
A BILL FOR AN ACT

RELATING TO CIVIL RELIEF FOR STATE MILITARY FORCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 657D, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+] CHAPTER 657D [.]~~

4 CIVIL RELIEF FOR STATE MILITARY FORCES

5 PART I. GENERAL PROVISIONS

6 ~~[+] §657D-1 [.]~~ Definitions. As used in this chapter,
7 unless the context indicates otherwise:

8 ~~["Active service" or "active duty" includes but is not~~
9 ~~limited to the period during which the persons in military~~
10 ~~service are absent from duty on account of sickness, wounds,~~
11 ~~leave, or other lawful cause.]~~

12 "Court" ~~[includes]~~ means any court or administrative agency
13 of competent jurisdiction of the State of Hawaii, including an
14 administrative agency of a county, whether or not a court or
15 administrative agency of record.

16 "Dependent", with respect to a service member, means:

17 (1) The service member's spouse;



- 1 (2) The service member's child; or
- 2 (3) An individual for whom the service member provided
- 3 more than one-half of the individual's support for one
- 4 hundred eighty days immediately preceding an
- 5 application for relief under this chapter.

6 "Judgment" means any judgment, decree, order, or ruling,
 7 final or temporary.

8 "Military service" means [~~service on state active duty in~~
 9 ~~any of the state military forces.~~] any period during which a
 10 service member is:

- 11 (1) Ordered to active state duty by the adjutant general
- 12 or the governor; or
- 13 (2) Absent from duty on account of sickness, wounds,
- 14 leave, or other lawful cause.

15 "Motor vehicle" means any self-propelled vehicle to be
 16 operated on the public highways but does not include a vehicle
 17 operated only on a rail line.

18 "Period of military service" means the period beginning on
 19 the date on which [~~the person~~] a service member enters [~~state~~
 20 ~~active duty~~] military service and ending on the date of the
 21 [~~person's~~] service member's release from [~~state active duty~~]



1 military service or death while [~~on state active duty.~~] in
2 military service.

3 "Person", when used with reference to the holder of any
4 right alleged to exist against a person in military service or
5 against a person secondarily liable under such right, includes
6 individuals, partnerships, corporations, and any other forms of
7 business association.

8 [~~"Person in the military service" and "persons in the~~
9 ~~military service of the State" include all members]~~ "Service
10 member" means a member of any of the state military forces, as
11 defined in section 124A-1.

12 [~~"State active duty" includes any period during which a~~
13 ~~person in the military service of the State is ordered to state~~
14 ~~active duty by the adjutant general or the governor.~~

15 [~~§657D-2 [] Territorial application, jurisdiction of~~
16 ~~courts, form of procedure.~~] Jurisdiction and application. (a)

17 This chapter [~~shall apply~~] applies to the United States, the
18 states [~~and~~], territories, and the District of Columbia,
19 including the political subdivisions thereof, and all
20 territories subject to the jurisdiction of the United States,
21 and to judicial or administrative proceedings commenced in any



1 court ~~[therein, and shall be enforced through the usual forms of~~
2 ~~procedure in such courts or under their rules.]~~ or agency in any
3 jurisdiction subject to this chapter. This chapter does not
4 apply to criminal proceedings.

5 (b) When under this chapter any application is required to
6 be made to a court in which no proceeding has already been
7 commenced as to the matter, that application may be made to any
8 court~~[-]~~ which would otherwise have jurisdiction over the
9 matter.

10 [+]**§657D-3**[+] **Protection of persons secondarily liable.**

11 (a) Whenever~~[-]~~ pursuant to this chapter a court stays,
12 postpones, or suspends:

- 13 (1) The enforcement of any obligation or liability;
- 14 (2) The prosecution of any suit or proceeding;
- 15 (3) The entry or enforcement of any order, writ, judgment,
- 16 or decree; or
- 17 (4) The performance of any other act~~[-]~~,

18 ~~[may be stayed, postponed, or suspended, the stay, postponement,~~
19 ~~or suspension may likewise be granted in the discretion of the~~
20 ~~court to sureties, guarantors, endorsers, accommodation makers,~~
21 ~~and others, whether]~~ the court may likewise grant such a stay,



1 postponement, or suspension to a surety, guarantor, endorser,
2 accommodation maker, comaker, or other person who is or may be
3 primarily or secondarily subject to the obligation or liability
4 [that] the performance or enforcement of which is stayed,
5 postponed, or suspended.

6 (b) When a judgment or decree is vacated or set aside in
7 whole or in part as provided in this chapter, the court [~~in its~~
8 ~~discretion~~] may likewise set aside [~~and~~] or vacate [it], as the
9 case may be, the judgment or decree as to any surety, guarantor,
10 endorser, accommodation maker, comaker, or other person[~~,~~
11 whether] who is or may be primarily or secondarily liable upon
12 the contract or liability for the enforcement of [which] the
13 judgment or decree [was entered].

14 (c) [~~Whenever by reason of the military service of a~~
15 ~~principal, the sureties of a criminal bail bond are prevented~~
16 ~~from enforcing the attendance of their principal and performing~~
17 ~~their obligation, the court shall not enforce the provisions of~~
18 ~~the bond during the military service of that principal.] A
19 court shall not enforce a bail bond during the period of
20 military service of the principal on the bond when military
21 service prevents the surety from obtaining the attendance of the~~



1 principal. The court, in accordance with principles of equity
2 and justice, may discharge [~~these sureties~~] the surety and
3 exonerate the bail [~~either~~] during or after [~~such service.~~] the
4 period of military service of the principal.

5 (d) [~~Nothing in this chapter shall~~] This chapter does not
6 prevent a waiver in writing of the [~~benefits afforded by~~]
7 protections provided under subsections (a) and (b) by any
8 surety, guarantor, endorser, accommodation maker, comaker, or
9 other person whether primarily or secondarily liable upon the
10 obligation or liability[, ~~except that no such waiver shall be~~
11 ~~valid unless it is executed as an instrument separate from the~~
12 ~~obligation or liability in respect of which it applies. No such~~
13 ~~waiver shall be valid after the beginning of the period of~~
14 ~~military service if executed by:~~

15 (1) ~~An individual who subsequent to the execution of that~~
16 ~~waiver becomes a person in military service; or~~

17 (2) ~~A dependent of the individual].~~ Any such waiver is
18 effective only if it is executed as an instrument separate from
19 the obligation or liability with respect to which it applies.

20 If a waiver under this subsection is executed by an individual
21 who after the execution of the waiver enters military service,



1 or by a dependent of an individual who after the execution of
 2 the waiver enters military service, the waiver is not valid
 3 after the beginning of the period of such military service
 4 unless the waiver was executed by such individual or dependent
 5 during the period specified in section 657D-5.

6 ~~[+]~~ §657D-4 ~~[+]~~ **Notice of benefits to persons in and persons**
 7 **entering military service.** The adjutant general shall ensure
 8 ~~[the giving of]~~ that notice of the benefits accorded by this
 9 chapter is provided in writing to service members and to persons
 10 entering ~~[the state military forces.]~~ military service.

11 ~~[+]~~ §657D-5 ~~[+]~~ **Extension of ~~[benefits]~~ rights and**
 12 **protections to persons ordered to report for ~~[state]~~ military**
 13 **service.** Any person who is ordered to report for ~~[state]~~
 14 military service shall be entitled to the ~~[relief and benefits]~~
 15 rights and protections provided to service members under this
 16 part and parts II and III during~~[-~~

- 17 ~~(1) The period of actual military service; and~~
- 18 ~~(2) The~~ the period beginning on the date of receipt of
- 19 the order and ending on the date upon which the member reports
- 20 for military service, or the date on which the order is revoked,
- 21 whichever is earlier.



1 ~~[f] §657D-6 [f] Effect on rights, remedies, etc., pursuant to~~
2 ~~written agreements entered after commencement of military~~
3 ~~service.]~~ Waiver of rights pursuant to written agreement.

4 ~~[Nothing in this chapter shall prevent.]~~ (a) A service member
5 may waive any of the rights and protections provided by this
6 chapter. Any such waiver that applies to an action listed in
7 subsection (b) is effective only if it is in writing, is
8 executed as an instrument separate from the obligation or
9 liability to which it applies, and is executed during or after
10 the service member's period of military service. The written
11 agreement shall specify the legal instrument to which the waiver
12 applies and, if the service member is not a party to that
13 instrument, the service member concerned.

14 (b) The requirement in subsection (a) for a written waiver
15 applies to the following:

16 (1) The modification, termination, or cancellation of any
17 contract, lease, or bailment or any obligation secured
18 by mortgage, trust, deed, lien, or other security in
19 the nature of a mortgage; or

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



1 security for any obligation or which has been
2 purchased or received under a contract, lease, or
3 bailment [~~+~~
4 ~~pursuant to a written agreement of the parties thereto~~
5 ~~(including the person in military service, whether or not the~~
6 ~~person is a party to the obligation), or their assignees,~~
7 ~~executed during or after the period of military service of that~~
8 ~~person].~~

9 (c) Any waiver in writing of a right or protection
10 provided by this chapter that applies to a contract, lease, or
11 similar legal instrument shall be in at least twelve-point type.

12 (d) For the purposes of this section:

13 (1) A person to whom section 657D-5 applies shall be
14 considered to be a service member; and

15 (2) The period with respect to such a person specified in
16 section 657D-5 shall be considered to be a period of
17 military service.

18 ~~[+] §657D-7 [+] Exercise of rights not to affect [lenders,~~
19 ~~credit, or insurers.] certain future financial transactions.~~

20 Application by a [~~person in military service~~] service member

21 for, or receipt by a [~~person in military service~~] service member



1 of, a stay, postponement, or suspension pursuant to this chapter
 2 in the payment of any tax, fine, penalty, insurance premium, or
 3 other civil obligation or liability of that ~~[person]~~ service
 4 member shall not by itself, without regard to other
 5 considerations, provide the basis for any of the following:

6 (1) A determination by any lender or other person that the
 7 ~~[person in military service]~~ service member is unable
 8 to pay the civil obligation or liability in accordance
 9 with its terms;

10 (2) With respect to a credit transaction between a
 11 creditor and the ~~[person in military service:]~~ service
 12 member:

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

14 (B) A change by the creditor in the terms of an
 15 existing credit arrangement; or

16 (C) A refusal by the creditor to grant credit to
 17 ~~[such person]~~ the service member in substantially
 18 the amount or on substantially the terms
 19 requested;

20 (3) An adverse report on the creditworthiness of the
 21 ~~[person in military service]~~ service member by or to



1 any person [~~or entity~~] engaged in the practice of
2 assembling or evaluating consumer credit information;
3 [~~or~~]

4 (4) A refusal by an insurer to insure the [~~person-~~]
5 service member;

6 (5) An annotation in a service member's record by a
7 creditor or a person engaged in the practice of
8 assembling or evaluating consumer credit information,
9 identifying the service member as a member of the
10 state military forces; or

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

13 §657D-A Legal representatives. (a) A legal
14 representative of a service member for purposes of this chapter
15 may be either of the following:

16 (1) An attorney acting on the behalf of a service member;
17 or

18 (2) An individual possessing a power of attorney for a
19 service member.



