

JAN 24 2019

A BILL FOR AN ACT

RELATING TO STATE MILITARY FORCES.

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

1 SECTION 1. The purpose of this Act is to apply the
2 protections of civil relief for state military forces to persons
3 serving on full time national guard duty under title 32 United
4 States Code and to bring provisions in line with the
5 Servicemembers Civil Relief Act, codified in 50 United States
6 Code chapter 50 (§§3901-4043).

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

9 (1) By adding a new definition to be appropriately
10 inserted and to read as follows:

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

14 (2) By amending the definitions of "military service" and
15 "period of military service" to read as follows:

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

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

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

9 " [+] §657D-5 [+] **Extension of benefits to persons ordered to**
10 **report for [state] military service.** Any person who is ordered
11 to report for [state] military service shall be entitled to the
12 relief and benefits during:

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

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

20 " [+] §657D-15 [+] **Duration and term of stays; co-defendants**
21 **not in service.** A stay of any action, proceeding, attachment,
22 or execution, ordered by any court under this chapter, shall be

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1 for the period of military service and [~~sixty~~] ninety days
2 thereafter or any part of that period, and may be subject to
3 such terms as may be just, including payment in installments of
4 specified amounts and at such times as the court may fix. Where
5 the person in military service is a co-defendant with others,
6 the plaintiff may proceed against the others by leave of the
7 court."

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

10 "(c) No sale, foreclosure, or seizure of property for
11 nonpayment of any sum due under any such obligation, or for any
12 other breach of the terms thereof, whether under a power of
13 sale, under a judgment entered upon warrant of attorney to
14 confess judgment contained therein, shall be valid if made
15 during the period of military service or within [~~sixty days~~] one
16 year thereafter, except pursuant to an agreement as provided in
17 section 657D-6, unless upon an order previously granted by the
18 court and a return thereto made and approved by the court.

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

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

3 " ~~[†]~~ §657D-25 ~~[†]~~ Termination of residential or motor
4 vehicle leases by lessees. (a) This section applies to [any
5 ~~lease of premises occupied for a dwelling, or for professional,~~
6 ~~business, agricultural, or similar purposes in any case in~~
7 ~~which]~~ :

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

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

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

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

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

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

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

11 (c) Termination of any [~~such~~] lease providing for monthly
12 payment of rent shall not be effective until thirty days after
13 the date on which the next rental payment is due and payable
14 following the date of delivery or mailing of the notice. In the
15 case of all other [~~premises~~] leases, termination shall be
16 effected on the last day of the month following the month in
17 which the notice is delivered or mailed and in such case any
18 unpaid rental for a period preceding termination shall be
19 computed pro rata and any rental paid in advance for a period
20 succeeding termination shall be refunded by the lessor or the
21 lessor's assignee. Upon application by the lessor to the
22 appropriate court prior to the termination period provided for

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1 in the notice, any relief granted in this subsection shall be
2 subject to such modifications or restrictions the court may find
3 in the interests of justice and equity.

4 (d) Termination of a motor vehicle lease is effective only
5 upon return of the motor vehicle by the lessee to the lessor (or
6 the lessor's grantee), or to the lessor's agent (or the agent's
7 grantee), not later than fifteen days after the date of the
8 delivery of written notice under subsection (b). Lease amounts
9 for a lease described in subsection (a)(2) that are unpaid for
10 the period preceding the effective date of the lease termination
11 shall be paid on a prorated basis. The lessor may not impose an
12 early termination charge, but any taxes, summonses, title and
13 registration fees, or other obligations and liabilities of the
14 lessee in accordance with the terms of the lease, including
15 reasonable charges to the lessee for excess wear or use and
16 mileage, that are due and unpaid at the time of termination of
17 the lease shall be paid by the lessee.

18 ~~[-(e)]~~ (e) Any person who knowingly seizes, holds, or
19 retains the personal effects, clothing, furniture, or other
20 property of any person who has lawfully terminated a lease
21 covered by this section, or in any manner interferes with the
22 removal of such property from the premises covered by such

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1 lease, for the purpose of subjecting or attempting to subject
2 any such property to a claim for rent accruing subsequent to the
3 date of termination of such lease, or attempts to do so, shall
4 be guilty of a misdemeanor."

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

7 " [†] §657D-34 [‡] Determination of policies entitled to
8 protection; notice to parties; lapse of policies for nonpayment
9 of premiums, etc. The insurance commissioner shall determine
10 whether the policy is entitled to protection under this part and
11 shall notify the insured and the insurer of that determination.
12 Any policy found by the insurance commissioner to be entitled to
13 protection under this part, subsequent to date of application
14 and during the period of [state] military service of the insured
15 and for sixty days after the expiration of that service, shall
16 not lapse or otherwise terminate or be forfeited for the
17 nonpayment of a premium becoming due and payable, or the
18 nonpayment of any indebtedness or interest."

19 SECTION 8. Section 657D-41, Hawaii Revised Statutes, is
20 amended by amending subsection (a), (b), and (c) to read as
21 follows:

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

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

21 (c) When by law the property may be sold or forfeited to
22 enforce the collection of the tax or assessment, the person in

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1 [state] military service shall have the right to redeem or
2 commence an action to redeem the property, at any time not later
3 than sixty days after the termination of [state] military
4 service, but in no case later than sixty days after the date if
5 this chapter is repealed; provided this shall not shorten any
6 period provided by any other state or county law providing for
7 that redemption."

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

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

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

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

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INTRODUCED BY: Wm D. W.

BY REQUEST

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Report Title:

State Military Forces

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 to bring provisions in line with the Servicemembers Civil Relief Act, codified in 50 United States Code chapter 50 (§§3901-4043).

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO STATE MILITARY FORCES.

PURPOSE: The purpose of this bill 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 and to bring provisions in line with the Servicemembers Civil Relief Act, codified in 50 United States Code chapter 50 (§§3901-4043).

MEANS: Amend sections 657D-1, 657D-5, 657D-15, 657D-23(c), 657D-25, 657D-34, 657D-41(a), (b), and (c), and 657D-42(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Servicemembers on Full Time National Guard Duty pursuant to Title 32, United States Code, are NOT covered by the Servicemembers Civil Relief Act (SCRA) nor the Hawaii State equivalent, Civil Relief for State Military Forces (CRSMF). SCRA coverage only extends to those on Title 10 Active Duty and Title 32 Service Members mobilized to respond to a national emergency declared by the President and supported by federal funds. It specifically excludes full-time national guard orders. The CRSMF applies only to those members of the state military forces ordered to State Active Duty.

Impact on the public: None.
Impact on the department and other agencies: None.

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GENERAL FUND: None.

OTHER FUND: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.