land was not due to such military service. If such person is discharged on account of wounds received or disability incurred in the line of duty, the term of his enlistment and any period of hospitalization due to such wounds or disability shall be deducted from the required length of residence, without reference to the time of actual service. No patent shall issue to any such person who has not resided upon, improved, and cultivated his homestead for a period of at least one year.

[SEC. 503. (1) If any person whose application for a homestead entry has been allowed or who has made application for homestead

entry which may thereafter be allowed or who has a valid settlement claim dies while in military service or as a result of such service, his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or their legal representatives, may proceed forthwith to make final proof upon such entry or upon an application which is allowed after the applicant's death, or upon a homestead application thereafter allowed based on a valid settlement claim, and shall be entitled to receive a patent for such land. The death of such person while in military service or as a result of such service shall be construed to be equivalent to a performance of all requirements as to residue and cultivation upon such homestead or claim, notwithstanding the provisions of section 502 of this Act.

[(2) If such person is honorably discharged and because of physical incapacities due to such service is unable to return to the land, he may make final proof without further residence, improvement, or cultivation, at such time and place as the Secretary of the Interior may authorize, and receive a patent to the land entered.

[(3) The Act of July 28, 1917 (40 Stat. 248), is repealed.

[SEC. 504. (1) No desert-land entry made or held under the desert-land laws prior to the entrance of the entryman or his successor in interest into military service shall be subject to contest or cancellation for failure to make or expend the sum of \$1 per acre per year in improvements upon the claim or to effect the reclamation of the claim during the period the entryman or his successor in interest is engaged in military service or during a period of six months thereafter or during any period of hospitalization because of wounds or disability incurred in the line of duty. The time within which such entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of his period of service and the six-months' period and any such period of hospitalization.

[(2) If such entryman or claimant is honorably discharged and because of physical incapacities due to such service is unable to accomplish reclamation of, and payment for, the land, he may make proof without further reclamation or payments under such rules as the Secretary of the Interior may prescribe and receive patent for the land entered or claimed.

[(3) In order to obtain the benefits of this section, such entryman or claimant shall, within six months after his entrance into military service, file or cause to be filed in the land office of the district in which his claim is situated a notice that he has entered military service and that he desires to hold the desert claim under this section.

[SEC. 505. (1) The provisions of section 2324 of the Revised Statutes of the United States (30 U.S.C. 28), which require that on each mining claim located after May 10, 1872, and until patent has been issued therefor not less than \$100 worth of labor shall be performed or improvements made during each year, shall not apply during the period of his service, or until six months after the termination of such service, or during any period of hospitalization because of wounds or disability incurred in line of duty, to claims or interests in claims which are owned by a person in military service and which have been regularly located and recorded. No mining claim or any interest in a claim which is owned by such a person

and which has been regularly located and recorded shall be subject to forfeiture by nonperformance of the annual assessments during the period of such military service, or until six months after the termination of such service or of such hospitalization.

[(2) In order to obtain the benefits of this section, the claimant of any mining location shall, before the expiration of the assessment year during which he enters military service, file or cause to be filed in the office where the location notice or certificate is recorded a notice that he has entered such service and that he desires to hold his mining claim under this section.

[SEC. 506. (1) Any person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may, at his election, suspend all operations under his permit or lease for a period of time equivalent to the period of his military service and six months thereafter. The term of the permit or lease shall not run during such period of suspension nor shall any rentals or royalties be charged against the permit or lease during the period of suspension.

[(2) In order to obtain the benefit of this section, such permittee or lessee shall, within six months after his entrance into military service, notify the Bureau of Land Management by registered mail of his entrance into such service and of his desire to avail himself of the benefits of this section.

[(3) This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

[SEC. 507. Nothing in this article shall be construed to limit or affect the right of a person in military service to take any action during his period of service which may be authorized by law or the regulations of the Department of the Interior for the perfection, defense, or further assertion of rights initiated or acquired prior to the date of entering military service. It shall be lawful for any person while in such service to make any affidavit or submit any proof which may be required by law or the practice or regulations of the Bureau of Land Management in connection with the entry, perfection, defense, or further assertion of any rights initiated or acquired prior to entering such service, before the officer in immediate command and holding a commission in the branch of the service in which the person is engaged. Such affidavits shall be as binding in law and with like penalties as if taken before an officer designated by the Secretary of the Interior. The Secretary of the Interior may issue rules and regulations to effectuate the purposes of sections 501 to 512.

[SEC. 508. The Secretary of the Interior is hereby authorized in his discretion, to suspend as to persons in military service during the period while this Act remains in force and for a period of six months thereafter or during any period of hospitalization because of wounds or disability incurred in line of duty that provision of the act known as the "Reclamation Act" requiring residence upon lands in private ownership or within the neighborhood for securing water for the irrigation of the same, and he is authorized to permit the use of available water thereon upon such terms and conditions as he may deem proper.

[SEC. 509. The Secretary of the Interior shall issue through appropriate military and naval channels a notice for distribution by appropriate military and naval authorities to persons in the mili-

tary service explaining the provisions of this article except as to sections 500, 513, and 514 hereof and shall furnish forms to be distributed in like manner to those desiring to make application for its benefits, except as to said sections.

【SEC. 510. (1) During the pendency of any war in which the United States may be engaged while this Act remains in force any homestead entryman shall be entitled to a leave of absence from his entry for the purpose of performing farm labor. The time actually spent in farm labor shall be counted as constructive residence, if within fifteen days after leaving his entry to engage in such labor the entryman files a notice of absence in the land office of the district in which his entry is situated, and if at the expiration of the calendar year the entryman files in that office a written statement under oath and corroborated by two witnesses giving the date or dates when he left his entry, the date or dates of his return, and the place where and person for whom he was engaged in farm labor during such period or periods of absence.

