

**(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.

**(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.

**§ 3938a. Annual notice to members of the Armed Forces regarding child custody protections guaranteed by the Servicemembers Civil Relief Act**

The Secretaries of each of the military departments shall ensure that each member of the Armed Forces with dependents receives annually, and prior to each deployment, notice of the child custody protections afforded to members of the Armed Forces under the Servicemembers Civil Relief Act (50 U.S.C. 3901 et seq.).

(Pub. L. 114-328, div. A, title V, § 573, Dec. 23, 2016, 130 Stat. 2141.)

## REFERENCES IN TEXT

The Servicemembers Civil Relief Act, referred to in text, is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

## CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2017, and not as part of the Servicemembers Civil Relief Act which comprises this chapter.

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

## CODIFICATION

Pub. L. 115-407, title III, § 304(b)(2)(A), Dec. 31, 2018, 132 Stat. 5375, substituted “RENT, INSTALLMENT CON-

TRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES, COMMUNICATIONS SERVICE CONTRACTS” for “RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES, TELEPHONE SERVICE CONTRACTS” in heading.

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