1 (b) Whenever the term "service member" is used in this
2 chapter, such term shall be treated as including a reference to
3 a legal representative of the service member.

4 §657D-B Information for members of the state military
5 forces and their dependents on rights and protections under this
6 chapter. (a) The adjutant general shall provide to each
7 service member under the jurisdiction of the adjutant general
8 pertinent information on the rights and protections available to
9 service members and their dependents under this chapter.

10 (b) The information required to be provided under
11 subsection (a) to a service member shall be provided at the
12 following times:

13 (1) During the initial orientation training of the service
14 member; and

15 (2) At such other times as the adjutant general considers
16 appropriate.

17 (c) The adjutant general may provide to the adult
18 dependents of service members under the jurisdiction of the
19 adjutant general pertinent information on the rights and
20 protections available to service members and their dependents
21 under this chapter.



PART II. GENERAL RELIEF

1
2 ~~[†] §657D-11 [‡] Default judgments, affidavits, bonds,~~
3 ~~attorneys for persons in service.]~~ Protection of service
4 members against default judgments. (a) ~~[In a default of any~~
5 ~~appearance by the defendant in any action or proceeding~~
6 ~~commenced in any court, no judgment shall be entered without~~
7 ~~first securing a court order directing that entry, and no order~~
8 ~~shall be made if the defendant is in the military service until~~
9 ~~after the court has appointed an attorney to represent the~~
10 ~~defendant. The court, on application, shall make such an~~
11 ~~appointment. If it appears that the defendant is in the~~
12 ~~military service, the court may require the plaintiff to file a~~
13 ~~bond approved by the court before judgment is entered. The bond~~
14 ~~shall be to indemnify the defendant in military service against~~
15 ~~any loss or damage that the defendant may suffer from any~~
16 ~~judgment should the judgment be thereafter set aside in whole or~~
17 ~~in part. The court may make other and further orders or enter a~~
18 ~~judgment that in its opinion may be necessary to protect the~~
19 ~~rights of the defendant under this chapter.]~~ This section
20 applies to any civil action or proceeding, including any child



1 custody proceeding, in which the defendant does not make an
2 appearance.

3 (b) In any action or proceeding covered by this section,
4 the court, before entering judgment for the plaintiff, shall
5 require the plaintiff to file with the court an affidavit:

6 (1) Stating whether or not the defendant is in military
7 service and showing necessary facts to support the
8 affidavit; or

9 (2) If the plaintiff is unable to determine whether or not
10 the defendant is in military service, stating that the
11 plaintiff is unable to determine whether or not the
12 defendant is in military service.

13 If in an action covered by this section it appears that the
14 defendant is in military service, the court shall not enter a
15 judgment until after the court appoints an attorney to represent
16 the defendant. If an attorney appointed under this subsection
17 to represent a service member cannot locate the service member,
18 actions by the attorney in the case shall not waive any defense
19 of the service member or otherwise bind the service member. If,
20 based upon the affidavits filed in such an action, the court is
21 unable to determine whether the defendant is in military



1 service, the court, before entering judgment, may require the
2 plaintiff to file a bond in an amount approved by the court.
3 If, the defendant is later found to be in military service, the
4 bond shall be available to indemnify the defendant against any
5 loss or damage the defendant may suffer by reason of any
6 judgment for the plaintiff against the defendant, should the
7 judgment be set aside in whole or in part. The bond shall
8 remain in effect until expiration of the time for appeal and
9 setting aside of a judgment under state law or rule or under any
10 applicable county ordinance. The court may issue such orders or
11 enter such judgments as the court determines necessary to
12 protect the rights of the defendant under this chapter. The
13 requirement for an affidavit under this subsection may be
14 satisfied by a statement, declaration, verification, or
15 certificate, in writing, subscribed and certified or declared to
16 be true under penalty of perjury.

17 [~~(b)~~] (c) Any person who makes or uses any affidavit,
18 statement, declaration, verification, or certificate [~~claiming~~
19 ~~that the defendant is not in military service,~~] required under
20 subsection (b) knowing it to be false, shall be punished as
21 provided in chapter 710, part V.



1 ~~[(c) In any action or proceeding in which a person in~~
2 ~~military service is a party and does not personally appear~~
3 ~~therein or is not represented by an authorized attorney, the~~
4 ~~court may appoint an attorney to represent the person. In that~~
5 ~~case, a bond may be required and an order made to protect the~~
6 ~~rights of the person. But no attorney appointed under this~~
7 ~~chapter to protect a person in military service shall have power~~
8 ~~to waive any right of that person or bind that person.~~

9 ~~(d) If any judgment shall be rendered in any action or~~
10 ~~proceeding governed by this section against any person in~~
11 ~~military service during the period of that service or within~~
12 ~~sixty days thereafter, and it appears that the person in~~
13 ~~military service was prejudiced by reason of the person's~~
14 ~~military service in making the person's defense thereto, then~~
15 ~~the judgment, upon application made by the person or the~~
16 ~~person's legal representative, not later than sixty days after~~
17 ~~the termination of the military service, may be opened by the~~
18 ~~court rendering the same and the defendant or the defendant's~~
19 ~~legal representative allowed to defend; provided it is made to~~
20 ~~appear that the defendant has a meritorious or legal defense to~~
21 ~~the action or some part thereof.~~



1 ~~(e) Vacating, setting aside, or reversing any judgment~~
2 ~~because of any of the provisions of this chapter shall not~~
3 ~~impair any right or title acquired by any bona fide purchaser~~
4 ~~for value under the judgment.]~~

5 (d) In an action covered by this section in which the
6 defendant is in military service, the court shall grant a stay
7 of proceedings for a minimum period of ninety days upon
8 application of counsel, or on the court's own motion, if the
9 court determines that:

10 (1) There may be a defense to the action and a defense
11 cannot be presented without the presence of the
12 defendant; or

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

16 (e) A stay of proceedings under subsection (d) shall not
17 be controlled by procedures or requirements under section 657D-
18 12.

19 (f) If a service member who is a defendant in an action
20 covered by this section receives actual notice of the action,



1 the service member may request a stay of proceedings under
2 section 657D-12.

3 (g) If a default judgment is entered in an action covered
4 by this section against a service member during the service
5 member's period of military service or within sixty days after
6 termination of or release from such military service, the court
7 entering the judgment shall, upon application by or on behalf of
8 the service member, reopen the judgment for the purpose of
9 allowing the service member to defend the action if it appears
10 that the service member:

11 (1) Was materially affected by reason of that military
12 service in making a defense to the action; and

13 (2) Has a meritorious or legal defense to the action or
14 some part of it.

15 An application under this subsection shall be filed not later
16 than ninety days after the date of the termination of or release
17 from military service.

18 (h) If a court vacates, sets aside, or reverses a default
19 judgment against a service member and the vacating, setting
20 aside, or reversing is because of a provision of this chapter,



1 that action shall not impair a right or title acquired by a bona
2 fide purchaser for value under the default judgment.

3 ~~[+] §657D-12 [+] Stay of proceedings [where military service~~
4 ~~affects conduct thereof. In any in any court in which a person~~
5 ~~in military service is involved, either as plaintiff or~~
6 ~~defendant, during the period of that service or within sixty~~
7 ~~days thereafter, the court in its discretion, on application to~~
8 ~~it by the person or a person on such person's behalf, shall stay~~
9 ~~the action or proceeding at any stage as provided in this~~
10 ~~chapter. No stay shall issue if, in the opinion of the court,~~
11 ~~the ability of the plaintiff to prosecute the action or the~~
12 ~~defendant to conduct the defense is not materially affected by~~
13 ~~reason of the person's military service.] when a service member~~
14 has notice. (a) This section applies to any civil action or
15 proceeding, including any child custody proceeding, in which the
16 plaintiff or defendant at the time of filing an application
17 under this section:

- 18 (1) Is in military service or is within ninety days after
19 termination of or release from military service; and
20 (2) Has received notice of the action or proceeding.



1 (b) At any stage before final judgment in a civil action
2 or proceeding in which a service member described in subsection
3 (a) is a party, the court may on its own motion and shall upon
4 application by the service member stay the action for a period
5 of not less than ninety days; provided that an application for a
6 stay shall include:

7 (1) A letter or other communication setting forth facts
8 stating the manner in which current military duty
9 requirements materially affect the service member's
10 ability to appear and stating a date when the service
11 member will be available to appear; and

12 (2) A letter or other communication from the service
13 member's commanding officer stating that the service
14 member's current military duty prevents appearance and
15 that military leave is not authorized for the service
16 member at the time of the letter or communication.

17 (c) An application for a stay under this section does not
18 constitute an appearance for jurisdictional purposes and does
19 not constitute a waiver of any substantive or procedural
20 defense, including a defense relating to lack of personal
21 jurisdiction.



1 (d) A service member who is granted a stay of a civil
2 action or proceeding under subsection (b) may apply for an
3 additional stay based on continuing material effect of military
4 duty on the service member's ability to appear. Such an
5 application may be made by the service member at the time of the
6 initial application under subsection (b) or when it appears that
7 the service member is unavailable to prosecute or defend the
8 action. The same information required under subsection (b)
9 shall be included in an application under this subsection. If
10 the court refuses to grant an additional stay of proceedings
11 under this subsection, the court shall appoint counsel to
12 represent the service member in the action or proceeding.

13 (e) A service member who applies for a stay under this
14 section and is unsuccessful may not seek the protections
15 afforded by section 657D-11.

16 (f) The protections of this section do not apply to
17 section 657D-21.

18 ~~[f]~~ §657D-13 ~~[+]~~ **Fines and penalties on contracts.** When an
19 action for compliance with the terms of any contract is stayed
20 pursuant to this chapter, no fine or penalty shall accrue ~~[by~~
21 ~~reason of]~~ for failure to comply with the terms of the contract



1 during the period of the stay. In any case where a ~~[person]~~
 2 service member fails to perform any obligation arising under
 3 contract and a fine or penalty for the nonperformance is
 4 incurred, a court may ~~[relieve the enforcement of]~~ reduce or
 5 waive the fine or penalty ~~[on such terms as may be just if the~~
 6 ~~person]~~ if:

7 (1) The service member was in the military service when
 8 the fine or penalty was incurred; and ~~[that by reason~~
 9 ~~of that service the ability of the person to pay or~~
 10 ~~perform was thereby materially impaired.]~~

11 (2) The ability of the service member to perform the
 12 obligation was materially affected by such military
 13 service.