【(2) Nothing in this section shall excuse any homestead entryman from making improvements or performing the cultivation upon his entry required by law. The provisions of this section shall apply only to persons whose applications have been allowed or filed before October 17, 1940.

【SEC. 511. Any person under the age of twenty-one who serves in the military service while this Act remains in force shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including the mining and mineral leasing laws, as those over twenty-one now possess under such laws. Any requirements as to establishment of residence within a limited time shall be suspended as to entry by such person until six months after his discharge from military service. Applications for entry may be verified before any officer in the United States or any foreign country authorized to administer oaths by the laws of the State or Territory in which the land may be situated.

【SEC. 512. Citizens of the United States who serve with the forces of any nation with which the United States may be allied in the prosecution of any war in which the United States engages while this Act remains in force shall be entitled to the relief and benefits afforded by sections 501 to 511, inclusive, if such service is similar to military service as defined in this Act, and if they are honorably discharged and resume United States citizenship or die in the service of the allied forces or as a result of such service.

【SEC. 513. The collection from any person in the military service of any tax on the income of such person, whether falling due prior to or during his period of military service, shall be deferred for a period extending not more than six months after the termination of his period of military service if such person's ability to pay such tax is materially impaired by reason of such service. No interest on any amount of tax, collection of which is deferred for any period under this section, and no penalty for nonpayment of such amount during such period, shall accrue for such period of deferment by reason of such nonpayment. The running of any statute of limitations against the collection of such tax by distraint or otherwise shall be suspended for the period of military service of any individual the collection of whose tax is deferred under this section, and for an additional period of nine months beginning with the day

following the period of military service. The provisions of this section shall not apply to the income tax on employees imposed by section 1400 of the Federal Insurance Contributions Act.

【SEC. 514. For the purposes of taxation in respect of any person, or of his personal property, income, or gross income, by any State, Territory, possession, or political subdivision of any of the foregoing, or by the District of Columbia, such person shall not be deemed to have lost a residence or domicile in any State, Territory, possession, or political subdivision of any of the foregoing, or in the District of Columbia, solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile in, or to have become resident in or a resident of, any other State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, while, and solely by reason of being, so absent. For the purposes of taxation in respect of the personal property, income, or gross income of any such person by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, of which such person is not a resident or in which he is not domiciled, compensation for military or naval service shall not be deemed income for services performed within, or from sources within, such State, Territory, possession, political subdivision, or District, and personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or District. Where the owner of personal property is absent from his residence or domicile solely by reason of compliance with military or naval orders, this section applies with respect to personal property, or the use thereof, within any tax jurisdiction other than such place of residence or domicile, regardless of where the owner may be serving in compliance with such orders. Nothing contained in this section shall prevent taxation by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia in respect of personal property used in or arising from a trade or business, if it otherwise has jurisdiction. This section shall be effective as of September 8, 1939, except that it shall not require the crediting or refunding of any tax paid prior to October 6, 1942.

【(2) When used in this section, (a) the term “personal property” shall include tangible and intangible property (including motor vehicles), and (b) the term “taxation” shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof, but only if a license, fee, or excise required by the State or territory, possession, or District of Columbia of which the person is a resident or in which the person is domiciled has been paid.

【ARTICLE VI.—ADMINISTRATIVE REMEDIES

【SEC. 600. Where in any proceeding to enforce a civil right in any court it is made to appear to the satisfaction of the court that any interest, property, or contract has since October 17, 1940, been transferred or acquired with intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made, the provisions of this Act to the contrary notwithstanding.

【SEC. 601. (1) In any proceeding under this Act a certificate signed by The Adjutant General of the Army as to persons in the Army or in any branch of the United States service while serving pursuant to law with the Army of the United States, signed by the Chief of Navy Personnel as to persons in the United States Navy or in any branch of the United States service while serving pursuant to law with the United States Navy, and signed by the Commandant, United States Marine Corps, as to persons in the Marine Corps, or in any other branch of the United States service while serving pursuant to law with the Marine Corps, or signed by an officer designated by any of them, respectively, for the purpose, shall when produced by prima facie evidence as to any of the following facts stated in such certificate:

【That a person named has not been, or is, or has been in military service; the time when and the place where such person entered military service, his residence at that time, and the rank, branch, and unit of such service that he entered, the dates within which he was in military service, the monthly pay received by such person at the date of issuing the certificate, the time when and the place where such person died in or was discharged from such service.

【(2) It shall be the duty of the foregoing officers to furnish such certificate on application, and any such certificate when purporting to be signed by any one of such officers or by any person purporting upon the face of the certificates to have been so authorized shall be prima facie evidence of its contents and of the authority of the signer to issue the same.

【(3) Where a person in military service has been reported missing he shall be presumed to continue in the service until accounted for, and no period herein limited which begins or ends with the death of such person shall begin or end until the death of such person is in fact reported to or found by the Department of Defense, or any court, or board thereof, or until such death is found by a court of competent jurisdiction. No period herein limited which begins or ends with the death of such person shall be extended hereby beyond a period of six months after the time when this Act ceases to be in force.

【SEC. 602. Any interlocutory order made by any court under the provisions of this Act may, upon the court's own motion or otherwise, be revoked, modified, or extended by it upon such notice to the parties affected as it may require.

【SEC. 603. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

【SEC. 604. This Act shall remain in force until May 15, 1945, except that should the United States be then engaged in a war, this Act shall remain in force until such war is terminated by a treaty of peace proclaimed by the President and for six months thereafter: *Provided further*, That wherever under any section or provision of this Act a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed prior to the date herein fixed for the termination of this Act, such section or provision shall be deemed to continue in full force and effect so long as may be nec-

essary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction.

