

# SENATE, No. 211

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator CHRISTOPHER J. CONNORS**

**District 9 (Atlantic, Burlington and Ocean)**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

**Co-Sponsored by:**

**Senators Cruz-Perez and Bateman**

**SYNOPSIS**

Creates New Jersey Servicemembers' Civil Relief Act.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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2

1 AN ACT creating the New Jersey Servicemembers' Civil Relief Act,  
2 supplementing Title 38A of the New Jersey Statutes, and  
3 repealing P.L.1979, c.317.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. This act shall be known and may be referred to as the "New  
9 Jersey Servicemembers' Civil Relief Act."  
10

11 2. The Legislature finds and declares that the civil and property  
12 rights of persons serving on active duty in the Armed Forces of the  
13 United States and the New Jersey National Guard should be  
14 maintained, secured, and protected as a matter of public policy of  
15 this State. Such rights should be protected by this State, at least, to  
16 the extent that those rights are protected by federal law. To  
17 accomplish these purposes, the provisions of this act shall be  
18 liberally construed.  
19

20 3. As used in this act:

21 "court" means any court or administrative agency of the State, or  
22 a subdivision thereof, whether or not a court or administrative  
23 agency of record.

24 "insurer" means a corporation, partnership, or other form of  
25 association which secures or provides insurance under a policy.

26 "legal representative of a servicemember" means an attorney  
27 acting on the behalf of a servicemember or an individual possessing  
28 power of attorney.

29 "military service" means duty by any person in the active  
30 military service of the United States or active duty in the military  
31 service of the State pursuant to an order of the Governor issued  
32 pursuant to law. The term also means service by a United States  
33 citizen in the forces of a nation with which the United States is  
34 allied in the prosecution of a war or military action.

35 "person" means individuals, partnerships, corporations, and any  
36 other forms of business association when used herein with reference  
37 to the holder of any right alleged to exist against a servicemember,  
38 or against a person secondarily liable under such right.

39 "servicemember" means a person in military service. Whenever  
40 the term "servicemember" is used, it shall be treated as including a  
41 reference to a legal representative of a servicemember.  
42

43 4. a. When the enforcement of an obligation or liability, the  
44 prosecution of a suit or proceeding, the entry or enforcement of an  
45 order, writ, judgment, or decree, or the performance of an act may  
46 be stayed, postponed, or suspended pursuant to a provision of this  
47 act, such stay, postponement, or suspension may likewise be  
48 granted to a surety, guarantor, endorser, and other subject to the

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1 obligation, liability, performance, or enforcement, at the discretion  
2 of the court.

3 b. When a judgment or decree is vacated or set aside, in whole  
4 or in part, as provided in this act, the judgment or decree may  
5 likewise be set aside and vacated as to a surety, guarantor, endorser,  
6 accommodation maker, or other person whether primarily or  
7 secondarily liable upon the obligation or enforcement, at the  
8 discretion of the court.

9 c. Nothing contained in this act shall prevent a waiver in  
10 writing of the benefits afforded by subsections a. and b. of this  
11 section by a surety, guarantor, endorser, accommodation maker, or  
12 other person whether primarily or secondarily liable upon the  
13 obligation or liability. A waiver shall not be valid unless it is  
14 executed as an instrument separate from the obligation or liability to  
15 which it applies. A waiver shall not be valid after the beginning of  
16 the period of active duty if executed by a servicemember who is  
17 called to active duty subsequent to the execution of such waiver.

18

19 5. The rights and protections of this act shall extend to:

20 a. A member of a reserve component who is ordered to report  
21 for military service during the period beginning on the date of the  
22 member's receipt of the order and ending either on the date on  
23 which the member reports for military service or the date on which  
24 the order is revoked.

25 b. A person who has been ordered to report for induction under  
26 the Military Selective Service Act, 50 U.S.C. App. s.451 et seq.,  
27 during the period beginning on the date of receipt of the order for  
28 induction and ending either on the date on which the person reports  
29 for induction or the date on which the order is revoked.

30 c. A dependent of a servicemember who, upon application to a  
31 court, demonstrates that the dependent's ability to comply with a  
32 lease, contract, bailment, or other obligation is materially affected  
33 by reason of the servicemember's military service.