14 ~~[[§657D-14] Restrictions. (a) In any action or~~
 15 ~~proceeding commenced in any court, if an insurance policy was~~
 16 ~~assigned prior to the person's period of military service to~~
 17 ~~secure the payment of any obligation of that person, no assignee~~
 18 ~~of the policy (except the insurer in connection with a policy~~
 19 ~~loan), during the period of military service of the insured or~~
 20 ~~within sixty days thereafter, except upon the consent in writing~~
 21 ~~of the insured made during the period or when the premiums~~



1 ~~thereon are due and unpaid or upon the death of the insured,~~
2 ~~shall exercise any right or option by virtue of the assignment~~
3 ~~unless upon leave of court granted upon an application made by~~
4 ~~the assignee. The court may refuse to grant leave unless the~~
5 ~~court finds that the ability of the obligor to comply with the~~
6 ~~terms of the obligation is not materially affected by reason of~~
7 ~~the obligor's military service. For the purpose of this~~
8 ~~subsection, premiums which are guaranteed under part IV shall~~
9 ~~not be deemed to be due and unpaid.~~

10 ~~(b) No person shall exercise any right to foreclose or~~
11 ~~enforce any lien for storage of household goods, furniture, or~~
12 ~~personal effects of a person in military service during the~~
13 ~~person's period of military service and for sixty days~~
14 ~~thereafter except upon an order previously granted by a court~~
15 ~~upon application and a return made and approved by the court.~~
16 ~~The court, after a hearing on an application by the person in~~
17 ~~military service or some person on behalf of the person in~~
18 ~~military service, unless in the opinion of the court the ability~~
19 ~~of the defendant to pay the storage charges due is not~~
20 ~~materially affected by reason of the person's military service,~~
21 ~~may find against a person in military service.~~



1 ~~(e) Before or during the period of that service, or within~~
2 ~~sixty days thereafter, the court, on its own motion or on~~
3 ~~application to it by such person or a person on such person's~~
4 ~~behalf, unless in the opinion of the court the ability of the~~
5 ~~defendant to comply with the judgment or order entered or sought~~
6 ~~is not materially affected by reason of the defendant's service~~
7 ~~shall:~~

8 ~~(1) Stay the execution of any judgment or order entered~~
9 ~~against this person, as provided in this chapter; or~~

10 ~~(2) Vacate or stay any attachment or garnishment of~~
11 ~~property, money, or debts in the hands of another,~~
12 ~~whether before or after judgment as provided in this~~
13 ~~chapter.~~

14 ~~[] §657D-15 []~~ Duration and term of stays; co-defendants
15 not in service. (a) A stay of any action, proceeding,
16 attachment, or execution, ~~[ordered by any court under this~~
17 ~~chapter, shall be]~~ made pursuant to the provisions of this
18 chapter by a court may be ordered for the period of military
19 service and ~~[sixty]~~ ninety days thereafter or any part of that
20 period~~[, and may be subject to such terms as may be just,~~
21 ~~including payment in installments of specified amounts and at~~



1 ~~such times as the court may fix].~~ The court may set the terms
2 and amounts for such installment payments as is considered
3 reasonable by the court.

4 (b) ~~[Where the person in military service]~~ If the service
5 member is a co-defendant with others [7] who are not in military
6 service and who are not entitled to the relief and protections
7 provided under this chapter, the plaintiff may proceed against
8 the ~~[others by leave of the court.]~~ other defendants with the
9 approval of the court.

10 (c) This section does not apply to sections 657D-12 and
11 657D-61.

12 ~~[§] §657D-16 [§]—Statutes]~~ Statute of limitations [as
13 affected by period of service]. (a) The period of a service
14 member's military service [shall] may not be included in
15 computing any period limited by law, regulation, or order for
16 the bringing of any action or proceeding in any court, or
17 ~~[before a state or county agency]~~ in any board, bureau,
18 commission, department, or other agency of the State or the
19 counties by or against [any person in military service] the
20 service member or [by or against] the [person's] service
21 member's heirs, [personal representatives,] executors,

1 administrators, or assigns [~~whether the cause of action or~~
2 ~~right or privilege to institute that action or proceeding~~
3 ~~accrued prior to or during the period of the military person's~~
4 ~~service~~].

5 (b) [~~No part of the~~] A period of military service [~~that~~
6 ~~occurs after July 1, 1994, shall~~] may not be included in
7 computing any period [~~now or hereafter~~] provided by any law for
8 the redemption of real property sold or forfeited to enforce any
9 obligation, tax, or assessment.

10 (c) This section shall not apply to any period of
11 limitation prescribed by or under title 14.

12 [~~+~~] §657D-17 [~~+~~] Maximum rate of interest [~~-~~] on debts
13 incurred before military service. (a) [~~No~~] An obligation or
14 liability bearing interest at a rate in excess of six per cent a
15 year incurred by a [~~person in military service~~] service member,
16 or by the service member and the service member's spouse
17 jointly, before [~~that person's entry into that service, during~~
18 ~~any part of the period of military service,~~] the service member
19 enters military service shall not bear interest at a rate in
20 excess of six per cent [~~a year unless,~~]:



1 (1) During the period of military service and one year
2 thereafter, in the case of an obligation or liability
3 consisting of a mortgage, trust deed, or other
4 security in the nature of a mortgage; or

5 (2) During the period of military service, in the case of
6 any other obligation or liability.

7 Interest at a rate in excess of six per cent a year that would
8 otherwise be incurred but for the prohibition in this subsection
9 is forgiven. The amount of any periodic payment due from a
10 service member under the terms of the instrument that created an
11 obligation or liability covered by this section shall be reduced
12 by the amount of the interest forgiven under this subsection
13 that is allocable to the period for which such payment is made.

14 (b) In order for an obligation or liability of a service
15 member to be subject to the interest rate limitation in
16 subsection (a), the service member shall provide to the creditor
17 written notice and a copy of the military orders calling the
18 service member to military service and any orders further
19 extending military service, not later than one hundred eighty
20 days after the date of the service member's termination or
21 release from military service. Upon receipt of written notice



1 and a copy of orders calling a service member to military
2 service, the creditor shall treat the debt in accordance with
3 subsection (a), effective as of the date on which the service
4 member is called to military service.

5 (c) A court may grant a creditor relief from the
6 limitations of this section if, in the opinion of the court,
7 ~~[upon application thereto by the obligee,]~~ the ability of the
8 ~~[person in military service]~~ service member to pay interest upon
9 the obligation or liability at a rate in excess of six per cent
10 per year is not materially affected by reason of ~~[that service,~~
11 ~~in which case the court may make such order as it deems just.]~~
12 the service member's military service.

13 (d) As used in this section [the term "interest"]:
14 "Interest" includes service charges, renewal charges, fees,
15 or other charges, except bona fide insurance, as to the
16 obligation or liability.

17 "Obligation or liability" includes an obligation or
18 liability consisting of a mortgage, trust deed, or other
19 security in the nature of a mortgage.

20 (e) Whoever knowingly violates subsection (a) shall be
21 guilty of a misdemeanor.



1 ~~[§] §657D-18 [§]~~ Limitation prescribed by state tax laws as
2 affected by period of service. Section 657D-16 ~~[shall]~~ does not
3 apply to any period of limitation in state tax laws set forth in
4 title 14.

5 §657D-C Child custody protection. (a) If a court renders
6 a temporary order for custodial responsibility for a child based
7 solely on a deployment or anticipated deployment of a parent who
8 is a service member, the court shall require that the temporary
9 order shall expire not later than the period justified by the
10 deployment of the service member.

11 (b) If a motion or a petition is filed seeking a permanent
12 order to modify the custody of the child of a service member, no
13 court shall consider the absence of the service member by reason
14 of deployment, or the possibility of deployment, as the sole
15 factor in determining the best interest of the child.

16 (c) Nothing in this section shall create a federal right
17 of action or otherwise give rise to federal jurisdiction or
18 create a right of removal.

19 (d) In any case where state law applicable to a child
20 custody proceeding involving a temporary order as contemplated
21 in this section provides a higher standard of protection to the



1 rights of the parent who is a deploying service member than the
2 rights provided under this section with respect to such
3 temporary order, the appropriate court shall apply the higher
4 state standard.

5 (e) As used in this section, the term "deployment" means
6 the movement or mobilization of a service member to a location
7 for a period of longer than sixty days and not longer than five
8 hundred forty days pursuant to temporary or permanent official
9 orders:

- 10 (1) That are designated as unaccompanied;
11 (2) For which dependent travel is not authorized; or
12 (3) That otherwise do not permit the movement of family
13 members to that location.

14 §657D-D Enforcement of storage liens. (a) A person
15 holding a lien on the property or effects of a service member
16 shall not, during any period of military service of the service
17 member and for ninety days thereafter, foreclose or enforce any
18 lien on such property or effects without a court order granted
19 before foreclosure or enforcement. For the purposes of this
20 section, "lien" includes a lien for storage, repair, or cleaning



1 of the property or effects of a service member or a lien on such
2 property or effects for any other reason.

3 (b) In a proceeding to foreclose or enforce a lien subject
4 to this section, the court may on its own motion and shall if
5 requested by a service member whose ability to comply with the
6 obligation resulting in the proceeding is materially affected by
7 military service:

8 (1) Stay the proceeding for a period of time as justice
9 and equity require; or

10 (2) Adjust the obligation to preserve the interests of all
11 parties.

12 (c) The provisions of this subsection do not affect the
13 scope of section 657D-23.

14 (d) A person who knowingly takes or attempts to take an
15 action contrary to this section shall be guilty of a
16 misdemeanor.

17 **§657D-E Stay or vacation of execution of judgment**
18 **attachments and garnishments.** (a) If a service member, in the
19 opinion of the court, is materially affected by reason of
20 military service in complying with a court judgment or order,



1 the court may on its own motion and shall on application by the
2 service member:

3 (1) Stay the execution of any judgment or order entered
4 against the service member; and

5 (2) Vacate or stay any attachment or garnishment of
6 property, money, or debts in the possession of the
7 service member or a third party, whether before or
8 after judgment.

