

110TH CONGRESS
1ST SESSION

H. R. 3298

To amend the Servicemembers Civil Relief Act to allow individuals called to military service to terminate or suspend certain service contracts entered into before the individual receives notice of a permanent change of station or deployment orders and to provide penalties for violations of interest rate limitations.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2007

Mr. PATRICK J. MURPHY of Pennsylvania (for himself and Mr. WALZ of Minnesota) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend the Servicemembers Civil Relief Act to allow individuals called to military service to terminate or suspend certain service contracts entered into before the individual receives notice of a permanent change of station or deployment orders and to provide penalties for violations of interest rate limitations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “21st Century
5 Servicemembers Protection Act”.

1 **SEC. 2. TERMINATION OR SUSPENSION BY SERVICEMEM-**
2 **BERS OF CERTAIN SERVICE CONTRACTS EN-**
3 **TERED INTO BEFORE PERMANENT CHANGE**
4 **OF STATION OF DEPLOYMENT ORDERS.**

5 (a) **TERMINATION.**—Title III of the Servicemembers
6 Civil Relief Act (50 U.S.C. App. 531 et seq.) is amended—

7 (1) by redesignating section 308 as section 309;

8 and

9 (2) by inserting after section 307 the following
10 new section 308:

11 **“SEC. 308. TERMINATION OR SUSPENSION OF SERVICE**
12 **CONTRACTS.**

13 “(a) **TERMINATION BY SERVICEMEMBER.**—A person
14 in military service who is party to a contract described
15 in subsection (b) may, at the person’s option, terminate
16 or suspend the contract at any time after—

17 “(1) the date of the entry of the person into
18 military service; or

19 “(2) the date of the military orders of the per-
20 son described in subsection (b)(2), as the case may
21 be.

22 “(b) **COVERED CONTRACTS.**—This section applies to
23 a contract for cellular phone service, cable or satellite tele-
24 vision service, internet service, automobile insurance,
25 water, electricity, oil, gas, telephone, or other utility, if—

1 “(1) the contract is executed by or on behalf of
2 a person (or the dependent of a person) who there-
3 after and during the term of the contract enters
4 military service (or receives orders to enter military
5 service) under a call or order specifying a period of
6 not less than 90 days (or who enters military service
7 under a call or order specifying a period of 90 days
8 or less and who, without a break in service, receives
9 orders extending the period of military service to a
10 period of not less than 90 days); or

11 “(2) the person enters into the contract while
12 in military service and thereafter receives military
13 orders—

14 “(A) for a change of permanent station—

15 “(i) from a location in the continental
16 United States to a location outside the
17 continental United States; or

18 “(ii) from a location in a State out-
19 side the continental United States to any
20 location outside that State; or

21 “(B) to deploy with a military unit, or as
22 an individual in support of a military operation,
23 for a period of not less than 180 days.

24 “(c) MANNER OF TERMINATION.—

1 “(1) IN GENERAL.—Termination of a contract
2 under subsection (a) is made by delivery by the per-
3 son in military service of written notice of such ter-
4 mination, and a copy of the servicemember’s military
5 orders, to the other party to the contract (or to that
6 party’s grantee or agent).

7 “(2) NATURE OF NOTICE.—Delivery of notice
8 under paragraph (1) may be accomplished—

9 “(A) by hand delivery;

10 “(B) by private business carrier;

11 “(C) by facsimile; or

12 “(D) by placing the written notice in an
13 envelope with sufficient postage and with return
14 receipt requested, and addressed as designated
15 by the party to be notified (or that party’s
16 grantee or agent), and depositing the written
17 notice in the United States mails.

18 “(d) DATE OF CONTRACT TERMINATION.—Termi-
19 nation or suspension of a service contract under subsection
20 (a) is effective as of the date on which the notice under
21 subsection (c) is delivered.

22 “(e) ARREARAGES AND OTHER OBLIGATIONS AND
23 LIABILITIES.—Contract amounts unpaid for the period
24 preceding the effective date of the contract termination
25 shall be paid on a prorated basis. The other party to the

1 contract may not impose an early termination or suspen-
2 sion charge, but any tax or any other obligation or liability
3 of the person in military service that, in accordance with
4 the terms of the contract, is due and unpaid at the time
5 of termination of the contract shall be paid by the person
6 in military service.

7 “(f) FEES PAID IN ADVANCE.—A fee or amount paid
8 in advance for a period after the effective date of the ter-
9 mination of the contract shall be refunded to the person
10 in military service by the other party (or that party’s
11 grantee or agent) within 30 days of the effective date of
12 the termination of the contract.

13 “(g) RELIEF TO OTHER PARTY.—Upon application
14 by the other party to the contract to a court before the
15 termination date provided in the written notice, relief
16 granted by this section to a person in military service may
17 be modified as justice and equity require.

18 “(h) PENALTIES.—

19 “(1) MISDEMEANOR.—Any person who know-
20 ingly seizes, holds, or detains the personal effects,
21 funds, or other property of a person in military serv-
22 ice (or of a dependent of a person in military serv-
23 ice) who lawfully terminates a contract covered by
24 this section shall be fined as provided in title 18,

1 United States Code, imprisoned for not more than
2 one year, or both.

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

9 “(i) EQUITABLE RELIEF.—

10 “(1) IN GENERAL.—In addition to any other
11 remedy available under law, if a person in military
12 service has reason to believe that another party to
13 a contract has violated or is violating this section,
14 the person in military service may—

15 “(A) bring an action to enjoin the violation
16 in any appropriate United States district court
17 or in any other court of competent jurisdiction;
18 or

19 “(B) bring an action in any appropriate
20 United States district court or in any other
21 court of competent jurisdiction to recover—

22 “(i) damages for which the other
23 party is liable to the person in military
24 service under this section; and

1 “(ii) additional damages of not more
2 than \$10,000 for each willful or negligent
3 violation of this section.

