

Prior sections 512 to 514 of act Oct. 17, 1940, ch. 888, were omitted in the general amendment of this Act by Pub. L. 108-189.

Section 512, act Oct. 17, 1940, ch. 888, art. V, 54 Stat. 1190; Oct. 6, 1942, ch. 581, §16, 56 Stat. 776, related to extension of benefits to persons serving with war allies of the United States. See section 3914 of this title.

Section 513, act Oct. 17, 1940, ch. 888, art. V, 54 Stat. 1190, related to deferral of income tax collection and the statute of limitations. See section 4000 of this title.

Section 514, act Oct. 17, 1940, ch. 888, art. V, as added Oct. 6, 1942, ch. 581, §17, 56 Stat. 777; amended July 3, 1944, ch. 397, §1, 58 Stat. 722; Pub. L. 87-771, Oct. 9, 1962, 76 Stat. 768; Pub. L. 102-12, §9(24), Mar. 18, 1991, 105 Stat. 41, related to residence for tax purposes. See section 4001 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-97, §3(a)(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (c). Pub. L. 111-97, §3(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 111-97, §3(a)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 111-97, §3(a)(4)(A), inserted “or the spouse of a servicemember” after “The personal property of a servicemember”.

Subsec. (d)(2). Pub. L. 111-97, §3(a)(4)(B), inserted “or the spouse’s” after “servicemember’s”.

Subsecs. (e) to (g). Pub. L. 111-97, §3(a)(2), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-97, §3(b), Nov. 11, 2009, 123 Stat. 3008, provided that: “Subsections (a)(2) and (c) of section 511 of such Act [Servicemembers Civil Relief Act] (50 U.S.C. App. 571) [now 50 U.S.C. 4001], as added by subsection (a) of this section, and the amendments made to such section 511 by subsection (a)(4) of this section [amending this section], shall apply with respect to any return of State or local income tax filed for any taxable year beginning with the taxable year that includes the date of the enactment of this Act [Nov. 11, 2009].”

SUBCHAPTER VI—ADMINISTRATIVE REMEDIES

§ 4011. Inappropriate use of chapter

If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this chapter, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

(Oct. 17, 1940, ch. 888, title VI, §601, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2859.)

CODIFICATION

Section was formerly classified to section 581 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 601 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1190; Jan. 20, 1942, ch. 10, §§1, 2, 56 Stat. 10; Pub. L. 102-12, §9(26), Mar. 18, 1991, 105 Stat. 41, related to certificates of service and persons reported missing, prior to the general amendment of this Act by Pub. L. 108-189. See section 4012 of this title.

Provisions similar to this section were contained in section 600 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1190; Pub. L. 102-12, §9(25), Mar. 18, 1991, 105 Stat. 41, prior to the general amendment of this Act by Pub. L. 108-189.

§ 4012. Certificates of service; persons reported missing

(a) Prima facie evidence

In any proceeding under this chapter, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

(1) That a person named is, is not, has been, or has not been in military service.

(2) The time and the place the person entered military service.

(3) The person’s residence at the time the person entered military service.

(4) The rank, branch, and unit of military service of the person upon entry.

(5) The inclusive dates of the person’s military service.

(6) The monthly pay received by the person at the date of the certificate’s issuance.

(7) The time and place of the person’s termination of or release from military service, or the person’s death during military service.

(b) Certificates

The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer’s authority to issue it.

(c) Treatment of servicemembers in missing status

A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this chapter that begins or ends with the death of a servicemember does not begin or end until the servicemember’s death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

(Oct. 17, 1940, ch. 888, title VI, §602, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2859.)

CODIFICATION

Section was formerly classified to section 582 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 602 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191, related to revocation of interlocutory orders, prior to the general amendment of this Act by Pub. L. 108-189. See section 4013 of this title.

§ 4013. Interlocutory orders

An interlocutory order issued by a court under this chapter may be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

(Oct. 17, 1940, ch. 888, title VI, §603, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2860.)

CODIFICATION

Section was formerly classified to section 583 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 603 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191, related to separability, prior to the general amendment of this Act by Pub. L. 108-189.

Prior sections 604 and 605 of act Oct. 17, 1940, ch. 888, were omitted in the general amendment of this Act by Pub. L. 108-189.

Section 604 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191; Pub. L. 102-12, §9(27), Mar. 18, 1991, 105 Stat. 41, related to termination date.

Section 605 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191, related to the inapplicability of act Mar. 8, 1918, ch. 20, 40 Stat. 440, to military service performed after Oct. 17, 1940.

SUBCHAPTER VII—FURTHER RELIEF

§ 4021. Anticipatory relief

(a) Application for relief

A servicemember may, during military service or within 180 days of termination of or release from military service, apply to a court for relief—

- (1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or
- (2) from a tax or assessment falling due before or during the servicemember's military service.

(b) Tax liability or assessment

In a case covered by subsection (a), the court may, if the ability of the servicemember to comply with the terms of such obligation or liability or pay such tax or assessment has been materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

(1) Stay of enforcement of real estate contracts

(A) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, the court may grant a stay of the enforcement of the obligation—

- (i) during the servicemember's period of military service; and
- (ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

(B) Any stay under this paragraph shall be—

- (i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and
- (ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument evidencing the obligation, and subject to other terms as may be equitable.

(2) Stay of enforcement of other contracts

(A) In the case of any other obligation, liability, tax, or assessment, the court may grant a stay of enforcement—

- (i) during the servicemember's military service; and

(ii) from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

(B) Any stay under this paragraph shall be—

- (i) for a period of time equal to the period of the servicemember's military service or any part of such period; and
- (ii) subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

(c) Affect¹ of stay on fine or penalty

When a court grants a stay under this section, a fine or penalty shall not accrue on the obligation, liability, tax, or assessment for the period of compliance with the terms and conditions of the stay.

(Oct. 17, 1940, ch. 888, title VII, §701, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2860.)

CODIFICATION

Section was formerly classified to section 591 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 701 of act Oct. 17, 1940, ch. 888, art. VII, as added Pub. L. 92-540, title V, §504(2), Oct. 24, 1972, 86 Stat. 1098; amended Pub. L. 102-12, §3, Mar. 18, 1991, 105 Stat. 34, related to power of attorney, prior to the general amendment of this Act by Pub. L. 108-189. See section 4022 of this title.

Provisions similar to this section were contained in section 700 of act Oct. 17, 1940, ch. 888, art. VII, as added Oct. 6, 1942, ch. 581, §18, 56 Stat. 777, prior to the general amendment of this Act by Pub. L. 108-189.

§ 4022. Power of attorney

(a) Automatic extension

A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in section 551(2) of title 37) if the power of attorney—

- (1) was duly executed by the servicemember—
 - (A) while in military service; or
 - (B) before entry into military service but after the servicemember—
 - (i) received a call or order to report for military service; or
 - (ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

(2) designates the servicemember's spouse, parent, or other named relative as the servicemember's attorney in fact for certain, specified, or all purposes; and

(3) expires by its terms after the servicemember entered a missing status.

¹ So in original. Probably should be "Effect".