9 (b) This section applies to an action or proceeding
10 commenced in a court against a service member before or during
11 the period of military service or within ninety days after such
12 service terminates.

13 PART III. RENT, INSTALLMENT CONTRACTS, MORTGAGES,
14 LIENS, ASSIGNMENTS, LEASES, TELEPHONE SERVICE CONTRACTS

15 [~~+~~] §657D-21 [~~+~~] Eviction [~~or~~] and distress [~~during military~~
16 ~~service; stay; penalty for noncompliance; allotment of pay for~~
17 ~~payment.~~ (a) ~~No eviction or distress shall be made during the~~
18 ~~period of military service for any premises occupied chiefly for~~
19 ~~dwelling purposes by the spouse or other dependents of a person~~
20 ~~in military service, except upon leave of court granted upon~~
21 ~~application or granted in an action or proceeding on the right~~



1 ~~of possession.]~~. (a) Except by court order, a landlord or
2 another person with paramount title shall not:

3 (1) Evict a service member, or the dependents of a service
4 member, during a period of military service of the
5 service member, from premises:

6 (A) That are occupied or intended to be occupied
7 primarily as a residence; and

8 (B) For which the monthly rent does not exceed
9 \$ _____, as adjusted under this section for
10 years after 2018; or

11 (2) Subject such premises to a distress during the period
12 of military service.

13 (b) For calendar years beginning with 2019, the amount in
14 effect under paragraph (a) (1) (B) shall be increased by the
15 housing price inflation adjustment for the calendar year
16 involved.

17 For purposes of this section:

18 (1) The housing price inflation adjustment for any
19 calendar year is the percentage change, if any, by
20 which the CPI housing component for November of the



1 preceding calendar year, exceeds the CPI housing
2 component for November of 2018; and
3 (2) The term "CPI housing component" means the index
4 published by the Bureau of Labor Statistics of the
5 Department of Labor known as the Consumer Price Index
6 for All Urban Consumers, Rent of Primary Residence,
7 U.S. City Average.

8 ~~[(b) On any such application or in any such action the~~
9 ~~court may, in its discretion and on its own motion, and shall,~~
10 ~~upon application, unless in the opinion of the court the ability~~
11 ~~of the tenant to pay the agreed rent is not materially affected~~
12 ~~by reason of such military service, stay the proceedings for not~~
13 ~~longer than three months, or it may make such other order as may~~
14 ~~be just. Where the stay is granted or other order is made by~~
15 ~~the court, the owner of the premises shall be entitled, upon~~
16 ~~application therefor, to relief in respect of the premises~~
17 ~~similar to that granted persons in military service in sections~~
18 ~~657D-22 and 657D-23 to such extent and for such period as may~~
19 ~~appear to the court to be just.]~~

20 (c) Upon an application for eviction or distress with
21 respect to premises covered by this section, the court may on



1 its own motion and shall if a request is made by or on behalf of
2 a service member whose ability to pay the agreed rent is
3 materially affected by military service:

4 (1) Stay the proceedings for a period of ninety days,
5 unless in the opinion of the court, justice and equity
6 require a longer or shorter period of time; or

7 (2) Adjust the obligation under the lease to preserve the
8 interests of all parties.

9 If a stay is granted under this section, the court may grant to
10 the landlord or other person with paramount title such relief as
11 equity may require.

12 [~~e~~] (d) Any person who [~~shall~~] knowingly [~~take~~] takes part
13 in any eviction or distress otherwise than as provided in
14 subsection (a), or who knowingly attempts so to do, shall be
15 guilty of a misdemeanor.

16 [~~(d) The adjutant general is empowered, subject to rules~~
17 ~~adopted under chapter 91, to order an allotment of the pay of a~~
18 ~~person in military service in reasonable proportion to discharge~~
19 ~~the rent of premises occupied for dwelling purposes by the~~
20 ~~spouse or other dependents of the person.]~~



1 (e) To the extent required by a court order related to
 2 property which is the subject of a court action under this
 3 section, the adjutant general shall make an allotment from the
 4 pay of a service member to satisfy the terms of such order,
 5 except that any such allotment shall be subject to rules adopted
 6 under chapter 91 establishing the maximum amount of pay of
 7 service members that may be allotted under this subsection.

8 (f) Section 657D-12 is not applicable to this section.

9 [~~+~~] ~~§657D-22~~ [~~]-~~ ~~Installment~~ Protection under installment
 10 contracts for purchase [~~of property.~~] or lease. (a) [~~No person~~
 11 ~~who has received, or whose assignor has received, under a~~
 12 ~~contract~~] After a service member enters military service, a
 13 contract by the service member for [~~the~~]:

14 (1) The purchase of real or personal property, including a
 15 motor vehicle; or [~~of~~]

16 (2) The lease or bailment [~~with a view to purchase~~] of
 17 that property,

18 [~~a deposit or installment of the purchase price, or a deposit or~~
 19 ~~installment under the contract, lease, or bailment, from a~~
 20 ~~person or from the assignor of a person who, after the date of~~
 21 ~~payment of such deposit or installment, has entered military~~



1 ~~service, shall exercise any right or option under the contract~~
2 ~~to rescind or terminate the contract or resume possession of the~~
3 ~~property for nonpayment of any installment due or for any other~~
4 ~~breach of the terms occurring prior to or during the period of~~
5 ~~such military service, except by action in a court of competent~~
6 ~~jurisdiction.]~~

7 may not be rescinded or terminated for a breach of terms of the
8 contract occurring before or during the service member's
9 military service, nor may the property be repossessed for such
10 breach without court order. This section applies only to a
11 contract for which a deposit or installment has been paid by the
12 service member before the service member enters military
13 service.

14 (b) Any person who knowingly resumes possession of
15 property [~~that is the subject of this section otherwise than as~~
16 ~~provided]~~ in violation of subsection (a) or in violation of
17 section 657D-6 or who knowingly attempts so to do, shall be
18 guilty of a misdemeanor.

19 (c) [~~Upon the]~~ In a hearing [~~of that action]~~ based on this
20 section, the court [~~may order~~]:



1 (1) May order the repayment of prior installments or
2 deposits or any part thereof, as a condition of
3 terminating the contract and resuming possession of
4 the property [~~, or on~~];

5 (2) May on its own motion [~~or on application to it by the~~
6 ~~person in military service or a person on behalf of~~
7 ~~such person, shall order a stay of proceedings as~~
8 ~~provided in this chapter unless, in the opinion of the~~
9 ~~court, the ability of the defendant to comply with the~~
10 ~~terms of the contract is not materially affected by~~
11 ~~reason of that service, or it may make]~~ and shall on
12 application by a service member when the service
13 member's ability to comply with the contract is
14 materially affected by military service, stay the
15 proceedings for a period of time as, in the opinion of
16 the court, justice and equity require; or

17 (3) May make such other disposition of the case as may be
18 equitable to preserve the interests of all parties.

19 [~~+~~] §657D-23 [~~+~~] Mortgages [~~,~~] and trust deeds [~~, and other~~
20 ~~securities~~]. (a) This section applies solely to obligations
21 secured by mortgage, trust deed, or other security in the nature

1 of a mortgage upon real or personal property owned by a ~~[person~~
2 ~~in military service]~~ service member originating before ~~[or at~~
3 ~~the commencement of]~~ the period of the service member's military
4 service and ~~[still owned by the person.]~~ for which the service
5 member is still obligated.

6 (b) In any ~~[proceeding commenced in any court]~~ action
7 filed during ~~[the]~~ or within one year after a service member's
8 period of military service to enforce ~~[that]~~ an obligation
9 ~~[arising out of nonpayment of any sum due or out of any other~~
10 ~~breach of the terms occurring prior to or during the period of~~
11 ~~the person's military service,]~~ described in subsection (a), the
12 court may, after hearing and on its own motion, ~~[or]~~ and shall,
13 on application to it by the ~~[person in military service or some~~
14 ~~person on behalf of the person in military service, unless in~~
15 ~~the opinion of the court the]~~ service member, when the service
16 member's ability ~~[of the defendant]~~ to comply with the terms of
17 the obligation is ~~[not]~~ materially affected by ~~[reason of the~~
18 ~~defendant's]~~ military service:

19 (1) Stay the proceedings ~~[as provided in this chapter,]~~
20 for a period of time as justice and equity require; or



- 1 (2) ~~[Make such other disposition of the case as may be~~
2 ~~equitable to conserve]~~ Adjust the obligation to
3 preserve the interests of all parties.
- 4 (c) ~~[No sale, foreclosure, or seizure of property for~~
5 ~~nonpayment of any sum due under any such obligation, or for any~~
6 ~~other breach of the terms thereof, whether under a power of~~
7 ~~sale, under a judgment entered upon warrant of attorney to~~
8 ~~confess judgment contained therein,]~~ A sale, foreclosure, or
9 seizure of property for a breach of an obligation described in
10 subsection (a) shall not be valid if made during or within one
11 year after the period of the service member's military service
12 ~~[or within sixty days thereafter,]~~ except:
- 13 (1) Upon a court order granted before such sale,
14 foreclosure, or seizure with a return made and
15 approved by the court; or
- 16 (2) If made pursuant to an agreement as provided in
17 section 657D-6 ~~[, unless upon an order previously~~
18 ~~granted by the court and a return thereto made and~~
19 ~~approved by the court].~~
- 20 (d) Any person who knowingly makes ~~[, attempts,]~~ or causes
21 to be made any ~~[such]~~ sale, foreclosure, or seizure of



1 property ~~[,]~~ that is prohibited by subsection (c), or who
2 knowingly attempts to do so, shall be guilty of a misdemeanor.

3 ~~[+] §657D-24 [+] Settlement of [eases involving stayed~~
4 ~~proceedings to foreclose mortgage on, resume possession of, or~~
5 ~~terminate contract for purchase of,]~~ stayed cases relating to
6 personal property. (a) Where a proceeding to foreclose a
7 mortgage upon or to ~~[resume possession of]~~ repossess personal
8 property, or to rescind or terminate a contract for ~~[its]~~ the
9 purchase ~~[,]~~ of personal property, has been stayed as provided in
10 this chapter, the court ~~[, unless in its opinion an undue~~
11 ~~hardship would result to the dependents of the person in the~~
12 ~~military service,]~~ may appoint three disinterested parties to
13 appraise the property ~~[and, based upon the report of the~~
14 ~~appraisers, order that sum, if any, as may be just, paid to the~~
15 ~~person in military service or the person's dependent, as the~~
16 ~~ease may be,].~~

17 (b) Based on the appraisal, and if undue hardship to the
18 service member's dependents will not result, the court may order
19 that the amount of the service member's equity in the property
20 be paid to the service member or the service member's



1 dependents as a condition of foreclosing the mortgage, [~~resuming~~
2 ~~possession of~~] repossessing the property, or rescinding or
3 terminating the contract.