34

35 6. Application by a servicemember for, or receipt by such a  
36 person of, a stay, postponement, or suspension pursuant to this act  
37 in the payment of a tax, fine, penalty, insurance premium, or other  
38 civil obligation or liability shall not provide the sole basis for any of  
39 the following:

40 a determination by a lender or other person that the  
41 servicemember is unable to pay the civil obligation or liability in  
42 accordance with its terms;

43 a denial or revocation of credit by a creditor, a change by a  
44 creditor in the terms of an existing credit arrangement, or a refusal  
45 by a creditor to grant credit to the servicemember in substantially  
46 the amount or on substantially the terms requested;

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1 an adverse report relating to the creditworthiness of the  
2 servicemember by or to a person engaged in the practice of  
3 assembling or evaluating consumer credit information;  
4 a refusal by an insurer to insure the servicemember;  
5 an annotation in the record of a servicemember by a creditor or a  
6 person engaged in the practice of assembling or evaluating  
7 consumer credit information, identifying the servicemember as a  
8 member of the National Guard or a reserve component; or  
9 a change in the terms offered or conditions required for the  
10 issuance of insurance.

11

12 7. a. When a servicemember is involved as a plaintiff or  
13 defendant in an action or proceeding in a court commenced before  
14 or during the period of active duty or within 60 days thereafter, the  
15 court shall grant a stay of proceedings for a minimum period of 90  
16 days upon application of counsel, or on the court's own motion, if  
17 the court determines that there may be a defense to the action and a  
18 defense cannot be presented without the presence of the defendant  
19 or counsel, after due diligence, has been unable to contact the  
20 defendant or otherwise determine if a meritorious defense exists.

21 b. A servicemember may apply, during military service or  
22 within 180 days thereafter, to a court for relief from an obligation or  
23 liability incurred by the servicemember before such military service  
24 or from a tax or assessment falling due before or during such  
25 military service. If the ability of a servicemember to comply with  
26 the terms of such obligation, liability, tax, or assessment has been  
27 materially affected by reason of military service, the court may stay  
28 the enforcement thereof.

29 c. This section shall apply unless the court determines that the  
30 defendant's ability to conduct a defense or to comply with the  
31 judgment or order entered or sought, or the plaintiff's ability to  
32 prosecute the action, or the servicemember's ability to comply with  
33 the obligation is not materially affected by reason of the military  
34 service of the servicemember.

35

36 8. a. If the defendant does not appear in a civil action or  
37 proceeding commenced in any court, the plaintiff may file an  
38 affidavit setting forth facts to show that the defendant is not serving  
39 on active duty. The affidavit shall be filed within 20 days before  
40 the entry of a judgment or final order. If the plaintiff is unable to  
41 file such an affidavit, the plaintiff may file an affidavit to show  
42 either that the defendant is on active duty or that the plaintiff is not  
43 able to determine if the defendant is on active duty. If no affidavit  
44 is filed to show that the defendant is not on active duty, a judgment  
45 or final order shall not be entered without first securing an order of  
46 court directing such entry. Such an order shall not be made if the  
47 defendant is on active duty until after the court appoints an attorney  
48 to represent the defendant and protect the defendant's interest.

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1       b. In an action or proceeding in which a servicemember is a  
2 party, the court may appoint an attorney to represent the person if  
3 such person does not personally appear therein or is not represented  
4 by an authorized attorney. An attorney appointed under this act to  
5 protect a servicemember shall not have the power to waive a right  
6 of the person for whom the attorney is appointed or bind the person  
7 by the attorney's acts.

8       c. Unless it appears that the defendant is not on active duty, the  
9 court may require that the plaintiff file a bond, approved by the  
10 court and conditioned to indemnify the defendant, as a condition  
11 before judgment or final order is entered against loss or damage that  
12 the defendant, if on active duty, may suffer by reason of a judgment  
13 or final order should the judgment or final order be thereafter set  
14 aside in whole or in part. The court may make such other and  
15 further order or enter such judgment as in its opinion may be  
16 necessary to protect the rights of a defendant under this act.

17       d. If a default judgment is entered in an action covered by this  
18 section against a servicemember during the servicemember's period  
19 of military service or within 60 days thereafter, the court entering  
20 the judgment shall, upon application by or on behalf of the  
21 servicemember, reopen the judgment for the purpose of allowing  
22 the servicemember to defend the action if it appears that the  
23 servicemember was materially affected by reason of that military  
24 service in making a defense of the action and has a meritorious or  
25 legal defense to the action or some part of the action. Application  
26 to reopen the order may be made by a servicemember not later than  
27 90 days after the termination of active duty.

28       e. Vacating, setting aside, or reversing a judgment or final  
29 order because of a provision of this act shall not impair a right or  
30 title acquired by a bona fide purchaser for value under such  
31 judgment or order.