4 “(2) ATTORNEY FEES.—If a person in military
5 service is awarded damages under an action de-
6 scribed under paragraph (1), the person shall be
7 awarded, in addition, the costs of the action and rea-
8 sonable attorney fees, as determined by the court.

9 “(j) MILITARY ORDER.—For the purposes of this sec-
10 tion, the term ‘military orders’, with respect to a
11 servicemember, means official military orders, or any noti-
12 fication, certification, or verification from the
13 servicemember’s commanding officer, with respect to the
14 servicemember’s current or future military duty status.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 in section 1(b) of such Act is amended by striking the
17 item relating to section 308 and inserting after the item
18 relating to section 307 the following new items:

“Sec. 308. Termination or suspension of service contracts.

“Sec. 309. Extension of protections to dependents.”.

19 **SEC. 3. PENALTIES FOR VIOLATION OF INTEREST RATE**
20 **LIMITATION UNDER SERVICEMEMBERS CIVIL**
21 **RELIEF ACT.**

22 Section 207 of such Act (50 U.S.C. App. 527) is
23 amended by adding at the end the following new sub-
24 section:

1 “(e) PENALTY.—Any person who knowingly violates
2 subsection (a) shall be fined in accordance with in title
3 18, United States Code, imprisoned for not more than one
4 year, or both.

5 “(f) STATE ACTION.—

6 “(1) AUTHORITY.—In addition to such other
7 remedies as are provided under State law, if the
8 chief law enforcement officer of a State, or an offi-
9 cial or agency designated by a State, has reason to
10 believe that any person or organization has violated
11 or is violating this section, the chief law enforcement
12 officer may—

13 “(A) may bring an action to enjoin such
14 violation in any appropriate United States dis-
15 trict court or in any other court of competent
16 jurisdiction; and

17 “(B) may bring an action on behalf of the
18 residents of the State to recover—

19 “(i) damages for which the creditor is
20 liable to such residents under this section
21 as a result of the violation; and

22 “(ii) damages of not more than
23 \$10,000 for each willful or negligent viola-
24 tion.

1 “(2) NOTICE TO ATTORNEY GENERAL; RIGHTS
2 OF FEDERAL GOVERNMENT.—The chief law enforce-
3 ment officer of a State shall serve upon the Attorney
4 General or the appropriate official of the Federal
5 Government prior written notice of any action under
6 paragraph (1) and provide a copy of any complaint
7 in such action, except in any case in which such
8 prior notice is not feasible, in which case the chief
9 law enforcement officer shall serve such notice im-
10 mediately upon instituting such action. The Attorney
11 General or appropriate official of the Federal Gov-
12 ernment shall have the right to—

13 “(A) intervene in the action;

14 “(B) upon so intervening, be heard on all
15 matters arising therein;

16 “(C) remove the action to the appropriate
17 United States district court; and

18 “(D) file petitions for appeal.

19 “(3) INVESTIGATORY POWERS.—For purposes
20 of bringing any action under this subsection, nothing
21 in this subsection prevents a chief law enforcement
22 officer of a State, or an official or agency designated
23 by a State, from exercising the powers conferred on
24 the chief law enforcement officer or such official by
25 the laws of such State to conduct investigations or

1 to administer oaths or affirmations or to compel the
2 attendance of witnesses or the production of docu-
3 mentary and other evidence.

4 “(g) RIGHTS OF SERVICEMEMBERS.—

5 “(1) EQUITABLE RELIEF.—

6 “(A) IN GENERAL.—In addition to any
7 other remedies as are provided under Federal
8 or State law, if a servicemember has reason to
9 believe that a creditor has violated or is vio-
10 lating this section, the servicemember may—

11 “(i) bring an action to enjoin such
12 violation in any appropriate United States
13 district court or in any other court of com-
14 petent jurisdiction; and

15 “(ii) bring an action to recover—

16 “(I) damages equal to the
17 amount of the interest charged in vio-
18 lation of this section (plus interest)
19 for which the creditor is liable to the
20 servicemember under this section as a
21 result of the violation; and

22 “(II) damages of not more than
23 \$10,000 for each willful or negligent
24 violation.

1 “(B) DETERMINATION OF NUMBER OF
2 VIOLATIONS.—In determining the number of
3 violations by a creditor for which a penalty shall
4 be imposed under subsection (f)(1)(B)(ii) or
5 (g)(1)(B)(ii), the court shall count as a single
6 violation each obligation or liability of a
7 servicemember with respect to which—

8 “(i) the servicemember properly pro-
9 vided to the creditor written notice and a
10 copy of the military orders calling the
11 servicemember to military service and any
12 orders further extending military service
13 under subsection (b); and

14 “(ii) the creditor failed to treat in ac-
15 cordance with subsection (a).

16 “(2) ATTORNEY FEES.—If a servicemember is
17 awarded damages under an action described under
18 paragraph (1), the servicemember shall be awarded,
19 in addition, the costs of the action and reasonable
20 attorney fees, as determined by the court.

21 “(h) PRESERVATION OF OTHER REMEDIES.—The
22 rights and remedies provided under subsections (f) and (g)
23 are in addition to and do not preclude any other remedy
24 available under law to a person claiming relief under this

- 1 section, including any award for consequential or punitive
- 2 damages.”.

