
A BILL FOR AN ACT

RELATING TO STATE MILITARY FORCES.

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

1 SECTION 1. The purpose of this Act is to apply the
2 protections of civil relief for state military forces to persons
3 serving on full time national guard duty under title 32 United
4 States Code section 101 et seq., and to align the Hawaii Revised
5 Statutes with the Servicemembers Civil Relief Act, title 50
6 United States Code chapter 50 sections 3901 through 4043.

7 SECTION 2. Section 657D-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding a new definition to be appropriately inserted
10 and to read:

11 "Full time National Guard duty" means full time service in
12 the National Guard as defined in section 101(19) of title 32
13 United States Code."

14 2. By amending the definitions of "military service" and
15 "period of military service" to read:



1 "\"Military service\" means service on state active duty in
2 any of the state military forces[-] or full time National Guard
3 duty.\"

4 \"Period of military service\" means the period beginning on
5 the date on which the person enters state active duty or full
6 time National Guard duty and ending on the date of the person's
7 release from state active duty or full time National Guard duty
8 or the person's death while on state active duty[-] or full time
9 National Guard duty.\"

10 SECTION 3. Section 657D-5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 \"**[+]§657D-5[+] Extension of benefits to persons ordered to**
13 **report for [state] military service.** Any person who is ordered
14 to report for [~~state~~] military service shall be entitled to the
15 relief and benefits during:

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



SECTION 4. Section 657D-15, Hawaii Revised Statutes, is amended to read as follows:

"[+]§657D-15[+] Duration and term of stays; co-defendants not in service. A stay of any action, proceeding, attachment, or execution, ordered by any court under this chapter, shall be for the period of military service and ~~[sixty]~~ ninety days thereafter or any part of that period, and may be subject to such terms as may be just, including payment in installments of specified amounts and at such times as the court may fix. Where the person in military service is a co-defendant with others, the plaintiff may proceed against the others by leave of the court."

SECTION 5. Section 657D-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, shall be valid if made during the period of military service or within ~~[sixty days]~~ one year thereafter, except pursuant to an agreement as provided in



1 section 657D-6, unless upon an order previously granted by the
2 court and a return thereto made and approved by the court.

3 Any person who knowingly makes, attempts, or causes to be
4 made any such sale, foreclosure, or seizure of property, shall
5 be guilty of a misdemeanor."

6 SECTION 6. Section 657D-25, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§657D-25[+] Termination of residential or motor
9 vehicle leases by lessees. (a) This section applies to [any
10 ~~lease of premises occupied for a dwelling, or for professional,~~
11 ~~business, agricultural, or similar purposes in any case in~~
12 ~~which]:~~

13 [~~(1) The lease was executed by or on the behalf of a person~~
14 ~~who, after the execution of the lease, entered~~
15 ~~military service; and~~

16 ~~(2) The leased premises have been occupied for one or more~~
17 ~~of those purposes by the person or by the person and~~
18 ~~the person's dependents.]~~

19 (1) Any lease of premises occupied for a dwelling, or for
20 professional, business, agricultural, or similar
21 purposes in any case in which:



1 (A) The lease was executed by or on the behalf of a
2 person who, after the execution of the lease,
3 entered military service; and

4 (B) The leased premises have been occupied for one or
5 more of those purposes by the person or by the
6 person and the person's dependents; and

7 (2) A lease of a motor vehicle used, or intended to be
8 used, by a person or the person's dependents for
9 personal or business transportation who, after the
10 execution of the lease, entered military service.

11 (b) Any lease described in subsection (a) may be
12 terminated by notice in writing delivered to the lessor or the
13 lessor's grantee or to one of their agents by the lessee at any
14 time following the date of the beginning of the lessor's or the
15 lessor's grantee's period of military service. Delivery of the
16 notice may be made by mailing it.

17 (c) Termination of any [~~such~~] lease providing for monthly
18 payment of rent shall not be effective until thirty days after
19 the date on which the next rental payment is due and payable
20 following the date of delivery or mailing of the notice. In the
21 case of all other leases, termination shall be effected on the



1 last day of the month following the month in which the notice is
2 delivered or mailed and in such case any unpaid rental for a
3 period preceding termination shall be computed pro rata and any
4 rental paid in advance for a period succeeding termination shall
5 be refunded by the lessor or the lessor's assignee. Upon
6 application by the lessor to the appropriate court prior to the
7 termination period provided for in the notice, any relief
8 granted in this subsection shall be subject to such
9 modifications or restrictions the court may find in the
10 interests of justice and equity.

