

§ 3902. Purpose

The purposes of this chapter are—

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

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

(Oct. 17, 1940, ch. 888, § 2, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2836.)

CODIFICATION

Section was formerly classified to section 502 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 100 of act Oct. 17, 1940, ch. 888, art. I, 54 Stat. 1179, prior to the general amendment of this Act by Pub. L. 108-189.

SUBCHAPTER I—GENERAL PROVISIONS**§ 3911. Definitions**

For the purposes of this chapter:

(1) Servicemember

The term “servicemember” means a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10.

(2) Military service

The term “military service” means—

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

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

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

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

(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(3) Period of military service

The term “period of military service” means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

(4) Dependent

The term “dependent”, with respect to a servicemember, means—

(A) the servicemember’s spouse;

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

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

(5) Court

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

(6) State

The term “State” includes—

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

(B) the District of Columbia.

(7) Secretary concerned

The term “Secretary concerned”—

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

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

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

(8) Motor vehicle

The term “motor vehicle” has the meaning given that term in section 30102(a)(6) of title 49.

(9) Judgment

The term “judgment” means any judgment, decree, order, or ruling, final or temporary.

(Oct. 17, 1940, ch. 888, title I, § 101, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2836; amended Pub. L. 108-454, title VII, § 701, Dec. 10, 2004, 118 Stat. 3624.)

CODIFICATION

Section was formerly classified to section 511 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 101 of act Oct. 17, 1940, ch. 888, art. I, 54 Stat. 1179; Pub. L. 92-540, title V, § 504(1), Oct. 24, 1972, 86 Stat. 1098; Pub. L. 102-12, § 9(1), Mar. 18, 1991, 105 Stat. 38; Pub. L. 107-330, title III, § 305, Dec. 6, 2002, 116 Stat. 2826, related to definitions, prior to the general amendment of this Act by Pub. L. 108-189.

AMENDMENTS

2004—Par. (9). Pub. L. 108-454 added par. (9).

§ 3912. Jurisdiction and applicability of chapter**(a) Jurisdiction**

This chapter applies to—

(1) the United States;

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

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

(b) Applicability to proceedings

This chapter applies to any judicial or administrative proceeding commenced in any court or

agency in any jurisdiction subject to this chapter. This chapter does not apply to criminal proceedings.

(c) Court in which application may be made

When under this chapter any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

(Oct. 17, 1940, ch. 888, title I, §102, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2837.)

CODIFICATION

Section was formerly classified to section 512 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 102 of act Oct. 17, 1940, ch. 888, art. I, 54 Stat. 1179; Pub. L. 102-12, §9(2), Mar. 18, 1991, 105 Stat. 39, related to territorial application, jurisdiction of courts, and form of procedure, prior to the general amendment of this Act by Pub. L. 108-189.

§ 3913. Protection of persons secondarily liable

(a) Extension of protection when actions stayed, postponed, or suspended

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

(b) Vacation or set-aside of judgments

When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this chapter, the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on the contract or liability for the enforcement of the judgment or decree.

(c) Bail bond not to be enforced during period of military service

A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

(d) Waiver of rights

(1) Waivers not precluded

This chapter does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protec-

tions provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

(2) Waiver invalidated upon entrance to military service

If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 3917 of this title.

(Oct. 17, 1940, ch. 888, title I, §103, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2838.)

CODIFICATION

Section was formerly classified to section 513 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 103 of act Oct. 17, 1940, ch. 888, art. I, 54 Stat. 1179; Oct. 6, 1942, ch. 581, §§2, 3, 56 Stat. 769; Pub. L. 102-12, §9(3), Mar. 18, 1991, 105 Stat. 39, related to protection of persons secondarily liable, prior to the general amendment of this Act by Pub. L. 108-189.

§ 3914. Extension of protections to citizens serving with allied forces

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

(Oct. 17, 1940, ch. 888, title I, §104, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2839.)

CODIFICATION

Section was formerly classified to section 514 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 104 of act Oct. 17, 1940, ch. 888, art. I, as added Oct. 6, 1942, ch. 581, §4, 56 Stat. 770, related to extension of benefits to citizens serving with forces of war allies, prior to the general amendment of this Act by Pub. L. 108-189.

§ 3915. Notification of benefits

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

(Oct. 17, 1940, ch. 888, title I, §105, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2839.)

CODIFICATION

Section was formerly classified to section 515 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.