【SEC. 605. The provisions of section 4 of the joint resolution approved August 27, 1940 (Public Resolution Numbered 96, Seventy-sixth Congress), and the provisions of section 13 of the Selective Training and Service Act of 1940, shall not be applicable with respect to any military service performed after the date of enactment of this Act.

【ARTICLE VII.—FURTHER RELIEF

【SEC. 700. (1) A person may, at any time during his period of military service or within six months thereafter, apply to a court for relief in respect of any obligation or liability incurred by such person prior to his period of military service or in respect of any tax or assessment whether falling due prior to or during his period of military service. The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of such obligation or liability or to pay such tax or assessment has not been materially affected by reason of his military service, may grant the following relief:

【(a) In the case of an obligation payable under its terms 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, a stay of the enforcement of such obligation during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of such combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal installments during such combined period at such rate of interest on the unpaid balance as is prescribed in such contract, or other instrument evidencing the obligation, for installments paid when due, and subject to such other terms as may be just.

【(b) In the case of any other obligation, liability, tax, or assessment, a stay of the enforcement thereof during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period of time equal to the period of military service of the applicant or any part of such period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of such period of military service or the date of application, as the case may be, in equal periodic installments during such extended period at such rate of interest as may be prescribed for such obligation, liability, tax, or assessment, if paid when due, and subject to such other terms as may be just.

【(2) When any court has granted a stay as provided in this section no fine or penalty shall accrue during the period the terms and conditions of such stay are complied with by reason of failure to comply with the terms or conditions of the obligations, liability, tax, or assessment in respect of which such stay was granted.

【SEC. 701. (a) Notwithstanding any other provision of law, a power of attorney which—

【(1) was duly executed by a person in the military service who is in a missing status (as defined in section 551(2) of title 37, United States Code);

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

【(3) expires by its terms after that person entered a missing status, and before or after the effective date of this section;

shall be automatically extended for the period that the person is in a missing status. (Added P.L. 92-540, § 504(2).)

【(b) No power of attorney executed after the effective date of this section by a person in the military service may be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though that person, after the date of execution of the document, enters a missing status. (Added P.L. 92-540, § 504(2).)

【(c) This section applies to the following powers of attorney executed by a person in military service or under a call or order to report for military service (or who has been advised by an official of the Department of Defense that such person may receive such a call or order):

【(1) A power of attorney that is executed during the Vietnam era (as defined in section 101(29) of title 38, United States Code).

【(2) A power of attorney that expires by its terms after July 31, 1990.

【SEC. 702. (a) This section applies to a person who—

【(1) after July 31, 1990, is ordered to active duty (other than for training) pursuant to section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, 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 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 such person during the period of the person's active duty unless the premiums are paid for such coverage for such period.

【(b)(1) Coverage of a person referred to in subsection (a) by a professional liability insurance policy shall be suspended in accordance with this subsection upon receipt of the written request of such person by the insurance carrier.

【(2) A professional liability insurance carrier—

【(A) may not require that premiums be paid by or on behalf of a person 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 person,

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

[(3) 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 person that occurs during a period of suspension of that person's professional liability insurance under this subsection. For the purposes of the preceding sentence, a claim based upon the failure of a professional to make adequate provision for patients to be cared for 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 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)(1) Professional liability insurance coverage suspended in the case of any person pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which that person transmits to the insurance carrier a written request for reinstatement.

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

[(3) The period for which professional liability insurance coverage shall be reinstated for a person 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) An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any person 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, except to the extent of any general increase in the premium amounts charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

[(e) This section does not—

[(1) require a suspension of professional liability insurance coverage for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

[(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

[(f)(1) A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a person whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

[(A) the action was commenced during that period;

[(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

[(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the person.

[(2) Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any person, the action shall be deemed to have been filed on the date on which the professional liability insurance coverage of such person is reinstated under subsection (c).

[(g) In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

[(h) If a person whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

[(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such person under subsection (f)(1) shall terminate on the date of the death of such person; and

[(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased person in the same manner and to the same extent as such carrier would be liable if the person had died while covered by such insurance but before the claim was filed.

[(i) In this section:

[(1) The term “active duty” has the meaning given that term in section 101 of title 10, United States Code.

[(2) The term “profession” includes occupation.

[(3) The term “professional” includes occupational.

SEC. 703. (a) A person who, by reason of military service described in section 702(a)(1), is entitled to the rights and benefits of this Act shall also be entitled upon release from such military service to reinstatement of any health insurance which (1) was in effect on the day before such service commenced, and (2) was terminated effective on a date during the period of such service.

[(b) An exclusion or a waiting period may not be imposed in connection with reinstatement of health insurance coverage of a health or physical condition of a person under subsection (a), or a health or physical condition of any other person who is covered by the insurance by reason of the coverage of such person, if—

[(1) the condition arose before or during that person’s period of training or service in the Armed Forces;

[(2) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by such person in the insurance; and

[(3) the condition of such person has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

[(c) Subsection (a) does not apply in the case of employer-offered insurance benefits in which a person referred to in such subsection

is entitled to participate pursuant to the provisions of chapter 43 of title 38, United States Code.

【SEC. 704. (a) For purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

【(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

【(2) be deemed to have acquired a residence or domicile in any other State; or

【(3) be deemed to have become a resident in or a resident of any other State.

【(b) In this section, the term “State” includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.】

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—*This Act may be cited as the “Servicemembers Civil Relief Act”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

TITLE I—GENERAL PROVISIONS

Sec. 101. Definitions.

Sec. 102. Jurisdiction and applicability of Act.

