

South Carolina General Assembly
123rd Session, 2019-2020

A23, R36, H3180

STATUS INFORMATION

General Bill

Sponsors: Reps. G.M. Smith, Erickson, Yow, Huggins, R. Williams and Jefferson

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Companion/Similar bill(s): 317

Introduced in the House on January 8, 2019

Introduced in the Senate on February 20, 2019

Last Amended on March 20, 2019

Passed by the General Assembly on April 3, 2019

Governor's Action: April 26, 2019, Signed

Summary: SC Service Members Civil Relief

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/18/2018	House	Prefiled
12/18/2018	House	Referred to Committee on Judiciary
1/8/2019	House	Introduced and read first time (House Journal-page 119)
1/8/2019	House	Referred to Committee on Judiciary (House Journal-page 119)
1/29/2019	House	Member(s) request name added as sponsor: Huggins
2/13/2019	House	Committee report: Favorable with amendment Judiciary (House Journal-page 40)
2/14/2019		Scrivener's error corrected
2/19/2019	House	Member(s) request name added as sponsor: R.Williams, Jefferson
2/19/2019	House	Amended (House Journal-page 6)
2/19/2019	House	Read second time (House Journal-page 6)
2/19/2019	House	Roll call Yeas-110 Nays-0 (House Journal-page 7)
2/20/2019	House	Read third time and sent to Senate (House Journal-page 11)
2/20/2019	Senate	Introduced and read first time (Senate Journal-page 9)
2/20/2019	Senate	Referred to Committee on Family and Veterans' Services (Senate Journal-page 9)
3/13/2019	Senate	Committee report: Favorable with amendment Family and Veterans' Services (Senate Journal-page 10)
3/19/2019	Senate	Committee Amendment Adopted (Senate Journal-page 46)
3/20/2019	Senate	Amended (Senate Journal-page 30)
3/20/2019	Senate	Read second time (Senate Journal-page 30)
3/20/2019	Senate	Roll call Ayes-43 Nays-0 (Senate Journal-page 30)
3/21/2019	Senate	Read third time and returned to House with amendments (Senate Journal-page 26)
3/21/2019		Scrivener's error corrected
4/3/2019	House	Concurred in Senate amendment and enrolled (House Journal-page 55)
4/3/2019	House	Roll call Yeas-109 Nays-0 (House Journal-page 58)
4/25/2019		Ratified R 36 (Senate Journal-page 56)
4/26/2019		Signed By Governor
5/3/2019		Effective date 04/26/19
5/6/2019		Act No. 23

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VERSIONS OF THIS BILL

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(A23, R36, H3180)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 21 TO CHAPTER 1, TITLE 25 SO AS TO ENACT THE “SOUTH CAROLINA SERVICEMEMBERS CIVIL RELIEF ACT”; TO DEFINE THE ACT’S RELEVANT TERMS; TO ENUMERATE CERTAIN RIGHTS, BENEFITS, AND OBLIGATIONS OF SERVICEMEMBERS AND THEIR DEPENDENTS; TO AUTHORIZE A SERVICEMEMBER, THE DEPENDENT OF A SERVICEMEMBER, OR THE ATTORNEY GENERAL TO BRING A CIVIL ACTION FOR INTENTIONAL VIOLATIONS OF THE ACT; TO ESTABLISH REMEDIES AND PENALTIES; AND TO REQUIRE THE ADJUTANT GENERAL TO POST CERTAIN INFORMATION REGARDING THE ACT ON THE SOUTH CAROLINA NATIONAL GUARD WEBSITE.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina Servicemembers Civil Relief Act

SECTION 1. Chapter 1, Title 25 of the 1976 Code is amended by adding:

“Article 21

South Carolina Servicemembers Civil Relief Act

Section 25-1-4010. This article may be cited as the ‘South Carolina Servicemembers Civil Relief Act’.

Section 25-1-4020. This article is intended to expand and supplement the rights, benefits, and protections of the federal Servicemembers Civil Relief Act, 50 U.S.C. Section 3901, et seq. Nothing in this article may be construed as a restriction or limitation on the rights, benefits, and protections granted to a servicemember pursuant to federal law. A violation of the federal Servicemembers Civil Relief Act, 50 U.S.C. Section 3901, et seq., constitutes a violation of this article. The provisions of this article related to contractual agreements or obligations shall apply to any applicable contract entered into, extended, or amended on or after July 1, 2019.

Section 25-1-4030. For purposes of this article:

(1) 'Dependent', with respect to a servicemember, has the meaning set forth in 50 U.S.C. Section 3911(4).

