

PRIOR PROVISIONS

A prior section 301 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1182; Oct. 6, 1942, ch. 581, §9(a), (c), (d), 56 Stat. 771; Pub. L. 102-12, §9(9), Mar. 18, 1991, 105 Stat. 40, related to installment contracts for purchase of property, prior to the general amendment of this Act by Pub. L. 108-189. See section 3952 of this title.

Provisions similar to this section were contained in section 300 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1181; Oct. 6, 1942, ch. 581, §8, 56 Stat. 771; Pub. L. 89-358, §10, Mar. 3, 1966, 80 Stat. 28; Pub. L. 102-12, §§2(a), (b), 9(8), Mar. 18, 1991, 105 Stat. 34, 39, prior to the general amendment of this Act by Pub. L. 108-189.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-275 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to penalties.

§ 3952. Protection under installment contracts for purchase or lease

(a) Protection upon breach of contract

(1) Protection after entering military service

After a servicemember enters military service, a contract by the servicemember for—

- (A) the purchase of real or personal property (including a motor vehicle); or
- (B) the lease or bailment of such property,

may not be rescinded or terminated for a breach of terms of the contract occurring before or during that person's military service, nor may the property be repossessed for such breach without a court order.

(2) Applicability

This section applies only to a contract for which a deposit or installment has been paid by the servicemember before the servicemember enters military service.

(b) Misdemeanor

A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 3918 of this title, 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.

(c) Authority of court

In a hearing based on this section, the court—

- (1) may order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract and resuming possession of the property;
- (2) may, on its own motion, and shall on application by a servicemember when the servicemember's ability to comply with the contract is materially affected by military service, stay the proceedings for a period of time as, in the opinion of the court, justice and equity require; or
- (3) may make other disposition as is equitable to preserve the interests of all parties.

(Oct. 17, 1940, ch. 888, title III, §302, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2846; amended Pub. L. 111-275, title III, §303(b)(3), Oct. 13, 2010, 124 Stat. 2878.)

(Oct. 17, 1940, ch. 888, title III, §302, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2846; amended Pub. L. 111-275, title III, §303(b)(3), Oct. 13, 2010, 124 Stat. 2878.)

CODIFICATION

Section was formerly classified to section 532 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 302 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1182; Oct. 6, 1942, ch. 581, §§9(b), (c), 10, 56 Stat. 771, 772; June 23, 1952, ch. 450, 66 Stat. 151; Pub. L. 102-12, §9(9), (10), Mar. 18, 1991, 105 Stat. 40, related to mortgages and trust deeds, prior to the general amendment of this Act by Pub. L. 108-189. See section 3953 of this title.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-275 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to penalties.

§ 3953. Mortgages and trust deeds

(a) Mortgage as security

This section applies only to an obligation on real or personal property owned by a servicemember that—

- (1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and
- (2) is secured by a mortgage, trust deed, or other security in the nature of a mortgage.

(b) Stay of proceedings and adjustment of obligation

In an action filed during, or within one year after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

- (1) stay the proceedings for a period of time as justice and equity require, or
- (2) adjust the obligation to preserve the interests of all parties.

(c) Sale or foreclosure

A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within one year after, the period of the servicemember's military service except—

- (1) upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court; or
- (2) if made pursuant to an agreement as provided in section 3918 of this title.

(d) Misdemeanor

A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), 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.

(Oct. 17, 1940, ch. 888, title III, §303, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2847; amended Pub. L. 110-289, div. B, title II, §2203(a), July 30, 2008, 122 Stat. 2849; Pub. L. 111-275, title III, §303(b)(4), Oct. 13, 2010, 124 Stat. 2878; Pub. L. 112-154, title VII, §710(a), (b), (d)(3), Aug. 6, 2012, 126 Stat. 1208.)

AMENDMENT OF SUBSECTIONS (b) AND (c)

For termination of amendment and revival of prior provisions by section 710(d)(1), (3) of Pub. L. 112-154, see Effective and Termination Dates of 2012 Amendment; Revival notes below.