Sec. 103. Protection of persons secondarily liable.

Sec. 104. Extension of protections to citizens serving with allied forces.

Sec. 105. Notification of benefits.

Sec. 106. Extension of rights and protections to Reserves ordered to report for military service and to persons ordered to report for induction.

Sec. 107. Waiver of rights pursuant to written agreement.

Sec. 108. Exercise of rights under Act not to affect certain future financial transactions.

Sec. 109. Legal representatives.

TITLE II—GENERAL RELIEF

Sec. 201. Protection of servicemembers against default judgments.

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.*

SEC. 2. PURPOSE.

The purposes of this Act are—

- (1) *to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and*
- (2) *to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.*

TITLE I—GENERAL PROVISIONS

SEC. 101. DEFINITIONS.

For the purposes of this Act:

- (1) **SERVICEMEMBER.**—*The term “servicemember” means a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10, United States Code.*
- (2) **MILITARY SERVICE.**—*The term “military service” means—*
 - (A) *in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—*
 - (i) *active duty, as defined in section 101(d)(1) of title 10, United States Code, and*
 - (ii) *in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a*

period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds; and

(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service.

(3) *PERIOD OF MILITARY SERVICE.*—The term “period of military service” means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

(4) *DEPENDENT.*—The term “dependent”, with respect to a servicemember, means—

(A) the servicemember’s spouse;

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

(C) an individual for whom the servicemember provided more than one-half of the individual’s support for 180 days immediately preceding an application for relief under this Act.

(5) *COURT.*—The term “court” means a court or an administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record.

(6) *STATE.*—The term “State” includes—

(A) a commonwealth, territory, or possession of the United States; and

(B) the District of Columbia.

(7) *SECRETARY CONCERNED.*—The term “Secretary concerned”—

(A) with respect to a member of the armed forces, has the meaning given that term in section 101(a)(9) of title 10, United States Code;

(B) with respect to a commissioned officer of the Public Health Service, means the Secretary of Health and Human Services; and

(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

SEC. 102. JURISDICTION AND APPLICABILITY OF ACT.

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

(1) the United States;

(2) each of the States, including the political subdivisions thereof; and

(3) all territory subject to the jurisdiction of the United States.

(b) *APPLICABILITY TO PROCEEDINGS.*—This Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to criminal proceedings.

(c) *COURT IN WHICH APPLICATION MAY BE MADE.*—When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the mat-

ter, such application may be made to any court which would otherwise have jurisdiction over the matter.

SEC. 103. PROTECTION OF PERSONS SECONDARILY LIABLE.

(a) *EXTENSION OF PROTECTION WHEN ACTIONS STAYED, POSTPONED, OR SUSPENDED.*—Whenever pursuant to this Act a court stays, postpones, or suspends (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

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

(c) *BAIL BOND NOT TO BE ENFORCED DURING PERIOD OF MILITARY SERVICE.*—A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

(d) *WAIVER OF RIGHTS.*—

(1) *WAIVERS NOT PRECLUDED.*—This Act does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protections provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

(2) *WAIVER INVALIDATED UPON ENTRANCE TO MILITARY SERVICE.*—If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106.

SEC. 104. EXTENSION OF PROTECTIONS TO CITIZENS SERVING WITH ALLIED FORCES.

A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act if that service with the allied force is similar to military service as defined in this Act. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

SEC. 105. NOTIFICATION OF BENEFITS.

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

SEC. 106. EXTENSION OF RIGHTS AND PROTECTIONS TO RESERVES ORDERED TO REPORT FOR MILITARY SERVICE AND TO PERSONS ORDERED TO REPORT FOR INDUCTION.

(a) **RESERVES ORDERED TO REPORT FOR MILITARY SERVICE.**—A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for military service (or, if the order is revoked before the member so reports, or the date on which the order is revoked).

(b) **PERSONS ORDERED TO REPORT FOR INDUCTION.**—A person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

SEC. 107. WAIVER OF RIGHTS PURSUANT TO WRITTEN AGREEMENT.

(a) **IN GENERAL.**—A servicemember may waive any of the rights and protections provided by this Act. In the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

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

(1) The modification, termination, or cancellation of—

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

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

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

(A) is security for any obligation; or

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

(c) **COVERAGE OF PERIODS AFTER ORDERS RECEIVED.**—For the purposes of this section—

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

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

SEC. 108. EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil

obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

- (1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.
- (2) With respect to a credit transaction between a creditor and the servicemember—
 - (A) a denial or revocation of credit by the creditor;
 - (B) a change by the creditor in the terms of an existing credit arrangement; or
 - (C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.
- (3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.
- (4) A refusal by an insurer to insure the servicemember.
- (5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.
- (6) A change in the terms offered or conditions required for the issuance of insurance.

SEC. 109. LEGAL REPRESENTATIVES.

(a) REPRESENTATIVE.—A legal representative of a servicemember for purposes of this Act is either of the following:

- (1) An attorney acting on the behalf of a servicemember.
- (2) An individual possessing a power of attorney.

(b) APPLICATION.—Whenever the term “servicemember” is used in this Act, such term shall be treated as including a reference to a legal representative of the servicemember.

TITLE II—GENERAL RELIEF

SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.

(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant does not make an appearance.

