

servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent—

(A) during the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage; or

(B) during the period of military service, in the case of any other obligation or liability.

(2) Forgiveness of interest in excess of 6 percent

Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.

(3) Prevention of acceleration of principal

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

(b) Implementation of limitation

(1) Written notice to creditor

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

(2) Limitation effective as of date of order to active duty

Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

(c) Creditor protection

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

(d) Definitions

In this section:

(1) Interest

The term "interest" includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

(2) Obligation or liability

The term "obligation or liability" includes an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage.

(e) Penalty

Whoever knowingly violates subsection (a) shall be fined as provided in title 18, imprisoned for not more than one year, or both.

(Oct. 17, 1940, ch. 888, title II, § 207, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2844; amended Pub. L. 110-289, div. B, title II, § 2203(b), July 30, 2008, 122 Stat. 2849; Pub. L. 110-389, title VIII, § 807, Oct. 10, 2008, 122 Stat. 4189; Pub. L. 111-275, title III, § 303(b)(1), Oct. 13, 2010, 124 Stat. 2877.)

CODIFICATION

Section was formerly classified to section 527 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 207 of act Oct. 17, 1940, ch. 888, art. II, as added Oct. 21, 1942, ch. 619, title V, § 507(b)(2)(B), 56 Stat. 964, related to limitations prescribed by internal revenue laws as affected by period of service, prior to the general amendment of this Act by Pub. L. 108-189. See section 3936 of this title.

AMENDMENTS

2010—Subsec. (f). Pub. L. 111-275 struck out subsec. (f). Text read as follows: "The penalties provided under subsection (e) are in addition to and do not preclude any other remedy available under law to a person claiming relief under this section, including any award for consequential or punitive damages."

2008—Subsec. (a)(1). Pub. L. 110-289, § 2203(b)(1), substituted "in excess of 6 percent—" for "in excess of 6 percent per year during the period of military service." and added subpars. (A) and (B).

Subsec. (d). Pub. L. 110-289, § 2203(b)(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "As used in this section, the term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability."

Subsecs. (e), (f). Pub. L. 110-389 added subsecs. (e) and (f).

§ 3938. Child custody protection

(a) Duration of temporary custody order based on certain deployments

If a court renders a temporary order for custodial responsibility for a child based solely on a deployment or anticipated deployment of a parent who is a servicemember, the court shall require that the temporary order shall expire not later than the period justified by the deployment of the servicemember.

(b) Limitation on consideration of member's deployment in determination of child's best interest

If a motion or a petition is filed seeking a permanent order to modify the custody of the child of a servicemember, no court may consider the absence of the servicemember by reason of deployment, or the possibility of deployment, as the sole factor in determining the best interest of the child.

(c) No Federal jurisdiction or right of action or removal

Nothing in this section shall create a Federal right of action or otherwise give rise to Federal jurisdiction or create a right of removal.

(d) Preemption

In any case where State law applicable to a child custody proceeding involving a temporary

order as contemplated in this section provides a higher standard of protection to the rights of the parent who is a deploying servicemember than the rights provided under this section with respect to such temporary order, the appropriate court shall apply the higher State standard.

(e) Deployment defined

In this section, the term “deployment” means the movement or mobilization of a servicemember to a location for a period of longer than 60 days and not longer than 540 days pursuant to temporary or permanent official orders—

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

(Oct. 17, 1940, ch. 888, title II, §208, as added Pub. L. 113-291, div. A, title V, §566(a), Dec. 19, 2014, 128 Stat. 3384.)

CODIFICATION

Section was formerly classified to section 528 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

SUBCHAPTER III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES, TELEPHONE SERVICE CONTRACTS

AMENDMENTS

2010—Pub. L. 111-275, title III, §302(b), Oct. 13, 2010, 124 Stat. 2876, inserted “, TELEPHONE SERVICE CONTRACTS” after “LEASES” in heading.

§ 3951. Evictions and distress

(a) Court-ordered eviction

(1) In general

Except by court order, a landlord (or another person with paramount title) may not—

(A) evict a servicemember, or the dependents of a servicemember, during a period of military service of the servicemember, from premises—

- (i) that are occupied or intended to be occupied primarily as a residence; and
- (ii) for which the monthly rent does not exceed \$2,400, as adjusted under paragraph (2) for years after 2003; or

(B) subject such premises to a distress during the period of military service.

(2) Housing price inflation adjustment

(A) For calendar years beginning with 2004, the amount in effect under paragraph (1)(A)(ii) shall be increased by the housing price inflation adjustment for the calendar year involved.

(B) For purposes of this paragraph—

(i) The housing price inflation adjustment for any calendar year is the percentage change (if any) by which—

- (I) the CPI housing component for November of the preceding calendar year, exceeds
- (II) the CPI housing component for November of 1984.

(ii) The term “CPI housing component” means the index published by the Bureau of Labor Statistics of the Department of Labor known as the Consumer Price Index, All Urban Consumers, Rent of Primary Residence, U.S. City Average.

(3) Publication of housing price inflation adjustment

The Secretary of Defense shall cause to be published in the Federal Register each year the amount in effect under paragraph (1)(A)(ii) for that year following the housing price inflation adjustment for that year pursuant to paragraph (2). Such publication shall be made for a year not later than 60 days after such adjustment is made for that year.

(b) Stay of execution

(1) Court authority

Upon an application for eviction or distress with respect to premises covered by this section, the court may on its own motion and shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service—

(A) stay the proceedings for a period of 90 days, unless in the opinion of the court, justice and equity require a longer or shorter period of time; or

(B) adjust the obligation under the lease to preserve the interests of all parties.

(2) Relief to landlord

If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.

(c) Misdemeanor

Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, or imprisoned for not more than one year, or both.

(d) Rent allotment from pay of servicemember

To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulations prescribed by the Secretary concerned establishing the maximum amount of pay of servicemembers that may be allotted under this subsection.

(e) Limitation of applicability

Section 3932 of this title is not applicable to this section.

(Oct. 17, 1940, ch. 888, title III, §301, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2845; amended Pub. L. 111-275, title III, §303(b)(2), Oct. 13, 2010, 124 Stat. 2877.)

CODIFICATION

Section was formerly classified to section 531 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.