11 (d) Termination of a motor vehicle lease is effective only
12 upon return of the motor vehicle by the lessee to the lessor (or
13 the lessor's grantee), or to the lessor's agent (or the agent's
14 grantee), not later than fifteen days after the date of the
15 delivery of written notice under subsection (b). Lease amounts
16 for a lease described in subsection (a)(2) that are unpaid for
17 the period preceding the effective date of the lease termination
18 shall be paid on a prorated basis. The lessor may not impose an
19 early termination charge, but any taxes, summonses, title and
20 registration fees, or other obligations and liabilities of the
21 lessee in accordance with the terms of the lease, including



1 reasonable charges to the lessee for excess wear or use and
2 mileage, that are due and unpaid at the time of termination of
3 the lease shall be paid by the lessee.

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

13 SECTION 7. Section 657D-34, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[[~~\$657D-34~~]]~~ **Determination of policies entitled to**
16 **protection; notice to parties; lapse of policies for nonpayment**
17 **of premiums, etc.** The insurance commissioner shall determine
18 whether the policy is entitled to protection under this part and
19 shall notify the insured and the insurer of that determination.
20 Any policy found by the insurance commissioner to be entitled to
21 protection under this part, subsequent to date of application



1 and during the period of [~~state~~] military service of the insured
2 and for sixty days after the expiration of that service, shall
3 not lapse or otherwise terminate or be forfeited for the
4 nonpayment of a premium becoming due and payable, or the
5 nonpayment of any indebtedness or interest."

6 SECTION 8. Section 657D-41, Hawaii Revised Statutes, is
7 amended by amending subsections (a) through (c) to read as
8 follows:

9 "(a) This section applies to any general or special unpaid
10 taxes or assessments, that fall due prior to or during the
11 period of [~~state~~] military service, on personal property, money,
12 or credits, or real property owned and occupied for dwelling,
13 professional, business, or agricultural purposes by persons in
14 [~~state~~] military service or the person's dependents at the
15 commencement of the period of military service and still so
16 occupied by the person's dependents or employees. This section
17 does not apply to taxes on income.

18 (b) No sale of any property in subsection (a) shall be
19 made to enforce the collection of any state or county tax or
20 assessment, and no proceeding or action for that purpose shall
21 commence, except upon leave of court granted upon application



1 made by the state department of taxation or appropriate county
2 agency. The court, unless in its opinion the ability of the
3 person in military service to pay the taxes or assessments is
4 not materially affected by reason of [state] military service,
5 may stay the proceedings or the sale for a period of not more
6 than sixty days after the termination of the period of military
7 service of the person.

8 (c) When by law the property may be sold or forfeited to
9 enforce the collection of the tax or assessment, the person in
10 [state] military service shall have the right to redeem or
11 commence an action to redeem the property, at any time not later
12 than sixty days after the termination of [state] military
13 service, but in no case later than sixty days after the date if
14 this chapter is repealed; provided this shall not shorten any
15 period provided by any other state or county law providing for
16 that redemption."

17 SECTION 9. Section 657D-42, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) No right to any lands owned or controlled by the
20 State, initiated or acquired under any laws of the State,
21 including the mining and mineral leasing laws, by a person prior



1 to entering [~~state~~] military service shall during the period of
2 that service be forfeited or prejudiced by reason of the
3 person's absence from the land or the person's failure to
4 perform any work or make any improvements thereon or the
5 person's failure to do any other act required by or under those
6 laws."

7 SECTION 10. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 11. This Act shall take effect upon its approval.



Report Title:

State Military Forces; Servicemembers Civil Relief Act

Description:

Applies the protections of civil relief for state military forces to persons serving on full time National Guard duty under title 32 United States Code and to align the HRS with the Servicemembers Civil Relief Act, codified in 50 United States Code chapter 50 (§§3901-4043). (SD2)

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