(b) AFFIDAVIT REQUIREMENT.—

(1) PLAINTIFF TO FILE AFFIDAVIT.—In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

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

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

(2) APPOINTMENT OF ATTORNEY TO REPRESENT DEFENDANT IN MILITARY SERVICE.—If in an action covered by this section it ap-

pears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

(3) *DEFENDANT'S MILITARY STATUS NOT ASCERTAINED BY AFFIDAVIT.*—If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

(4) *SATISFACTION OF REQUIREMENT FOR AFFIDAVIT.*—The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

(c) *PENALTY FOR MAKING OR USING FALSE AFFIDAVIT.*—A person who makes or uses an affidavit permitted under subsection (b) (or a statement, declaration, verification, or certificate as authorized under subsection (b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(d) *STAY OF PROCEEDINGS.*—In an action covered by this section in which the defendant is in military service, the court shall grant a stay of proceedings for a minimum period of 90 days under this subsection upon application of counsel, or on the court's own motion, if the court determines that—

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

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

(e) *INAPPLICABILITY OF SECTION 202 PROCEDURES.*—A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202.

(f) *SECTION 202 PROTECTION.*—If a servicemember who is a defendant in an action covered by this section receives actual notice of the action, the servicemember may request a stay of proceeding under section 202.

(g) *VACATION OR SETTING ASIDE OF DEFAULT JUDGMENTS.*—

(1) *AUTHORITY FOR COURT TO VACATE OR SET ASIDE JUDGMENT.*—If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days

after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

(A) the servicemember was materially affected by reason of that military service in making a defense to the action; and

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

(2) **TIME FOR FILING APPLICATION.**—An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

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

SEC. 202. STAY OF PROCEEDINGS WHEN SERVICEMEMBER DEFENDANT HAS NOTICE.

(a) **APPLICABILITY OF SECTION.**—This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section—

(1) is in military service or is within 90 days after termination of or release from military service; and

(2) has received notice of the action or proceeding.

(b) **AUTOMATIC STAY.**—

(1) **AUTHORITY FOR STAY.**—At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

(2) **CONDITIONS FOR STAY.**—An application for a stay under paragraph (1) shall include the following:

(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

(c) **APPLICATION NOT A WAIVER OF DEFENSES.**—An application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

(d) **ADDITIONAL STAY.**—

(1) **APPLICATION.**—A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear. Such an ap-

plication may be made by the servicemember at the time of the initial application under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information required under subsection (b)(2) shall be included in an application under this subsection.

(2) **APPOINTMENT OF COUNSEL WHEN ADDITIONAL STAY REFUSED.**—*If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.*

(e) **COORDINATION WITH SECTION 201.**—*A servicemember who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 201.*

(f) **INAPPLICABILITY TO SECTION 301.**—*The protections of this section do not apply to section 301.*

SEC. 203. FINES AND PENALTIES UNDER CONTRACTS.

(a) **PROHIBITION OF PENALTIES.**—*When an action for compliance with the terms of a contract is stayed pursuant to this Act, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.*

(b) **REDUCTION OR WAIVER OF FINES OR PENALTIES.**—*If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if—*

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

(2) *the ability of the servicemember to perform the obligation was materially affected by such military service.*

SEC. 204. STAY OR VACATION OF EXECUTION OF JUDGMENTS, ATTACHMENTS, AND GARNISHMENTS.

(a) **COURT ACTION UPON MATERIAL AFFECT DETERMINATION.**—*If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—*

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

(2) *vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment.*

(b) **APPLICABILITY.**—*This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 90 days after such service terminates.*

SEC. 205. DURATION AND TERM OF STAYS; CODEFENDANTS NOT IN SERVICE.

(a) **PERIOD OF STAY.**—*A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.*

(b) **CODEFENDANTS.**—*If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this Act, the plaintiff may*

proceed against those other defendants with the approval of the court.

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

SEC. 206. STATUTE OF LIMITATIONS.

(a) *TOLLING OF STATUTES OF LIMITATION DURING MILITARY SERVICE.*—The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

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

(c) *INAPPLICABILITY TO INTERNAL REVENUE LAWS.*—This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.

(a) *INTEREST RATE LIMITATION.*—

(1) *LIMITATION TO 6 PERCENT.*—An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.

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

(3) *PREVENTION OF ACCELERATION OF PRINCIPAL.*—The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which such payment is made.

(b) *IMPLEMENTATION OF LIMITATION.*—

(1) *WRITTEN NOTICE TO CREDITOR.*—In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember's termination or release from military service.

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

(c) *CREDITOR PROTECTION.*—A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

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

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

SEC. 301. 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 \$1,700, 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 under subsection (a)(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.

(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) *PENALTIES.*—

(1) *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, United States Code, or imprisoned for not more than one year, or both.

(2) *PRESERVATION OF OTHER REMEDIES AND RIGHTS.*—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

(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 202 is not applicable to this section.

SEC. 302. 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; 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) *PENALTIES.*—

(1) *MISDEMEANOR.*—A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 107 of this Act, or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) *PRESERVATION OF OTHER REMEDIES AND RIGHTS.*—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

(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.

SEC. 303. 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 90 days 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 90 days 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 107.

(d) *PENALTIES.*—

(1) *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, United States Code, or imprisoned for not more than one year, or both.

(2) *PRESERVATION OF OTHER REMEDIES.*—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

SEC. 304. SETTLEMENT OF STAYED CASES RELATING TO PERSONAL PROPERTY.

(a) *APPRAISAL OF PROPERTY.*—When a stay is granted pursuant to this Act in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

(b) *EQUITY PAYMENT.*—Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

SEC. 305. TERMINATION OF LEASES BY LESSEES.

(a) *COVERED LEASES.*—This section applies to the lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

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

(2) the servicemember, while in military service, executes a lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.

(b) *NOTICE TO LESSOR.*—

(1) *DELIVERY OF NOTICE.*—A lease described in subsection (a) is terminated when written notice is delivered by the lessee to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee).

(2) *TIME FOR NOTICE.*—The written notice may be delivered at any time after the lessee's entry into military service or the date of the military orders for a permanent change of station or to deploy for a period of not less than 90 days.

