

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; Pub. L. 115-174, title III, §313, May 24, 2018, 132 Stat. 1356.)

CODIFICATION

Section was formerly classified to section 533 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 303 of act Oct. 17, 1940, ch. 888, art. III, as added Oct. 6, 1942, ch. 581, §12, 56 Stat. 772, related to settlement of cases involving stayed proceedings to foreclose mortgage on, resume possession of, or terminate contract for purchase of, personal property, prior to the general amendment of this Act by Pub. L. 108-189. See section 3954 of this title.

Another prior section 303 of act Oct. 17, 1940, ch. 888, art. III, 54 Stat. 1183, related to stay of action to resume possession of motor vehicle, tractor, or their accessories, encumbered by purchase money mortgage, conditional sales contract, etc., prior to repeal by act Oct. 6, 1942, ch. 581, §11, 56 Stat. 772.

AMENDMENTS

2018—Subsecs. (b), (c). Pub. L. 115-174 repealed Pub. L. 112-154, §710(d)(1), (3). See 2012 Amendment notes below.

2012—Subsecs. (b), (c). Pub. L. 112-154, §710(d)(3), as amended, which would have revived the provisions of subsecs. (b) and (c) as in effect on July 29, 2008, was repealed by Pub. L. 115-174, §313.

Pub. L. 112-154, §710(a), (b), substituted “within one year” for “within 9 months” in introductory provisions.

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

2008—Subsecs. (b), (c). Pub. L. 110-289 substituted “9 months” for “90 days” in introductory provisions.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT; REVIVAL

Pub. L. 112-154, title VII, §710(c), Aug. 6, 2012, 126 Stat. 1208, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date that is 180 days after the date of the enactment of this Act [Aug. 6, 2012].”

Pub. L. 112-154, title VII, §710(d)(1), Aug. 6, 2012, 126 Stat. 1208, as amended by Pub. L. 113-286, §2(1), Dec. 18, 2014, 128 Stat. 3093; Pub. L. 114-142, §2(1), Mar. 31, 2016, 130 Stat. 326; Pub. L. 115-91, div. A, title V, §557(1), Dec. 12, 2017, 131 Stat. 1405, which provided that the amendments made by subsecs. (a) and (b) of section 710 of Pub. L. 112-154 (amending this section) would expire on Dec. 31, 2019, was repealed by Pub. L. 115-174, title III, §313, May 24, 2018, 132 Stat. 1356.

Pub. L. 112-154, title VII, §710(d)(3), Aug. 6, 2012, 126 Stat. 1208, as amended by Pub. L. 113-286, §2(2), Dec. 18, 2014, 128 Stat. 3093; Pub. L. 114-142, §2(2), Mar. 31, 2016, 130 Stat. 326; Pub. L. 115-91, div. A, title V, §557(2), Dec. 12, 2017, 131 Stat. 1405, which provided that, effective Jan. 1, 2020, the provisions of subsecs. (b) and (c) of this section, as in effect on July 29, 2008, would be revived, was repealed by Pub. L. 115-174, title III, §313, May 24, 2018, 132 Stat. 1356.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-289, div. B, title II, §2203(c), July 30, 2008, 122 Stat. 2850, as amended by Pub. L. 111-346, §2, Dec. 29, 2010, 124 Stat. 3622; Pub. L. 112-154, title VII, §710(d)(2), Aug. 6, 2012, 126 Stat. 1208, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 30, 2008].”

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.

§ 3954. Settlement of stayed cases relating to personal property

(a) Appraisal of property

When a stay is granted pursuant to this chapter in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

(b) Equity payment

Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

(Oct. 17, 1940, ch. 888, title III, §304, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2848.)

CODIFICATION

Section was formerly classified to section 534 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 304 of act Oct. 17, 1940, ch. 888, art. III, as added Oct. 6, 1942, ch. 581, §12, 56 Stat. 772; amended Pub. L. 102-12, §9(9), Mar. 18, 1991, 105 Stat. 40, related to termination of leases by lessees, prior to the general amendment of this Act by Pub. L. 108-189. See section 3955 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.

§ 3955. Termination of residential or motor vehicle leases

(a) Termination

(1) Termination by lessee

The lessee on a lease described in subsection (b) may, at the lessee's option, terminate the lease at any time after—

(A) the lessee's entry into military service; or

(B) the date of the lessee's military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.

(2) Joint leases

A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.

(3) Death of lessee

The spouse of the lessee on a lease described in subsection (b)(1) may terminate the lease during the one-year period beginning on the date of the death of the lessee, if the lessee dies while in military service or while performing full-time National Guard duty, active Guard and Reserve duty, or inactive-duty training (as such terms are defined in section 101(d) of title 10).

(b) Covered leases

This section applies to the following leases:

(1) Leases of premises

A lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 90 days.

(2) Leases of motor vehicles

A lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember's dependents for personal or business transportation if—

(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of not less

than 180 days (or who enters military service under a call or order specifying a period of 180 days or less and who, without a break in service, receives orders extending the period of military service to a period of not less than 180 days); or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders—

(i) for a change of permanent station—

(I) from a location in the continental United States to a location outside the continental United States; or

(II) from a location in a State outside the continental United States to any location outside that State; or

(ii) to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 180 days.

(c) Manner of termination

(1) In general

Termination of a lease under subsection (a) is made—

(A) by delivery by the lessee of written notice of such termination, and a copy of the servicemember's military orders, to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee); and

(B) in the case of a lease of a motor vehicle, by return of the motor vehicle by the lessee to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee), not later than 15 days after the date of the delivery of written notice under subparagraph (A).

(2) Delivery of notice

Delivery of notice under paragraph (1)(A) may be accomplished—

(A) by hand delivery;

(B) by private business carrier; or

(C) by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee), and depositing the written notice in the United States mails.

(d) Effective date of lease termination

(1) Lease of premises

In the case of a lease described in subsection (b)(1) that provides for monthly payment of rent, termination of the lease under subsection (a) is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice under subsection (c) is delivered. In the case of any other lease described in subsection (b)(1), termination of the lease under subsection (a) is effective on the last day of the month following the month in which the notice is delivered.

(2) Lease of motor vehicles

In the case of a lease described in subsection (b)(2), termination of the lease under subsection (a) is effective on the day on which the requirements of subsection (c) are met for such termination.