

§ 3935. Duration and term of stays; codefendants not in service

(a) Period of stay

A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this chapter by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

(b) Codefendants

If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this chapter, the plaintiff may proceed against those other defendants with the approval of the court.

(c) Inapplicability of section

This section does not apply to sections 3932 and 4021 of this title.

(Oct. 17, 1940, ch. 888, title II, § 205, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2844.)

CODIFICATION

Section was formerly classified to section 525 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 205 of act Oct. 17, 1940, ch. 888, art. II, 54 Stat. 1181; Oct. 6, 1942, ch. 581, § 5, 56 Stat. 770; Pub. L. 102-12, § 9(6), Mar. 18, 1991, 105 Stat. 39, related to statutes of limitations 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.

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 3936. Statute of limitations

(a) Tolling of statutes of limitation during military service

The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

(b) Redemption of real property

A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

(c) Inapplicability to internal revenue laws

This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

(Oct. 17, 1940, ch. 888, title II, § 206, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2844.)

CODIFICATION

Section was formerly classified to section 526 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 206 of act Oct. 17, 1940, ch. 888, art. II, as added Oct. 6, 1942, ch. 581, § 6, 56 Stat. 771; amended Pub. L. 102-12, § 9(7), Mar. 18, 1991, 105 Stat. 39, related to maximum rate of interest, prior to the general amendment of this Act by Pub. L. 108-189. See section 3937 of this title.

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 3937. Maximum rate of interest on debts incurred before military service

(a) Interest rate limitation

(1) Limitation to 6 percent

An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the 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) Proof of military service

(A) In general

Not later than 180 days after the date of a servicemember's termination or release from military service, in order for an obligation or liability of the 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—

(i) the military orders calling the servicemember to military service and any orders further extending military service; or

(ii) any other appropriate indicator of military service, including a certified letter from a commanding officer.

(B) Independent verification by creditor**(i) In general**

A creditor may use, in lieu of notice and documentation under subparagraph (A), information retrieved from the Defense Manpower Data Center through the creditor's normal business reviews of such Center for purposes of obtaining information indicating that the servicemember is on active duty.

(ii) Safe harbor

A creditor that uses the information retrieved from the Defense Manpower Data Center under clause (i) with respect to a servicemember has not failed to treat the debt of the servicemember in accordance with subsection (a) if—

(I) such information indicates that, on the date the creditor retrieves such information, the servicemember is not on active duty; and

(II) the creditor has not, by the end of the 180-day period under subparagraph (A), received the written notice and documentation required under that subparagraph with respect to the servicemember.

(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;

Pub. L. 115-232, div. A, title V, § 600, Aug. 13, 2018, 132 Stat. 1793.)

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

2018—Subsec. (b)(1). Pub. L. 115-232 amended par. (1) generally. Prior to amendment, text read as follows: "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."

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).

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 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.