(3) *NATURE OF NOTICE.*—Delivery may be accomplished—

(A) by hand delivery;

(B) by private business carrier; or

(C) by placing the written notice in an envelope with sufficient postage and addressed to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee) and depositing the written notice in the United States mails.

(c) *EFFECTIVE DATE OF TERMINATION.*—

(1) *LEASE WITH MONTHLY RENT.*—Termination of a lease providing for monthly payment of rent shall be effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered.

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

(d) *ARREARAGES IN RENT.*—Rents unpaid for the period preceding termination shall be paid on a prorated basis.

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

(f) *RELIEF TO LESSOR.*—Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

(g) *PENALTIES.*—

(1) *MISDEMEANOR.*—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) *PRESERVATION OF OTHER REMEDIES.*—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.

(a) *ASSIGNMENT OF POLICY PROTECTED.*—If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

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

(1) if the assignee has the written consent of the insured made during the period described in subsection (a)(1);

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

(3) upon the death of the insured.

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

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

(e) *PENALTIES.*—

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

(2) *PRESERVATION OF OTHER REMEDIES.*—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

SEC. 307. ENFORCEMENT OF STORAGE LIENS.

(a) *LIENS.*—

(1) *LIMITATION ON FORECLOSURE OR ENFORCEMENT.*—A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

(2) *LIEN DEFINED.*—For the purposes of paragraph (1), the term “lien” includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason.

(b) *STAY OF PROCEEDINGS.*—In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligation resulting in the proceeding is materially affected by military service—

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

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

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

(c) *PENALTIES.*—

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

(2) *PRESERVATION OF OTHER REMEDIES.*—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

SEC. 308. EXTENSION OF PROTECTIONS TO DEPENDENTS.

Upon application to a court, a dependent of a servicemember is entitled to the protections of this title if the dependent’s ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember’s military service.

TITLE IV—LIFE INSURANCE

SEC. 401. DEFINITIONS.

For the purposes of this title:

(1) *POLICY.*—The term “policy” means any contract for whole, endowment, universal, or term life insurance, including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association which—

(A) provides that the insurer may not—

(i) decrease the amount of coverage or increase the amount of premiums if the insured is in military service; or

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

(B) is in force not less than 180 days before the date of the insured’s entry into military service and at the time of application under this title.

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

(3) *INSURED.*—The term “insured” means a servicemember whose life is insured under a policy.

(4) *INSURER.*—The term “insurer” includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

SEC. 402. INSURANCE RIGHTS AND PROTECTIONS.

(a) *RIGHTS AND PROTECTIONS.*—The rights and protections under this title apply to the insured when the insured, the insured’s designee, or the insured’s beneficiary applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured’s policy is not entitled to protection under this title.

(b) *NOTIFICATION AND APPLICATION.*—The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. The applicant shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

(c) *LIMITATION ON AMOUNT.*—The total amount of life insurance coverage protection provided by this title for a servicemember may not exceed \$250,000, or an amount equal to the Servicemember’s Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

SEC. 403. APPLICATION FOR INSURANCE PROTECTION.

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

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

(2) identify the policy and the insurer; and

(3) include an acknowledgement that the insured’s rights under the policy are subject to and modified by the provisions of this title.

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

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

(d) *POLICY MODIFICATION.*—Upon application for protection under this title, the insured and the insurer shall have constructively agreed to any policy modification necessary to give this title full force and effect.

SEC. 404. POLICIES ENTITLED TO PROTECTION AND LAPSE OF POLICIES.

(a) *DETERMINATION.*—The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title and shall notify the insured and the insurer of that determination.

(b) *LAPSE PROTECTION.*—A policy that the Secretary determines is entitled to protection under this title shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium, or interest

or indebtedness on a premium, after the date of the application for protection.

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

SEC. 405. POLICY RESTRICTIONS.

(a) *DIVIDENDS.*—While a policy is protected under this title, a dividend or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs. If such approval is not obtained, the dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer.

(b) *SPECIFIC RESTRICTIONS.*—While a policy is protected under this title, cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title.

SEC. 406. DEDUCTION OF UNPAID PREMIUMS.

(a) *SETTLEMENT OF PROCEEDS.*—If a policy matures as a result of a servicemember's death or otherwise during the period of protection of the policy under this title, the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for policy loans.

(b) *INTEREST RATE.*—If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued by the insurer at the time the insured's policy was issued.

(c) *REPORTING REQUIREMENT.*—The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY UNITED STATES.

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

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

(2) *POLICY TERMINATION.*—If, at the expiration of insurance protection under this title, the cash surrender value of a policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

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

(1) *DEBT PAYABLE TO THE UNITED STATES.*—The amount paid by the United States to an insurer under this title shall be a

debt payable to the United States by the insured on whose policy payment was made.

(2) *COLLECTION*.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

(3) *DEBT NOT DISCHARGEABLE IN BANKRUPTCY*.—Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

(c) *CREDITING OF AMOUNTS RECOVERED*.—Any amounts received by the United States as repayment of debts incurred by an insured under this title shall be credited to the appropriation for the payment of claims under this title.

SEC. 408. REGULATIONS.

The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title.

SEC. 409. REVIEW OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The findings of fact and conclusions of law made by the Secretary of Veterans Affairs in administering this title may be reviewed by the Board of Veterans' Appeals and the United States Court of Appeals for Veterans Claims.

TITLE V—TAXES AND PUBLIC LANDS

SEC. 501. TAXES RESPECTING PERSONAL PROPERTY, MONEY, CREDITS, AND REAL PROPERTY.

