
A BILL FOR AN ACT

RELATING TO STATE MILITARY FORCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to apply the protections of civil relief for state military forces to persons serving on full time national guard duty under title 32 United States Code section 101 et seq., and to align the Hawaii Revised Statutes with the Servicemembers Civil Relief Act, title 50 United States Code chapter 50 sections 3901 through 4043.

SECTION 2. Section 657D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Full time National Guard duty" means full time service in the National Guard as defined in section 101(19) of title 32 United States Code."

2. By amending the definitions of "military service" and "period of military service" to read:

"Military service" means service on state active duty in any of the state military forces~~[or]~~ or full time National Guard duty."

"Period of military service" means the period beginning on the date on which the person enters state active duty or full time National Guard duty and ending on the date of the person's release from state active duty or full time National Guard duty or the person's death while on state active duty~~[or]~~ or full time National Guard duty."

SECTION 3. Section 657D-5, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]~~**\$657D-5**~~[§]~~ **Extension of benefits to persons ordered to report for [state] military service.** Any person who is ordered to report for ~~[state]~~ military service shall be entitled to the relief and benefits during:

- (1) The period of ~~[actual]~~ military service; and
- (2) The period beginning on the date of receipt of the order and ending on the date upon which the member reports for military service, or the date on which the order is revoked, whichever is earlier."

SECTION 4. Section 657D-15, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]~~**\$657D-15**~~[§]~~ **Duration and term of stays; co-defendants not in service.** A stay of any action, proceeding, attachment, or execution, ordered by any court under this chapter, shall be for the period of military service and ~~[sixty]~~ ninety days thereafter or any part of that period, and may be subject to such terms as may be just, including payment in installments of specified amounts and at such times as the court may fix. Where the person in military service is a co-defendant with others, the plaintiff may proceed against the others by leave of the court."

SECTION 5. Section 657D-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, shall be valid if made during the period of military service or within ~~[sixty days]~~ one year thereafter, except pursuant to an

agreement as provided in section 657D-6, unless upon an order previously granted by the court and a return thereto made and approved by the court.

Any person who knowingly makes, attempts, or causes to be made any such sale, foreclosure, or seizure of property, shall be guilty of a misdemeanor."

SECTION 6. Section 657D-25, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]§657D-25[§]~~ **Termination of residential or motor vehicle leases by lessees.** (a) This section applies to ~~[any lease of premises occupied for a dwelling, or for professional, business, agricultural, or similar purposes in any case in which]~~:

~~[(1) The lease was executed by or on the behalf of a person who, after the execution of the lease, entered military service; and~~

~~(2) The leased premises have been occupied for one or more of those purposes by the person or by the person and the person's dependents.]~~

(1) Any lease of premises occupied for a dwelling, or for professional, business, agricultural, or similar purposes in any case in which:

(A) The lease was executed by or on the behalf of a person who, after the execution of the lease, entered military service; and

(B) The leased premises have been occupied for one or more of those purposes by the person or by the person and the person's dependents; and

(2) A lease of a motor vehicle used, or intended to be used, by a person or the person's dependents for personal or business transportation who, after the execution of the lease, entered military service.

(b) Any lease described in subsection (a) may be terminated by notice in writing delivered to the lessor or the lessor's grantee or to one of their agents by the lessee at any time following the date of the beginning of the lessor's or the lessor's grantee's period of military service. Delivery of the notice may be made by mailing it.

(c) Termination of any ~~[such]~~ lease providing for monthly payment of rent shall not be effective until thirty days after the date on which the next rental

payment is due and payable following the date of delivery or mailing of the notice. In the case of all other leases, termination shall be effected on the last day of the month following the month in which the notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be computed pro rata and any rental paid in advance for a period succeeding termination shall be refunded by the lessor or the lessor's assignee. Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this subsection shall be subject to such modifications or restrictions the court may find in the interests of justice and equity.

(d) Termination of a motor vehicle lease is effective only upon 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 fifteen days after the date of the delivery of written notice under subsection (b). Lease amounts for a lease described in subsection (a)(2) that are unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. The lessor may not impose an early termination charge, but any taxes, summonses, title and registration fees, or other obligations and liabilities of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear or use and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

~~[(e)]~~ (e) Any person who knowingly seizes, holds, or retains the personal effects, clothing, furniture, or other property of any person who has lawfully terminated a lease covered by this section, or in any manner interferes with the removal of such property from the premises covered by such lease, for the purpose of subjecting or attempting to subject any such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be guilty of a misdemeanor."

SECTION 7. Section 657D-34, Hawaii Revised Statutes, is amended to read as follows:

"[+]§657D-34[+] Determination of policies entitled to protection; notice to parties; lapse of policies for nonpayment of premiums, etc. The insurance commissioner shall determine whether the policy is entitled to protection under

this part and shall notify the insured and the insurer of that determination. Any policy found by the insurance commissioner to be entitled to protection under this part, subsequent to date of application and during the period of [~~state~~] military service of the insured and for sixty days after the expiration of that service, shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium becoming due and payable, or the nonpayment of any indebtedness or interest."

SECTION 8. Section 657D-41, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

"(a) This section applies to any general or special unpaid taxes or assessments, that fall due prior to or during the period of [~~state~~] military service, on personal property, money, or credits, or real property owned and occupied for dwelling, professional, business, or agricultural purposes by persons in [~~state~~] military service or the person's dependents at the commencement of the period of military service and still so occupied by the person's dependents or employees. This section does not apply to taxes on income.

(b) No sale of any property in subsection (a) shall be made to enforce the collection of any state or county tax or assessment, and no proceeding or action for that purpose shall commence, except upon leave of court granted upon application made by the state department of taxation or appropriate county agency. The court, unless in its opinion the ability of the person in military service to pay the taxes or assessments is not materially affected by reason of [~~state~~] military service, may stay the proceedings or the sale for a period of not more than sixty days after the termination of the period of military service of the person.

(c) When by law the property may be sold or forfeited to enforce the collection of the tax or assessment, the person in [~~state~~] military service shall have the right to redeem or commence an action to redeem the property, at any time not later than sixty days after the termination of [~~state~~] military service, but in no case later than sixty days after the date if this chapter is repealed; provided this shall not shorten any period provided by any other state or county law providing for that redemption."

SECTION 9. Section 657D-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No right to any lands owned or controlled by the State, initiated or acquired under any laws of the State, including the mining and mineral leasing laws, by a person prior to entering [~~state~~] military service shall during the period of that service be forfeited or prejudiced by reason of the person's absence from the land or the person's failure to perform any work or make any improvements thereon or the person's failure to do any other act required by or under those laws."

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

Report Title:

State Military Forces; Servicemembers Civil Relief Act

Description:

Applies the protections of civil relief for state military forces to persons serving on full time National Guard duty under title 32 United States Code and aligns the HRS with the Servicemembers Civil Relief Act, codified in 50 United States Code chapter 50 (§§3901-4043). (HB991 CD1)

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