

SERVICE MEMBER LENDING PROTECTIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson S. Burton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides to certain military service members protections from certain obligations or liabilities under lending and other business relationships when the nature of military service impacts the service member's ability to fulfill the obligation or liability.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ grants rulemaking authority to the Department of Veterans and Military Affairs;
- ▶ prohibits interest rates for certain obligations or liabilities in excess of 36% for service members in certain circumstances;
- ▶ provides to service members certain protections related to an installment contract during certain times of the service member's military service;
- ▶ allows a service member to petition a court for relief in certain circumstances; and
- ▶ provides similar protections to dependents of service members.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:



28 ENACTS:

29 71-15-101, Utah Code Annotated 1953

30 71-15-102, Utah Code Annotated 1953

31 71-15-103, Utah Code Annotated 1953

32 71-15-104, Utah Code Annotated 1953

33 71-15-105, Utah Code Annotated 1953

34 71-15-106, Utah Code Annotated 1953

35 **Utah Code Sections Affected by Coordination Clause:**

36 71-15-101, Utah Code Annotated 1953

37 71-15-102, Utah Code Annotated 1953

38 71-15-103, Utah Code Annotated 1953

39 71-15-104, Utah Code Annotated 1953

40 71-15-105, Utah Code Annotated 1953

41 71-15-106, Utah Code Annotated 1953

42 71A-9-101, Utah Code Annotated 1953

43 71A-9-102, Utah Code Annotated 1953

44 71A-9-103, Utah Code Annotated 1953

45 71A-9-104, Utah Code Annotated 1953

46 71A-9-105, Utah Code Annotated 1953

47 71A-9-106, Utah Code Annotated 1953



49 *Be it enacted by the Legislature of the state of Utah:*

50 Section 1. Section 71-15-101 is enacted to read:

51 **CHAPTER 15. CIVIL RELIEF FOR SERVICE MEMBERS**

52 **Part 1. Civil Relief Provisions**

53 **71-15-101. Definitions.**

54 As used in this chapter:

55 (1) "Dependent" means the spouse and children of a service member or any other
56 individual dependent upon the service member for support as determined by the service
57 member's participation in the defense eligibility reporting system.

58 (2) "Interest" means service charges, renewal charges, fees, or any other charges in

59 respect to any obligation or liability.

60 (3) "Service member" means a currently serving member of the armed forces.

61 (4) "Utah-based military organization" means a military organization headquartered in
62 this state.

63 Section 2. Section **71-15-102** is enacted to read:

64 **71-15-102. Applicability -- Rulemaking.**

65 (1) Service members, when assigned to a Utah-based military organization, have
66 additional rights and protections as provided in this part, and by federal law, for activation to
67 military service.

68 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
69 department may make rules to implement this chapter.

70 Section 3. Section **71-15-103** is enacted to read:

71 **71-15-103. Maximum rate of interest.**

72 (1) (a) Except as provided in Subsection (1)(b), an obligation or liability bearing
73 interest at a rate in excess of 36% per year incurred by a service member assigned to a
74 Utah-based military organization after the service member's entry into military service may not,
75 during any part of the period of military service, bear interest at a rate in excess of 36% per
76 year.

77 (b) Upon application to the court by the obligee, if in the opinion of the court, the
78 ability of the service member to pay interest upon the obligation or liability at a rate in excess
79 of 36% per year is not materially affected by reason of the service member's service, the court
80 may allow the obligee to charge the interest at a rate in excess of 36% per year according to the
81 contract.

82 (2) A court may make any order in the action described in Subsection (1)(b) that, in the
83 court's opinion, is just.

84 (3) Any person who knowingly issues credit in excess of the amount described in
85 Subsection (1) to a service member assigned to a Utah-based military organization is guilty of a
86 class B misdemeanor.

87 Section 4. Section **71-15-104** is enacted to read:

88 **71-15-104. Installment contracts.**

89 (1) A creditor of a service member who, after entry into military service and assigned

90 to a Utah-based military organization, has entered into an installment contract for the purchase
91 of real or personal property, may not terminate the contract or repossess the property for
92 nonpayment or any breach occurring during military service without an order from a court of
93 competent jurisdiction.

94 (2) A court, upon application to the court under this section, may, unless the court finds
95 on the record that the ability of the service member to comply with the terms of the contract is
96 not materially affected by reason of the service member's military service:

97 (a) order repayment of any prior installments or deposits as a condition of terminating
98 the contract and resuming possession of the property;

99 (b) order a stay of the proceedings on the court's own motion, or on motion by the
100 service member or another individual on the service member's behalf; or

101 (c) make any other disposition of the case the court considers to be equitable to
102 conserve the interests of all parties.