(a) *APPLICATION*.—This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's—

(1) personal property; or

(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees—

(A) before the servicemember's entry into military service; and

(B) during the time the tax or assessment remains unpaid.

(b) *SALE OF PROPERTY*.—

(1) *LIMITATION ON SALE OF PROPERTY TO ENFORCE TAX ASSESSMENT*.—Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

(2) *STAY OF COURT PROCEEDINGS*.—A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

(c) *REDEMPTION*.—When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of

military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

(d) INTEREST ON TAX OR ASSESSMENT.—Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

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

SEC. 502. RIGHTS IN PUBLIC LANDS.

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

(b) TEMPORARY SUSPENSION OF PERMITS OR LICENSES.—If a permittee or licensee under the Act of June 28, 1934 (43 U.S.C. 315 et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for 180 days after termination of or release from military service.

(c) REGULATIONS.—Regulations prescribed by the Secretary of the Interior shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

SEC. 503. DESERT-LAND ENTRIES.

(a) DESERT-LAND RIGHTS NOT FORFEITED.—A desert-land entry made or held under the desert-land laws before the entrance of the entryman or the entryman's successor in interest into military service shall not be subject to contest or cancellation—

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

(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman's successor in interest is in the military service, or for 180 days after termination of or release from military service; or

(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

(b) SERVICE-RELATED DISABILITY.—If an entryman or claimant is honorably discharged and is unable to accomplish reclamation of, and payment for, desert land due to a disability incurred in the line of duty, the entryman or claimant may make proof without further reclamation or payments, under regulations prescribed by the Sec-

retary of the Interior, and receive a patent for the land entered or claimed.

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

SEC. 504. MINING CLAIMS.

(a) **REQUIREMENTS SUSPENDED.**—The provisions of section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) specified in subsection (b) shall not apply to a servicemember's claims or interests in claims, regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation due to injuries or disabilities incurred in the line of duty.

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

(c) **PERIOD OF PROTECTION FROM FORFEITURE.**—A mining claim or an interest in a claim owned by a servicemember that has been regularly located and recorded shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

(d) **FILING REQUIREMENT.**—In order to obtain the protections of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office where the location notice or certificate is recorded a notice communicating the fact of military service and the desire to hold the mining claim under this section.

SEC. 505. MINERAL PERMITS AND LEASES.

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

(b) **NOTIFICATION.**—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered mail of the fact that military service has begun and of the desire to hold the claim under this section.

(c) **CONTRACT MODIFICATION.**—This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

SEC. 506. PERFECTION OR DEFENSE OF RIGHTS.

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

(b) *AFFIDAVITS AND PROOFS.*—

(1) *IN GENERAL.*—A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service before an officer authorized to provide notary services under section 1044a of title 10, United States Code, or any superior commissioned officer.

(2) *LEGAL STATUS OF AFFIDAVITS.*—Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United State Code.

SEC. 507. DISTRIBUTION OF INFORMATION CONCERNING BENEFITS OF TITLE.

(a) *DISTRIBUTION OF INFORMATION BY SECRETARY CONCERNED.*—The Secretary concerned shall issue to servicemembers information explaining the provisions of this title.

(b) *APPLICATION FORMS.*—The Secretary concerned shall provide application forms to servicemembers requesting relief under this title.

(c) *INFORMATION FROM SECRETARY OF THE INTERIOR.*—The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title (other than sections 501, 510, and 511) and related application forms.

SEC. 508. LAND RIGHTS OF SERVICEMEMBERS.

(a) *NO AGE LIMITATIONS.*—Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

(b) *RESIDENCY REQUIREMENT.*—Any requirement related to the establishment of a residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

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

SEC. 509. REGULATIONS.

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

SEC. 510. INCOME TAXES.

(a) *DEFERRAL OF TAX.*—Upon notice to the Internal Revenue Service or the tax authority of a State or a political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from

military service, if a servicemember's ability to pay such income tax is materially affected by military service.

(b) *ACCRUAL OF INTEREST OR PENALTY.*—No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

(c) *STATUTE OF LIMITATIONS.*—The running of a statute of limitations against the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

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

SEC. 511. RESIDENCE FOR TAX PURPOSES.

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

(b) *MILITARY SERVICE COMPENSATION.*—Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

(c) *PERSONAL PROPERTY.*—

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

(2) *EXCEPTION FOR PROPERTY WITHIN MEMBER'S DOMICILE OR RESIDENCE.*—This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

(3) *EXCEPTION FOR PROPERTY USED IN TRADE OR BUSINESS.*—This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

(4) *RELATIONSHIP TO LAW OF STATE OF DOMICILE.*—Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

(d) *INCREASE OF TAX LIABILITY.*—A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

(e) *FEDERAL INDIAN RESERVATIONS.*—An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

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

(1) *PERSONAL PROPERTY.*—The term “personal property” means intangible and tangible property (including motor vehicles).

(2) *TAXATION.*—The term “taxation” includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember’s State of domicile or residence.

(3) *TAX JURISDICTION.*—The term “tax jurisdiction” means a State or a political subdivision of a State.

TITLE VI—ADMINISTRATIVE REMEDIES

SEC. 601. INAPPROPRIATE USE OF ACT.

If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

SEC. 602. CERTIFICATES OF SERVICE; PERSONS REPORTED MISSING.

(a) *PRIMA FACIE EVIDENCE.*—In any proceeding under this Act, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

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

(2) The time and the place the person entered military service.

(3) The person’s residence at the time the person entered military service.

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

(5) The inclusive dates of the person’s military service.

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

(7) The time and place of the person’s termination of or release from military service, or the person’s death during military service.

(b) *CERTIFICATES.*—The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer’s authority to issue it.

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

SEC. 603. INTERLOCUTORY ORDERS.