4 [~~+~~] §657D-25 [~~+~~] Termination of residential or motor vehicle
5 leases [~~by lessees~~]. (a) The lessee on a lease described in
6 subsection (b) may, at the lessee's option, terminate the lease
7 at any time after:

- 8 (1) The lessee's entry into military service; or
- 9 (2) The date of the lessee's military orders described in
10 subsection (b), as the case may be.

11 A lessee's termination of a lease pursuant to this section shall
12 terminate any obligation a dependent of the lessee may have
13 under the lease.

14 (b) This section applies to [~~any~~] the following leases:

- 15 (1) A lease of premises occupied or intended to be
16 occupied by a service member or a service member's
17 dependents for [a dwelling, or for] residential,
18 professional, business, agricultural, or similar
19 purposes in any case in which:

20 [~~+~~] (A) The lease was executed by or on the behalf of a
21 person who, after the execution of the lease [~~+~~



1 entered] and during the term of the lease enters
2 military service; [and

3 ~~(2) The leased premises have been occupied for one or more~~
4 ~~of these purposes by the person or by the person and~~
5 ~~the person's dependents.] or~~

6 (B) The service member, while in military service,
7 executes the lease and thereafter receives
8 military orders for permanent change of station
9 or to deploy with a military unit or as an
10 individual in support of a military operation for
11 a period of not less than ninety days; or

12 (2) A lease of a motor vehicle used or intended to be used
13 by a service member or a service member's dependents
14 for personal or business transportation if:

15 (A) The lease is executed by or on behalf of a person
16 who thereafter and during the term of the lease
17 enters military service under a call or order
18 specifying a period of not less than one hundred
19 eighty days or who enters military service under
20 a call or order specifying a period of one
21 hundred eighty days or less and subsequently,



1 without a break in service, receives orders
2 extending the period of military service to a
3 period of not less than one hundred eighty days;
4 or

5 (B) The service member, while in military service,
6 executes the lease and thereafter receives
7 military orders:

8 (i) For a change of permanent station from a
9 location in the State to any location
10 outside the State; or

11 (ii) To deploy with a military unit or as an
12 individual in support of a military
13 operation for a period of not less than one
14 hundred eighty days.

15 ~~[(b) Any]~~ (c) Termination of a lease described in
16 ~~subsection (a) [may be terminated by notice in writing delivered~~
17 ~~to the lessor or the lessor's grantee or to one of their agents~~
18 ~~by the lessee at any time following the date of the beginning of~~
19 ~~the lessor's or the lessor's grantee's period of military~~
20 ~~service.] shall be made by:~~



1 (1) Delivery by the lessee of written notice of such
2 termination and a copy of the service member's
3 military orders to the lessor or the lessor's grantee
4 or to the lessor's agent or the agent's grantee; and
5 (2) In the case of a lease of a motor vehicle, return of
6 the motor vehicle by the lessee to the lessor or the
7 lessor's grantee or to the lessor's agent or the
8 agent's grantee not later than fifteen days after the
9 date of the delivery of written notice under paragraph
10 (1).

11 Delivery of the notice under paragraph (1) may be ~~made~~
12 accomplished by ~~mailing it. Termination~~ hand delivery;
13 private business carrier; or mailing it in a sealed envelope,
14 postage prepaid, return receipt requested, and addressed to the
15 lessor or lessor's grantee or to the lessor's agent or the
16 agent's grantee.

17 (d) In the case of any such lease in subsection (b) (1)
18 providing for monthly payment of rent ~~[shall not be],~~
19 termination of the lease under subsection (a) is effective
20 ~~[until]~~ thirty days after the first date on which the next
21 rental payment is due and payable following the date ~~[of~~



1 ~~delivery or mailing of]~~ on which the notice[-] under subsection
2 (c) is delivered. In the case of all other leases[-] described
3 in subsection (b) (1), termination [shall be effected] of the
4 lease under subsection (a) is effective on the last day of the
5 month following the month in which the notice is delivered [~~or~~
6 ~~mailed and in such case any unpaid rental for a period preceding~~
7 ~~termination shall be computed pro rata and any rental paid in~~
8 ~~advance for a period succeeding termination shall be refunded by~~
9 ~~the lessor or the lessor's assignee]~~. In the case of a lease
10 described in subsection (b) (2), termination of the lease under
11 subsection (a) is effective on the day on which the requirements
12 of subsection (c) are met for such termination.

13 (e) Rent amounts for a lease described in subsection
14 (b) (1) that are unpaid for the period preceding the effective
15 date of the lease termination shall be paid on a prorated basis.
16 The lessor shall not impose an early termination charge but any
17 taxes, summonses, or other obligations and liabilities of the
18 lessee in accordance with the terms of the lease, including
19 reasonable charges to the lessee for excess wear, that are due
20 and unpaid at the time of termination of the lease shall be paid
21 by the lessee. Lease amounts for a lease described in



1 subsection (b) (2) that are unpaid for the period preceding the
2 effective date of the lease termination shall be paid on a
3 prorated basis. The lessor shall not impose an early
4 termination charge but any taxes, summonses, title and
5 registration fees, or other obligations and liabilities of the
6 lessee in accordance with the terms of the lease, including
7 reasonable charges to the lessee for excess wear or use and
8 mileage, that are due and unpaid at the time of termination of
9 the lease shall be paid by the lessee.

10 (f) Rents or lease amounts paid in advance for a period
11 after the effective date of the termination of the lease shall
12 be refunded to the lessee by the lessor or the lessor's assignee
13 or the assignee's agent within thirty days of the effective date
14 of the termination of the lease.

15 (g) Upon application by the lessor to [the appropriate] a
16 court prior to the termination [period] date provided [for] in
17 the written notice, [any] relief granted in this [subsection
18 shall be subject to such modifications or restrictions the court
19 may find in the interests of] section to a service member may be
20 modified as justice and equity[-] require.



1 ~~[(e)]~~ (h) Any person who knowingly seizes, holds, or
2 ~~[retains]~~ detains the personal effects, ~~[clothing, furniture,]~~
3 security deposit, or other property of ~~[any person]~~ a service
4 member or service member's dependent who ~~[has]~~ lawfully
5 ~~[terminated]~~ terminates a lease covered by this section, or ~~[in~~
6 ~~any manner]~~ who knowingly interferes with the removal of such
7 property from the premises covered by such lease, for the
8 purpose of subjecting or attempting to subject any such property
9 to a claim for rent accruing subsequent to the date of
10 termination of such lease, or attempts to do so, shall be guilty
11 of a misdemeanor.

12 (i) For the purposes of this section, "military orders"
13 means official military orders or any notification,
14 certification, or verification from a service member's
15 commanding officer, with respect to the service member's current
16 or future military duty status.

17 ~~[(f)]~~ §657D-26 ~~[f]—Life~~ Protection of life insurance
18 policies, ~~[, penalties]~~. (a) ~~[Where any life insurance policy on~~
19 ~~the life of a person in military service is the subject of an~~
20 ~~action or proceeding under this chapter, the court may:~~

21 ~~(1) Stay the proceedings as provided in this chapter, or~~



1 ~~(2) Make such other disposition of the case as may be~~
2 ~~equitable to preserve the interest of all parties.~~

3 ~~This subsection shall not be construed in any way as~~
4 ~~affecting or as limiting the scope of section 657D-23.~~

5 ~~(b) Any person who knowingly acts in violation of this~~
6 ~~section, or attempts to do so, shall be guilty of a~~
7 ~~misdemeanor.] If a life insurance policy on the life of a~~
8 ~~service member is assigned prior to military service to secure~~
9 ~~the payment of any obligation, the assignee of the policy~~
10 ~~(except the insurer in connection with a policy loan) may not~~
11 ~~exercise, during the period of military service of the service~~
12 ~~member or within one year thereafter, except upon the consent in~~
13 ~~writing of the insured made during the period of military~~
14 ~~service or when the premiums thereon are due and unpaid or upon~~
15 ~~the death of the insured, any right or option by virtue of the~~
16 ~~assignment without a court order.~~

17 (b) The court may refuse to grant an order if the court
18 finds that the ability of the service member to comply with the
19 terms of the obligation is materially affected by reason of
20 military service.



1 (c) For the purpose of this subsection, premiums which are
2 guaranteed under part IV shall not be deemed to be due and
3 unpaid.

4 (d) A person who knowingly takes or attempts to take an
5 action contrary to this section shall be guilty of a
6 misdemeanor.

7 ~~[+] §657D-27 [+] Extension of [benefits] protections to~~
8 ~~dependents. [Dependents of a person in military service shall~~
9 ~~be entitled to the benefits accorded to persons in military~~
10 ~~service under this part upon] Upon application to a court~~
11 ~~[therefor, unless in the opinion of the court the], a dependent~~
12 ~~of a service member is entitled to the protections of this part~~
13 ~~if the dependent's ability [of these dependents] to comply with~~
14 ~~[the terms of the obligation,] a contract, lease, [or] bailment,~~
15 ~~or other obligation [has not been] is materially [impaired]~~
16 ~~affected by reason of the service member's military service [of~~
17 ~~the person upon whom the applicants are dependent].~~

18 §657D-F Termination of telephone service contracts. (a)
19 A service member may terminate a contract described in
20 subsection (b) at any time after the date the service member



1 receives military orders to relocate for a period of not less
2 than ninety days to a location that does not support the
3 contract. In the case that a service member terminates a
4 contract as described, the service provider under the contract
5 shall provide such service member with written or electronic
6 notice of the service member's rights under this section.

7 Termination of a contract under this section shall be made by
8 delivery of a written or electronic notice of such termination
9 and a copy of the service member's military orders to the
10 service provider, delivered in accordance with industry
11 standards for notification of terminations, together with the
12 date on which the service is to be terminated.

13 (b) A contract for cellular telephone service or telephone
14 exchange service entered into by the service member before
15 receiving the military orders referred to in subsection (a)
16 shall be subject to this section.

17 (c) In the case of a contract terminated under subsection
18 (a) by a service member whose period of relocation is for a
19 period of three years or less, the service provider under the
20 contract shall, notwithstanding any other provision of law,
21 allow the service member to keep the telephone number the



1 service member has under the contract if the service member re-
2 subscribes to the service during the ninety-day period beginning
3 on the last day of the period of relocation.