(2) 'Military service' means any of the following:

(a) the meaning set forth in 50 U.S.C. Section 3911(2);

(b) in the case of a servicemember who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

(i) full-time training duty;

(ii) annual training duty; and

(iii) attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(c) in the case of a member of the South Carolina National Guard, service under a call to active:

(i) service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty days in response to a national emergency declared by the President of the United States; or

(ii) duty authorized pursuant to Article 15 for a period of more than thirty consecutive days;

(d) in the case of a member of the National Guard of another state, service under an order of the governor of that state, which is similar to South Carolina state active duty, for a period of more than thirty consecutive days;

(e) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; or

(f) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(3) 'Period of military service' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

(4) 'Servicemember' means an individual engaged in military service or a member of the uniformed services, as that term is defined in 50 U.S.C. Section 3911(1).

Section 25-1-4040. The rights, benefits, and protections of the federal Servicemembers Civil Relief Act, 50 U.S.C. Section 3901, et seq., apply to a servicemember engaged in military service. However, in the case of a servicemember engaged in military service pursuant to Section 25-1-4030(2)(c)(ii) or (d), a person is not subject to the remedies or

penalties of this article unless the servicemember gives to the person a written or electronic copy of the order to military service. A violation of the federal Servicemembers Civil Relief Act, as expanded by this section, is a violation of this article.

Section 25-1-4050. A dependent of a servicemember engaged in military service has the same rights and protections provided to a servicemember pursuant to Section 25-1-4060 and Subchapter II, Chapter 50, Title 50 of the U.S.C.

Section 25-1-4060. (A) In addition to the rights and protections regarding consumer transactions, contracts, and service providers provided to a servicemember pursuant to Subchapter III, Chapter 50, Title 50 of the U.S.C., a servicemember may terminate a contract described in subsection (B) of this section at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety days to a location that does not support the contract.

(B) This section applies to a contract to provide the following:

- (1) telecommunication services;
- (2) Internet services;
- (3) television services including, but not limited to, cable television, direct satellite, and other similarly comparable television services;
- (4) athletic club or gym memberships; or
- (5) satellite radio services.

(C) A servicemember shall give to the service provider written or electronic notice of the termination and a written or electronic copy of the order to relocate, together with the date on which the service is to be terminated. If a servicemember, as defined in Section 25-1-4030(4), terminates a contract pursuant to this section, then the service provider shall inform the servicemember of the servicemember's rights posted on the South Carolina National Guard's Internet website pursuant to Section 25-1-4080.

(D) The service provider may not impose an early termination penalty, charge, or fee for a contract terminated pursuant to this section.

(E) Not later than sixty days after the termination date of the contract, the service provider shall refund to the servicemember any fee paid for a service that extends beyond the termination date of the contract.

(F) The servicemember shall pay the tax or other contractual obligation or liability that is due and unpaid at the time of termination of the contract.

(G) If the servicemember resubscribes to the service provided under the contract within ninety days of returning from military service, the

service provider may not impose a charge or fee, other than the usual and customary charges and fees for the installation or acquisition of customer equipment imposed on other subscribers.

Section 25-1-4070. (A) A servicemember, the dependent of a servicemember, or the South Carolina Attorney General may bring a civil action against a person who intentionally violates a provision of this article.

(B) The court may order one or more of the following remedies:

- (1) injunction; or
- (2) payment of restitution to a servicemember in the amount of money unlawfully received from, or required to be refunded to, the servicemember, unless the servicemember has successfully recovered the amount in a separate action under the federal Servicemembers Civil Relief Act, 50 U.S.C. Section 3901, et seq.

(C) In the event of an intentional violation of this article, the court may assess a civil penalty not to exceed five thousand dollars per violation. Fifty percent of the proceeds of civil penalties imposed pursuant to this section must be remitted to the general fund of the State, and the remaining fifty percent may be retained by the Office of the Attorney General and carried forward to succeeding fiscal years to support enforcement or public education efforts directly related to the purpose of this article.

Section 25-1-4080. The Adjutant General shall post on the South Carolina National Guard website a list of the rights a servicemember or a servicemember's dependent has pursuant to both the South Carolina Servicemembers Civil Relief Act and the federal Servicemembers Civil Relief Act, 50 U.S.C. Section 3901, et seq."

Severability

SECTION 2. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to contracts entered into on or after that date.

Ratified the 25th day of April, 2019.

Approved the 26th day of April, 2019.