An interlocutory order issued by a court under this Act may be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

TITLE VII—FURTHER RELIEF

SEC. 701. 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 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.

SEC. 702. 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, United States Code) 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 subsection (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.

SEC. 703. 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, United States Code, 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, or the servicemember's legal representative, 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 increase in the premiums charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

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

(1) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

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

(1) *STAY OF ACTIONS.*—A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

(A) the action was commenced during the period of the suspension;

(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability of the servicemember.

(2) *DATE OF COMMENCEMENT OF ACTION.*—Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any servicemember, the action shall have been deemed to have been filed on the date on which the professional liability insurance coverage of the servicemember is reinstated under subsection (c).

(g) *EFFECT OF SUSPENSION UPON LIMITATIONS PERIOD.*—In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

(h) *DEATH DURING PERIOD OF SUSPENSION.*—If a servicemember whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember

under subsection (f)(1) shall terminate on the date of the death of such servicemember; and

(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased servicemember in the same manner and to the same extent as such carrier would be liable if the servicemember had died while covered by such insurance but before the claim was filed.

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

(1) The term “active duty” has the meaning given that term in section 101(d)(1) of title 10, United States Code.

(2) The term “profession” includes occupation.

(3) The term “professional” includes occupational.

SEC. 704. HEALTH INSURANCE REINSTATEMENT.

(a) **REINSTATEMENT OF HEALTH INSURANCE.**—A servicemember who, by reason of military service as defined in section 703(a)(1), is entitled to the rights and protections of this Act shall also be entitled upon termination or release from such service to reinstatement of any health insurance that—

(1) was in effect on the day before such service commenced; and

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

(b) **NO EXCLUSION OR WAITING PERIOD.**—The reinstatement of health care insurance coverage for the health or physical condition of a servicemember described in subsection (a), or any other person who is covered by the insurance by reason of the coverage of the servicemember, shall not be subject to an exclusion or a waiting period, if—

(1) the condition arose before or during the period of such service;

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

(3) if the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

(c) **EXCEPTIONS.**—Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

(d) **TIME FOR APPLYING FOR REINSTATEMENT.**—An application under this section must be filed not later than 120 days after the date of the termination of or release from military service.

SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

- (2) *be deemed to have acquired a residence or domicile in any other State; or*
- (3) *be deemed to have become a resident in or a resident of any other State.*

SECTION 14 OF THE MILITARY SELECTIVE SERVICE ACT

【CIVIL RELIEF

【SEC. 14. Notwithstanding the provisions of section 604 of the Act of October 17, 1940 (54 Stat. 1191), and the provisions of section 4 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), all of the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, including specifically article IV thereof, shall be applicable to all persons in the Armed Forces of the United States, including all persons inducted into the Armed Forces pursuant to this title or the Public Health Service, until such time as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, is repealed or otherwise terminated by subsequent Act of the Congress: *Provided, That, with respect to persons inducted into the armed forces while this title is in effect, wherever under any section or provision of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed while such Act is in force, such section or provision shall be deemed to continue in full force and effect so long as may be necessary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction.*】

CHAPTER 55 OF TITLE 5, UNITED STATES CODE

CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER II—WITHHOLDING PAY

* * * * *

§ 5520a. Garnishment of pay

(a) * * *

* * * * *

(k)(1) * * *

(2) Such regulations shall include provisions for—

(A) the involuntary allotment of the pay of a member of the uniformed services for indebtedness owed a third party as determined by the final judgment of a court of competent jurisdiction, and as further determined by competent military or executive authority, as appropriate, to be in compliance with the procedural requirements of the 【Soldiers' and Sailors' Civil Re-

lief Act of 1940] *Servicemembers Civil Relief Act* (50 App. U.S.C. 501 et seq.); and

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SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

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§ 5569. Benefits for captives

(a) * * *

* * * * *

(e)(1) Under regulations prescribed by the President, the benefits [provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act] *provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act*, shall be provided in the case of any individual who is a captive.

(2) In applying such Act under this subsection—

(A) the term “[person in the military service] *servicemember*” is deemed to include any such captive;

* * * * *

SECTION 1408 OF TITLE 10, UNITED STATES CODE

§ 1408. Payment of retired or retainer pay in compliance with court orders

(a) * * *

(b) EFFECTIVE SERVICE OF PROCESS.—For the purposes of this section—

(1) service of a court order is effective if—

(A) * * *

* * * * *

(D) the court order or other documents served with the court order certify that the rights of the member under the [Soldiers' and Sailors' Civil Relief Act of 1940] *Servicemembers Civil Relief Act* (50 U.S.C. App. 501 et seq.) were observed; and

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SECTION 7654 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 7654. COORDINATION OF UNITED STATES AND CERTAIN POSSESSION INDIVIDUAL INCOME TAXES.

(a) * * *

* * * * *

(d) **FEDERAL PERSONNEL.**—In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the **[Soldiers' and Sailors' Civil Relief Act]** *Servicemembers Civil Relief Act* (50 App. U.S.C. 501 et seq.), and

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SECTION 212 OF THE PUBLIC HEALTH SERVICE ACT

MILITARY BENEFITS

SEC. 212. (a) * * *

* * * * *

(e) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the **[Soldiers' and Sailors' Civil Relief Act of 1940]** *Servicemembers Civil Relief Act* (50 App. U.S.C. 501 et seq.).

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SECTION 8001 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 8001. PURPOSE.

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children in a manner that promotes control by local educational agencies with little or no Federal or State involvement, because certain activities of the Federal Government, such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under **[section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574)]** *section 511 of the Servicemembers Civil Relief Act*, place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State

standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

(1) * * *

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