4 (d) In the case of a contract for cellular telephone
5 service entered into by any individual in which a service member
6 is a designated beneficiary of the contract, the individual who
7 entered into the contract may terminate the contract with
8 respect to:

- 9 (1) The service member if the service member is eligible
10 to terminate contracts pursuant to subsection (a); and
11 (2) All of the designated beneficiaries of such contract
12 if all such beneficiaries accompany the service member
13 during the service member's period of relocation.

14 (e) For any contract terminated under this section, the
15 service provider under the contract shall not impose an early
16 termination charge, but any tax or any other obligation or
17 liability of the service member that, in accordance with the
18 terms of the contract, is due and unpaid or unperformed at the
19 time of termination of the contract shall be paid or
20 performed by the service member. If the service member re-
21 subscribes to the service provided under a covered contract



1 during the ninety-day period beginning on the last day of the
2 service member's period of relocation, the service provider
3 shall not impose a charge for reinstating service, other than
4 the usual and customary charges for the installation or
5 acquisition of customer equipment imposed on any other
6 subscriber.

7 (f) Not later than sixty days after the effective date of
8 the termination of a contract under this section, the service
9 provider under the contract shall refund to the service member
10 any fee or other amount to the extent paid for a period
11 extending until after such date, except for the remainder of the
12 monthly or similar billing period in which the termination
13 occurs.

14 (g) For purposes of this section:

15 "Cellular telephone service" means commercial mobile
16 service, as that term is defined in title 47 United States Code
17 section 332(d).

18 "Telephone exchange service" has the meaning given that
19 term under title 47 United States Code section 153.

20 **PART IV. LIFE INSURANCE**

21 **[+]§657D-31[+] Definitions. As used in this part:**



1 "Insured" [~~includes any person in the state military~~
2 ~~forces, whose life is insured under and who is the owner and~~
3 ~~holder and has an interest in a policy.] means a service member
4 whose life is insured under a policy.~~

5 "Insurer" includes any firm, corporation, partnership, [~~or~~]
6 association, or business that is chartered or authorized to
7 [~~engage in the~~] provide insurance [~~business to~~] and issue [~~a~~
8 ~~policy~~] contracts or policies as defined by the laws of a state
9 or [~~of~~] the United States.

10 "Policy" [~~includes~~] means any individual contract [~~of life~~
11 ~~insurance or policy on a life,~~] for whole, endowment, universal,
12 or term [~~plan,~~] life insurance other than group term life
13 insurance coverage, including any benefit in the nature of
14 [~~life~~] such insurance arising out of membership in any fraternal
15 or beneficial association, [~~that does not provide for the~~
16 ~~payments of any sum less than the face value thereof or for the~~
17 ~~payment of an additional amount as premiums if the insured~~
18 ~~engages in the military service of the United States or which~~
19 ~~does not contain any limitations or restrictions upon coverage~~
20 ~~relating to engagement in or pursuit of certain types of~~



1 ~~activities which a person might be required to engage in by~~
2 ~~virtue of the person's being in that military service, and:~~

3 ~~(1) Which is in force on a premium-paying basis at the~~
4 ~~time of application for benefits hereunder; and~~

5 ~~(2) Which was made and a premium paid thereon not less~~
6 ~~than one hundred eighty days before the date insured~~
7 ~~entered into the military service.~~

8 ~~This definition does not apply to policies or contracts of life~~
9 ~~insurance issued under the War Risk Insurance Act, as amended,~~
10 ~~the World War Veterans Act, as amended, or the National Service~~
11 ~~Life Insurance Act of 1940, as amended.] which:~~

12 (1) Provides that the insurer may not:

13 (A) Decrease the amount of coverage or require the
14 payment of an additional amount as premiums if
15 the insured engages in military service, except
16 increases in premiums in individual term
17 insurance based upon age; or

18 (B) Limit or restrict coverage for any activity
19 required by military service; and

20 (2) Is in force not less than one hundred eighty days
21 before the date of the insured's entry into military



1 service and at the time of application under this
2 part.

3 "Premium" [~~includes~~] means the amount specified in [~~the~~] an
4 insurance policy [~~as the stipend~~] to be paid [~~by the insured at~~
5 ~~regular intervals during the period therein stated.~~] to keep the
6 policy in force.

7 [~~+~~] §657D-32 [~~]- Persons entitled to benefits, applications,~~
8 ~~amount of insurance protected.] Insurance rights and
9 protections. (a) The [~~benefits and privileges of~~] rights and
10 protections under this part [~~shall~~] apply to [~~any~~] the insured
11 when the insured, [~~or a person designated by the insured, makes~~
12 ~~written application~~] the insured's legal representative, or the
13 insured's beneficiary in the case of an insured who is outside
14 the State applies in writing for protection under this part,
15 unless the insurance commissioner [~~in passing on the application~~
16 ~~finds~~] determines that the insured's policy is not entitled to
17 protection under this part.~~

18 (b) The [~~adjutant general shall give notice to the state~~
19 ~~military forces of the provisions of this part, and shall~~
20 ~~include in the notice an explanation of the provisions for the~~
21 ~~information of those desiring to make application for benefits.~~]



1 insurance commissioner shall notify the adjutant general of the
 2 procedures to be used to apply for the protections provided
 3 under this part. The applicant shall send the original [~~of the~~]
 4 application [~~shall be sent by the insured~~] to the insurer[~~7~~] and
 5 a copy to the insurance commissioner.

6 (c) The total amount of life insurance [~~on the life of one~~
 7 ~~insured under policies covered~~] coverage protection provided by
 8 this part for a service member [~~shall~~] may not exceed [~~\$10,000.~~
 9 ~~If an insured applies for protection of policies on the~~
 10 ~~insured's life totaling insurance in excess of \$10,000, the~~
 11 ~~insurance commissioner may have the amount of insurance divided~~
 12 ~~into two or more policies so that the protection of this part~~
 13 ~~may be extended to include policies for a total amount of~~
 14 ~~insurance not to exceed \$10,000, and a policy which affords the~~
 15 ~~best security to the government shall be given preference.] the~~
 16 greater of \$ _____, or the Servicemember's Group Life
 17 Insurance maximum limit regardless of the number of policies
 18 submitted.

19 [~~+~~] §657D-33 [~~+~~] ~~Form of application; reports to insurance~~
 20 ~~commissioner by insurer; policy deemed modified upon application~~



1 ~~for protection.]~~ Application for insurance protection. (a) Any
2 application for protection under this part shall:

3 (1) Be in writing and signed by the insured [and
4 identifying], the insured's legal representative, or
5 the insured's beneficiary, as the case may be;

6 (2) Identify the policy and the insurer [and agreeing];
7 and

8 (3) Include an acknowledgement that the insured's rights
9 under the policy are subject to and modified by this
10 part ~~[, shall be sufficient as an application for the~~
11 ~~benefits of this part, but the].~~

12 (b) The insurance commissioner may require additional
13 information from the applicant, the insured, and insurer to
14 ~~[execute other appropriate forms.]~~ determine if the policy is
15 entitled to protection under this part.

16 (c) Upon receipt of the application of the insured, the
17 insurer shall furnish ~~[such]~~ a report to the insurance
18 commissioner concerning the policy as shall be prescribed by
19 rules adopted under chapter 91. ~~[When an insured has applied~~
20 ~~for protection under this part, the policy is deemed to have~~
21 ~~been modified to conform to the provisions of this part.]~~



1 (d) Upon application for protection under this part, the
2 insured and the insurer shall have constructively agreed to any
3 policy modification necessary to give this chapter full force
4 and effect.

5 [~~+~~] §657D-34 [~~]-~~ ~~Determination of policies~~ Policies entitled
6 to protection [~~, notice to parties,~~] and lapse of policies [~~for~~
7 ~~nonpayment of premiums, etc~~]. (a) The insurance commissioner
8 shall determine whether [~~the~~] a policy is entitled to protection
9 under this part and shall notify the insured and the insurer of
10 that determination.

11 (b) Any policy [~~found by~~] that the insurance commissioner
12 [~~to be~~] determines is entitled to protection under this part [~~,~~
13 ~~subsequent to date of application and during the period of state~~
14 ~~military service of the insured and for sixty days after the~~
15 ~~expiration of that service,~~] shall not lapse or otherwise
16 terminate or be forfeited for the nonpayment of a premium
17 [~~becoming due and payable, or the nonpayment of any indebtedness~~
18 ~~or interest.~~], or interest or indebtedness on a premium, after
19 the date on which the application for protection is received by
20 the insurance commissioner.



1 (c) The protection provided by this part applies during
2 the insured's period of military service and for a period of two
3 years thereafter.

4 [~~§~~ §657D-35 [~~] Rights and privileges of insured during~~
5 ~~period of protection. No] Policy restrictions. (a) While a
6 policy is protected under this part, a dividend or other
7 monetary benefit under a policy [shall] may not be paid to an
8 insured or used to purchase dividend additions [while a policy
9 is covered by this part except with] without the approval of the
10 insurance commissioner. [Without this approval, those] If such
11 approval is not obtained, the dividends or benefits shall be
12 added to the value of the policy to be used as a credit when
13 final settlement is made with the insurer. [No]~~

14 (b) While a policy is protected under this part, cash
15 value, loan value, withdrawal of dividend accumulation, unearned
16 [premium,] premiums, or other value of similar character [shall]
17 may not be available to the insured [while the policy is covered
18 under this part except upon] without the approval [by] of the
19 insurance commissioner. The insured's right to change a
20 beneficiary designation or select an optional settlement for a
21 beneficiary shall not be affected by this part.



1 ~~[†] §657D-36 [†]~~ Deduction of unpaid premiums ~~[upon~~
2 ~~settlement of policies maturing during protection]~~. ~~[In the~~
3 ~~event of maturity of]~~ (a) If a policy [as a death claim]
4 matures as a result of a service member's death or otherwise
5 ~~[before the expiration of the period of protection]~~ during the
6 period of protection of the policy under this part, the insurer
7 in making settlement shall deduct from the ~~[amount of]~~ insurance
8 proceeds the amount of the unpaid premiums guaranteed under this
9 part, together with interest ~~[thereon at the rate fixed in the~~
10 ~~policy for policy loans.]~~ due at the rate fixed in the policy
11 for policy loans.

12 (b) If no rate of interest is specifically fixed in the
13 policy, the rate shall be the rate fixed for policy loans in
14 other policies issued by the insurer at the time the insured's
15 policy ~~[brought under this chapter]~~ was issued.

16 (c) The amount deducted ~~[by reason of the protection~~
17 ~~afforded by this part]~~ under this section, if any, shall be
18 reported by the insurer to the insurance commissioner.