103 (3) Any person who knowingly repossesses property which is the subject of this section
104 other than as provided in Subsection (1) is guilty of a class B misdemeanor.

105 Section 5. Section **71-15-105** is enacted to read:

106 **71-15-105. Dependent benefits.**

107 (1) Except as provided in Subsection (2), a dependent of a service member in military
108 service is entitled to the benefits accorded to service members in military service in Sections
109 [71-15-103](#) and [71-15-104](#).

110 (2) Upon application to a court, if in the opinion of the court, the ability of the
111 dependent to comply with the terms of the obligation, contract, lease, or bailment has not been
112 materially impaired by reason of the military service of the service member upon whom the
113 applicant dependent, the court may enforce the terms of the obligation, contract, lease, or
114 bailment.

115 Section 6. Section **71-15-106** is enacted to read:

116 **71-15-106. Application for relief.**

117 (1) A service member may, at any time during the service member's period of military
118 service while assigned to a Utah-based military organization, or within 60 days after discharge
119 or termination, apply to a court for relief in respect of any obligation or liability incurred by the
120 service member before the service member's period of military service.

121 (2) A court, after appropriate notice and hearing, unless in the court's opinion the
122 ability of the applicant to comply with the terms of the obligation or liability has not been
123 materially affected by reason of the service member's military service, may grant the relief
124 described in Subsection (3) or (4).

125 (3) (a) Subject to Subsection (3)(b), in the case of an obligation payable in installments
126 under a contract for the purchase of real estate, or secured by a mortgage or other instrument in
127 the nature of a mortgage upon real estate, a court may grant a stay of the enforcement of the
128 obligation:

129 (i) during the applicant's period of military service; and

130 (ii) from the date of termination of the period of military service, or from the date of
131 application, if made after termination of state military service, for a period equal to the sum of:

132 (A) the period of the remaining life of the installment contract or other instrument; and

133 (B) a period of time equal to the period of military service of the applicant, or any part
134 of the combined period.

135 (b) A stay described in Subsection (3)(a) is subject to payment of the balance of
136 principal and accumulated interest due and unpaid at the date of termination of the period of
137 military service or from the date of application, in equal installments during the combined
138 period at the rate of interest on the unpaid balance as is prescribed in the contract, or other
139 instrument evidencing the obligation, for installments paid when due, and subject to any other
140 terms as the court may consider just.

141 (4) (a) Subject to Subsection (4)(b), in the case of any other obligation or liability not
142 described in Subsection (3), a court may grant a stay of the enforcement:

143 (i) during the applicant's period of military service and, from the date of termination of
144 the period of military service; or

145 (ii) from the date of application, if made after termination of the period of military
146 service, for a period of time equal to the period of military service of the applicant or any part
147 of that period.

148 (b) A stay described in Subsection (4)(a) is subject to payment of the balance of
149 principal and accumulated interest due and unpaid at the date of termination of the period of
150 military service, or the date of application, in equal periodic installments during the extended
151 period at the rate of interest prescribed for the obligation or liability, if paid when due, and

152 subject to other terms the court considers to be reasonable and just.

153 (5) If a court grants a stay as provided in this section, a fine or penalty may not be
154 accrued for failure to comply with the terms or conditions of the obligation or liability for
155 which the stay was granted during the period in which the person complied with the terms and
156 conditions.

157 **Section 7. Coordinating H.B. 455 with H.B. 67 -- Substantive and technical**
158 **amendments.**

159 If this H.B. 455 and H.B. 67, Title 71A - Veterans and Military Affairs, both pass and
160 become law, it is the intent of the Legislature that the Office of Legislative Research and
161 General Counsel shall prepare the Utah Code database for publication as follows:

162 (1) renumbering Title 71, Chapter 15, Civil Relief for Service Members, in H.B. 455 to
163 be Title 71A, Chapter 9, Civil Relief for Service Members;

164 (2) renumbering Title 71, Chapter 15, Part 1, Civil Relief Provisions, in H.B. 455 to be
165 Title 71A, Chapter 9, Part 1, Civil Relief Provisions;

166 (3) renumbering Section 71-15-101 in H.B. 455 to be Section 71A-9-101;

167 (4) renumbering Section 71-15-102 in H.B. 455 to be Section 71A-9-102;

168 (5) renumbering Section 71-15-103 in H.B. 455 to be Section 71A-9-103;

169 (6) renumbering Section 71-15-104 in H.B. 455 to be Section 71A-9-104;

170 (7) renumbering Section 71-15-105 in H.B. 455 to be Section 71A-9-105;

171 (8) renumbering Section 71-15-106 in H.B. 455 to be Section 71A-9-106; and

172 (9) replacing the language "Sections 71-15-103 and 71-15-104" with "Section
173 71A-9-103 and 71A-9-104" in Section 71A-9-105.