19 ~~[†] §657D-37 [†]~~ ~~Guarantee of premiums]~~ Premiums and interest
20 guaranteed by State ~~[; settlement of amounts due upon expiration~~
21 ~~of protection; subrogation of state crediting debt repayments]~~.



1 (a) Payment of premiums and interest thereon at the rate
2 specified in section 657D-36 [~~becoming~~] which become due on a
3 policy while protected under this part is guaranteed by the
4 State, and if the amount so guaranteed is not paid to the
5 insurer prior to the expiration of the period of insurance
6 protection under this part, the amount then due shall be treated
7 by the insurer as a policy loan[~~-~~] on the policy. If at the
8 expiration of [~~that period~~] insurance protection under this
9 part, the cash surrender value of a policy is less than the
10 amount [~~then~~] due[~~-~~] to pay premiums and interest on premiums on
11 the policy, the policy shall [~~then cease~~] terminate and the
12 State shall pay the insurer the difference between the amount
13 due and the cash surrender value.

14 (b) The amount paid by the State to an insurer [~~on account~~
15 ~~of applications approved~~] under this part shall [~~become~~] be a
16 debt [~~due~~] payable to the State by the insured on whose
17 [~~account~~] policy payment was made [~~and, notwithstanding any~~
18 ~~other law, the~~]. Such amount may be collected [~~either by~~
19 ~~deduction from any amount due the insured~~] by the State, either
20 as an offset from any amount due the insured by the State or as



1 otherwise authorized by law. Such debt payable to the State is
2 not dischargeable in bankruptcy proceedings.

3 (c) Any moneys received by the State as repayment of
4 ~~[debt]~~ debts incurred by an insured under this part shall be
5 credited to the appropriation for the payment of claims under
6 this part.

7 ~~[‡] §657D-38 [‡] Rules; [finality of determinations.]~~ review
8 of findings of fact and conclusions of law. The insurance
9 commissioner shall adopt rules under chapter 91 to implement
10 this part. The findings of fact and conclusions of law made by
11 the insurance commissioner in administering this part ~~[shall be~~
12 ~~final, and shall not be]~~ are subject to review ~~[by any other~~
13 ~~official or agency of the government.]~~ as provided in chapter
14 91.

15 PART V. TAXES AND PUBLIC LANDS

16 ~~[‡] §657D-41 [‡] Taxes respecting [personalty,]~~ personal
17 property, money, credits, or ~~[realty, sale of property to~~
18 ~~enforce collection; redemption of property sold; penalty for~~
19 ~~nonpayment; notice of rights to beneficiaries of section.]~~ real
20 property. (a) This section applies ~~[to]~~ in any case in which a
21 tax or assessment, whether general or special, other than a tax



1 on personal income, ~~[unpaid taxes or assessments, that fall]~~
2 falls due and remains unpaid prior to or during the period of
3 ~~[state]~~ military service ~~[, on personal]~~ with respect to a
4 service member's:

- 5 (1) Personal property, money, or credits, or real
- 6 including motor vehicles; or
- 7 (2) Real property ~~[owned and]~~ occupied for dwelling,
- 8 professional, business, or agricultural purposes by
- 9 ~~[persons in state military service]~~ a service member
- 10 or the ~~[person's]~~ service member's dependents ~~[at the~~
- 11 ~~commencement of the period of military service and~~
- 12 ~~still so occupied by the person's dependents or~~
- 13 ~~employees. This section does not apply to taxes on~~
- 14 ~~income.]~~ or employees:

- 15 (A) Before the service member's entry into military
- 16 service; and
- 17 (B) During the time the tax or assessment remains
- 18 unpaid.

19 (b) ~~[No sale of any property]~~ Property described in
20 subsection (a) ~~[shall]~~ may not be ~~[made]~~ sold to enforce the
21 collection of any state or county tax or assessment ~~[, and no~~

1 ~~proceeding or action for that purpose shall commence, except~~
2 ~~upon leave of court granted upon application made by the state~~
3 ~~department of taxation or appropriate county agency. The court,~~
4 ~~unless in its opinion the ability of the person in military~~
5 ~~service to pay the taxes or assessments is not materially~~
6 ~~affected by reason of state military service, may stay the~~
7 ~~proceedings or the sale for a period of not more than sixty days~~
8 ~~after the termination of the period of military service of the~~
9 ~~person.] except by court order and upon the determination by the~~
10 ~~court that military service does not materially affect the~~
11 ~~service member's ability to pay the unpaid tax or assessment. A~~
12 ~~court may stay a proceeding to enforce the collection of such~~
13 ~~tax or assessment or sale of such property during a period of~~
14 ~~military service of the service member and for a period not more~~
15 ~~than one hundred eighty days after the termination of or release~~
16 ~~of the service member from military service.~~

17 (c) When ~~[by law the property may be]~~ property described
18 in subsection (a) is sold or forfeited to enforce the collection
19 of the tax or assessment, [the person in state military service]
20 a service member shall have the right to redeem or commence an
21 action to redeem the [property, at any time not later than sixty



1 ~~days after the termination of state military service, but in no~~
2 ~~case later than sixty days after the date if this chapter is~~
3 ~~repealed,]~~ service member's property during the period of
4 military service or within one hundred eighty days after
5 termination of or release from military service; provided this
6 subsection shall not be construed to shorten any period provided
7 by any other state or county law providing for [that]
8 redemption.

9 (d) Whenever [~~under this chapter any tax or assessment is~~
10 ~~not required to be paid when due,]~~ a service member does not pay
11 a tax or assessment on property described in subsection (a) when
12 due, the amount of the tax or assessment due and unpaid shall
13 bear interest until paid at the rate of six per cent a year, and
14 no other penalty or interest shall be incurred by reason of the
15 nonpayment. Any lien for the unpaid taxes or assessment [shall
16 also] may include [the] interest [thereon.] under this
17 subsection.

18 (e) This section applies to all forms of property
19 described in subsection (a) owned individually by a service
20 member or jointly by a service member and a dependent or
21 dependents.



1 ~~[+] §657D-42 [+~~ Rights ~~[to]~~ in public lands ~~[not forfeited,~~
2 ~~grazing lands]~~. (a) No right to any lands owned or controlled
3 by the State, initiated or acquired under any laws of the State,
4 including the mining and mineral leasing laws, by a ~~[person]~~
5 service member prior to entering ~~[state]~~ military service shall
6 during the period of that service be forfeited or prejudiced by
7 reason of the ~~[person's]~~ service member's absence from the land
8 or ~~[the person's]~~ failure to ~~[perform]~~ begin or complete any
9 work or ~~[make any]~~ improvements ~~[thereon or the person's failure~~
10 ~~to do any other act required by or under those laws.]~~ to the
11 land.

12 (b) This section does not control specific requirements
13 contained in this part.

14 ~~[+] §657D-43 [+~~ Income taxes ~~[, collection deferred,~~
15 ~~interest, statute of limitations]~~. ~~[+] (a) [+~~The] Upon notice
16 to the department of taxation, the collection ~~[from any person~~
17 ~~in the state military forces]~~ of any income tax on the income of
18 ~~[such person]~~ a service member pursuant to chapter 235 ~~[,~~
19 ~~whether]~~ falling due prior to or during ~~[the person's period of]~~
20 military service ~~[,~~] shall be deferred for a period of not more
21 than ~~[sixty]~~ one hundred eighty days after the termination of



1 ~~[the person's period of]~~ or release from military service if
2 ~~[such person's]~~ a service member's ability to pay such income
3 tax is materially ~~[impaired by reason of the]~~ affected by
4 military service.

5 (b) No interest ~~[on any amount of tax, collection of which~~
6 ~~is deferred for any period under this section, and no]~~ or
7 penalty ~~[for nonpayment of such amount during such period,]~~
8 shall accrue for such period of deferment by reason of
9 nonpayment ~~[.]~~ on any amount of tax deferred under this section.

10 (c) The running of any statute of limitations against the
11 collection of ~~[such]~~ tax ~~[by distraint]~~ deferred under this
12 section, by seizure or otherwise shall be suspended for the
13 period of military service of ~~[any person whose tax collection~~
14 ~~is deferred under this section,]~~ the service member and for an
15 additional period of ~~[sixty]~~ two hundred seventy days ~~[beginning~~
16 ~~with the day following the period of military service.]~~
17 thereafter.

18 ~~[+(b)]~~ (d) The provisions of this section shall not apply
19 to the retention or recovery of debt under sections 231-51 to
20 231-59.



- 1 (2) The time when and the place where the person entered
2 military service [~~the~~];
- 3 (3) The person's residence at [that time, and] the time
4 the person entered military service;
- 5 (4) The rank, branch, and unit of [such] military service
6 that the person entered;
- 7 [~~(3)~~] (5) The inclusive dates of the [person served in the
8 ~~state military forces;]~~ person's military service;
- 9 [~~(4)~~] (6) The monthly pay received by the person at the
10 date of issuing the certificate; and
- 11 [~~(5)~~] (7) If applicable, the time when and the place where
12 the person died in or was [~~discharged~~] terminated or
13 released from such military service.
- 14 (b) [~~It is the duty of the~~] The adjutant general [to]
15 shall furnish a certificate [on application, and any] under
16 subsection (a) upon receipt of an application for such a
17 certificate. A certificate appearing to be signed by [any one
18 ~~of the officers of]~~ the adjutant general [~~or by any person~~
19 ~~purporting upon the face of the certificates to have been so~~
20 ~~authorized shall be]~~ is prima facie evidence of its contents and
21 of the signer's authority [~~of the officer]~~ to issue it.



1 (c) ~~[Where a person in military service]~~ A service member
2 who has been reported missing~~[, the person shall be]~~ is presumed
3 to continue in ~~[the]~~ service until accounted for~~[, and no~~
4 ~~period]~~. A requirement under this chapter which begins or ends
5 with the death of ~~[such person shall]~~ a service member does not
6 begin or end until the ~~[death of such person]~~ service member's
7 death is ~~[in fact]~~ reported to or ~~[found by the department of~~
8 ~~defense, or any court or board thereof, or until death is]~~
9 determined by the adjutant general or by a court of competent
10 jurisdiction. ~~[No period limited by this chapter that begins or~~
11 ~~ends with the death of such person shall be extended beyond a~~
12 ~~period of six months after the time when this chapter ceases to~~
13 ~~be in force.~~

14 ~~[§657D-53 [Revocation of interlocutory]~~ Interlocutory
15 orders. Any interlocutory order issued by a court under this
16 chapter~~[, made upon the court's own motion,]~~ may be revoked,
17 modified, or extended by ~~[it]~~ that court upon its own motion or
18 otherwise, upon ~~[appropriate notice to the parties.]~~
19 notification to affected parties as required by the court.



PART VII. FURTHER RELIEF

[+] §657D-61 [~~]~~ ~~Stay of enforcement of obligations, liabilities, taxes.] Anticipatory relief. (a) A [~~person, at any time]~~ service member may, during [~~the person's period of]~~ military service or within [~~sixty]~~ one hundred eighty days [~~thereafter, may]~~ of termination of or release from military service, apply to a court for relief from [~~any]~~:~~

(1) Any obligation or liability incurred by [~~that person]~~ the service member prior to the [~~person's period of]~~ service member's military service; or [~~for relief of any]~~

(2) Any tax or assessment whether falling due prior to or during the [~~person's period of]~~ service member's 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 the applicant's military service, may]~~

(b) In a case covered by subsection (a), the court may, if the ability of the service member to comply with the terms of

1 such obligation or liability or pay such tax or assessment has
2 been materially affected by reason of military service, after
3 appropriate notice and hearing, grant the following relief:

4 (1) In the case of an obligation payable [~~under its terms~~]
5 in installments under a contract for the purchase of
6 real estate, or secured by a mortgage or other
7 installment in the nature of a mortgage upon real
8 estate, a stay of the enforcement of the obligation
9 during the [~~applicant's~~] service member's period of
10 military service and, from the date of termination of
11 [~~such period of~~] or release from military service or
12 from the date of application if made after [~~such~~
13 ~~service,~~] termination of or release from military
14 service. Any stay under this paragraph shall be for a
15 period equal to the period of the remaining life of
16 the installment contract or other instrument plus a
17 period of time equal to the period of military service
18 of the [~~applicant,~~] service member, or any part of
19 such combined period, subject to payment of the
20 balance of the principal and accumulated interest due
21 and unpaid at the date of termination [~~of the period~~



1 ~~of]~~ or release from the service member's military
2 service or from the date of application [~~, as the case~~
3 ~~may be,~~] in equal installments during the combined
4 period at the rate of interest on the unpaid balance
5 as is prescribed in the contract, or other instrument
6 evidencing the obligation, [~~for installments paid when~~
7 ~~due,~~] and subject to other terms as may be [~~just,~~
8 equitable; and

- 9 (2) In the case of any other obligation, liability, tax,
10 or assessment, a stay of [~~the~~] enforcement [~~thereof~~]
11 during the [~~applicant's period of~~] service member's
12 military service and, from the date of termination of
13 [~~such period of~~] or release from military service or
14 from the date of application if made after [~~such~~
15 ~~service,~~] termination or release from military
16 service. Any stay under this paragraph shall be for a
17 period of time equal to the period of the service
18 member's military service [~~of the applicant~~] or any
19 part of such period, subject to payment of the balance
20 of the principal and accumulated interest due and
21 unpaid at the date of termination [~~of such period of~~]



1 or release from military service or from the date of
2 application~~[, as the case may be,]~~ in equal periodic
3 installments during such extended period at such rate
4 of interest as may be prescribed for such obligation,
5 liability, tax, or assessment, if paid when due, and
6 subject to such other terms as may be ~~[just.]~~
7 equitable.

8 ~~[(b)]~~ (c) When any court ~~[has granted]~~ grants a stay as
9 provided in this section, ~~[no]~~ a fine or penalty ~~[by reason of~~
10 ~~failure to comply with the terms or conditions of]~~ shall not
11 accrue on the obligation, liability, tax, or assessment ~~[as to~~
12 ~~which the stay was granted, shall accrue during]~~ for the period
13 in which the terms and conditions of the stay are complied with.

14 ~~[(f)]~~ §657D-62 ~~[(f)]~~ **Power of attorney.** (a) ~~[Notwithstanding~~
15 ~~any other provision of law, a]~~ A power of attorney ~~[that:]~~ of a
16 service member shall be automatically extended for the period
17 the service member is in a missing status as defined in title 37
18 United States Code section 551(2) if the power of attorney:

19 (1) Was duly executed by ~~[a person in the military service~~
20 ~~who is in a missing status (as defined in section~~
21 ~~551(2) of title 37, United States Code);]~~ the service



1 member while in military service or before entry into
2 military service but after the service member:

3 (A) Received a call or order to report for military
4 service; or

5 (B) Was notified by an official of the Department of
6 Defense that the person could receive a call or
7 order to report for military service;

8 (2) Designates [~~that person's~~] the service member's
9 spouse, parent, or other named relative as the
10 [~~person's~~] service member's attorney in fact for
11 certain, specified, or all [~~7~~] purposes; and

12 (3) Expires by its terms after [~~that person~~] the service
13 member entered a missing status [~~, and before or after~~
14 ~~July 1, 1994,~~

15 ~~shall be automatically extended for the period that the person~~
16 ~~is in a missing status].~~

17 (b) [~~No~~] A power of attorney executed [~~after July 1, 1994~~]
18 by a [~~person in the military service may~~] service member shall
19 not be extended under subsection (a) if the document by its
20 terms clearly indicates that the power granted expires on the
21 date specified even though [~~that person,~~] the service member,



1 after the date of execution of the document, enters a missing
2 status.

3 ~~[f] §657D-63 [f]~~ Reinstatement of health insurance ~~[coverage~~
4 ~~upon release from service]~~. (a) A ~~[person]~~ service member who,
5 by reason of military service in the state military forces is
6 entitled to the rights and ~~[benefits]~~ protections of this
7 chapter, shall be entitled upon termination or release from such
8 military service to reinstatement of any health insurance which
9 was:

10 (1) In effect on the day before such service commenced;
11 and

12 (2) Terminated effective on a date during the period of
13 such service.

14 (b) ~~[An exclusion or a waiting period may not be imposed~~
15 ~~in connection with]~~ The reinstatement of health insurance
16 coverage for [a] the health or physical condition of a ~~[person]~~
17 service member under subsection (a), or ~~[a health or physical~~
18 ~~condition for]~~ any other person who is covered by the insurance
19 by reason of the coverage of ~~[such person,]~~ the service member,
20 shall not be subject to an exclusion or waiting period, if:



- 1 (1) The condition arose before or during [~~that person's~~
2 ~~period of training or service in the state military~~
3 ~~forces;~~] the period of such service;
- 4 (2) An exclusion or waiting period would not have been
5 imposed for the condition during [a] the period of
6 coverage [~~for] participation by such person in the~~
7 ~~insurance]; and~~
- 8 (3) [~~The] In the case in which the condition relates to~~
- 9 the service member, the condition [~~of such person] has~~
10 not been determined by the adjutant general to be a
11 disability incurred or aggravated in the line of duty,
12 within the meaning of [~~+~~]title[~~+~~] 38 United States
13 Code section 105.
- 14 (c) Subsection (a) does not apply [~~in the case of] to a~~
- 15 service member entitled to participate in employer-offered
- 16 insurance benefits [~~in which a person referred to in such~~
17 ~~subsection is entitled to participate] pursuant to [~~+~~]title[~~+~~]~~
- 18 38 United States Code [~~section 2021 et seq.] chapter 43.~~
- 19 (d) An application under this section shall be filed not
- 20 later than one hundred twenty days after the date of the
- 21 termination of or release from military service.



1 (e) The amount of the premium for health insurance
2 coverage that was terminated by a service member and required to
3 be reinstated under subsection (a) shall not be increased, for
4 the balance of the period for which coverage would have been
5 continued had the coverage not been terminated, to an amount
6 greater than the amount chargeable for such coverage before the
7 termination. This subsection does not prevent an increase in
8 premium to the extent of any general increase in the premiums
9 charged by the carrier of the health care insurance for the same
10 health insurance coverage for persons similarly covered by such
11 insurance during the period between the termination and the
12 reinstatement.

13 §657D-G Business or trade obligations. (a) If the trade
14 or business, without regard to the form in which such trade or
15 business is carried out, of a service member has an obligation
16 or liability for which the service member is personally liable,
17 the assets of the service member not held in connection with the
18 trade or business shall not be available for satisfaction of the
19 obligation or liability during the service member's military
20 service.



1 (b) Upon application to a court by the holder of an
2 obligation or liability covered by this section, relief granted
3 by this section to a service member may be modified as justice
4 and equity require.

5 §657D-H Enforcement by the attorney general. (a) The
6 attorney general may commence a civil action in any appropriate
7 court of the State against any person who:

8 (1) Engages in a pattern or practice of violating this
9 chapter; or

10 (2) Engages in a violation of this chapter that raises an
11 issue of significant public importance.

12 (b) In a civil action commenced under subsection (a), the
13 court may:

14 (1) Grant any appropriate equitable or declaratory relief
15 with respect to the violation of this chapter;

16 (2) Award all other appropriate relief, including monetary
17 damages, to any person aggrieved by the violation; and

18 (3) May, to vindicate the public interest, assess a civil
19 penalty:

20 (A) In an amount not exceeding \$ for a first
21 violation; and



1 (B) In an amount not exceeding \$ for any
2 subsequent violation.

3 (c) Upon timely application, a person aggrieved by a
4 violation of this chapter with respect to which the civil action
5 is commenced may intervene in such action, and may obtain such
6 appropriate relief as the person could obtain in a civil action
7 under section 657D-I with respect to that violation, along with
8 costs and a reasonable attorney's fee.

9 §657D-I Private right of action. (a) Any person
10 aggrieved by a violation of this chapter may in a civil action:

11 (1) Obtain any appropriate equitable or declaratory relief
12 with respect to the violation; and

13 (2) Recover all other appropriate relief, including
14 monetary damages.

15 (b) The court may award to a person aggrieved by a
16 violation of this chapter who prevails in an action brought
17 under subsection (a) the costs of the action, including
18 reasonable attorneys' fees.

19 §657D-J Preservation of remedies. Nothing in section
20 657D-H or 657D-I shall be construed to preclude or limit any



1 remedy otherwise available under other law, including
2 consequential and punitive damages.

3 §657D-K Filing fees and court costs. A service member or
4 other person seeking to enforce rights pursuant to this chapter
5 shall not be required to pay a filing fee or court costs."

6 SECTION 2. In codifying new sections added by section 1 of
7 this Act, the revisor of statutes shall substitute appropriate
8 section numbers for the letters used in designating the new
9 sections of this Act.

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2051.



Report Title:

Civil Relief for State Military Forces.

Description:

Conforms Chapter 657D, Hawaii Revised Statutes, concerning civil relief for state military forces to the federal Servicemember's Civil Relief Act. Waives filing fees and court costs for a service member or other person seeking to enforce rights pursuant to Chapter 657D. (HB1526 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