32       f. A person who knowingly makes or uses a false affidavit for  
33 the purposes of this section shall be guilty of perjury.  
34

35       9. When an action for compliance with the terms of a contract  
36 is stayed pursuant to this act, no fine or penalty shall accrue by  
37 reason of failure to comply with the terms of such contract during  
38 the period of such stay, and in any case where a person fails to  
39 perform an obligation and a fine or penalty for such  
40 nonperformance is incurred, a court may, on such terms as may be  
41 just, relieve against the enforcement of such fine or penalty if it  
42 shall appear that the person who would suffer by such fine or  
43 penalty was in the military service when the penalty was incurred,  
44 and that by reason of such service the ability of such person to pay  
45 or perform was thereby materially impaired.  
46

47       10. In any action or proceeding commenced in any court against  
48 a servicemember, before or during the period of such service, or

1 within 90 days thereafter, the court may on its own motion and shall  
2 upon application to it by the servicemember, unless in the opinion  
3 of the court the ability of the servicemember to comply with the  
4 judgment or order entered or sought is not materially affected by  
5 reason of his military service:

6 stay the execution of any judgment or order entered against such  
7 person; and

8 vacate or stay any attachment or garnishment of property,  
9 money, or debts in the hands of another, whether before or after  
10 judgment.

11

12 11. Any stay of an action, proceeding, attachment, or execution  
13 ordered by any court under the provisions of this act may, except as  
14 otherwise provided, be ordered for the period of military service  
15 and three months thereafter or any part of such period, and subject  
16 to such terms as may be just, whether as to payment in installments  
17 of such amounts and at such times as the court may fix or  
18 otherwise. When the servicemember is a codefendant with others,  
19 the plaintiff may nevertheless, by leave of court, proceed against the  
20 others.

21

22 12. To the extent that it is allowable by federal law, the period  
23 of military service shall not be included in computing any period  
24 now or hereafter to be limited by any law, regulation or order for  
25 the bringing of an action or proceeding in any court, board, bureau,  
26 commission, department or other agency of government of this  
27 State or any of its political subdivisions by or against a  
28 servicemember, or by or against his heirs, executors, administrators,  
29 or assigns, whether such cause of action or the right or privilege to  
30 institute such an action or proceeding shall have accrued prior to or  
31 during the period of such service, nor shall any part of such period  
32 which occurs after the effective date of this act be included in  
33 computing any period now or hereafter provided by any law for the  
34 redemption of real property sold or forfeited to enforce an  
35 obligation, tax or assessment.

36

37 13. a. An obligation or liability incurred by a servicemember, or  
38 the servicemember and the servicemember's spouse jointly, before  
39 the servicemember enters military service shall not bear interest at a  
40 rate in excess of six percent during the period of military service or,  
41 in the case of an obligation or liability consisting of a mortgage,  
42 trust deed, or other security in the nature of a mortgage, during the  
43 period of military service and one year thereafter. The interest on  
44 an obligation or liability that would be incurred in excess of six  
45 percent, if not for this subsection, is forgiven. The amount of a  
46 periodic payment due under the terms of an obligation or liability  
47 covered by this subsection shall be reduced by the amount of the

1 interest forgiven that is allocable to the period for which such  
2 payment is made.

3 b. In order for the provisions of subsection a. of this section to  
4 apply, the servicemember shall provide to the creditor written  
5 notice, a copy of the military orders calling the servicemember to  
6 military service, and, if applicable, a copy of any orders further  
7 extending such military service, not later than 180 days after the  
8 date of the servicemember's termination or release from military  
9 service. Upon receipt, the creditor shall treat the debt in accordance  
10 with subsection a. of this section effective as of the date on which  
11 the servicemember is called to military service.

12 c. If, in the opinion of the court, the ability of a servicemember  
13 to pay interest upon an obligation or liability at a rate in excess of  
14 six percent is not materially affected by reason of the  
15 servicemember's military service, the court may grant a creditor  
16 relief from the limitations of subsection a. of this section.

17 d. As used in this section, the term "interest" includes service  
18 charges, renewal charges, fees, or any other charges, except bona  
19 fide insurance, with respect to an obligation or liability.

20 e. Whoever knowingly violates subsection a. of this section  
21 shall be adjudged a disorderly person, and shall be subject to a fine  
22 not to exceed \$1,000, or imprisonment not to exceed six months, or  
23 both.

24  
25 14. a. No eviction or distress shall be made during the period of  
26 military service in respect to any premises, occupied chiefly for  
27 dwelling purposes by the spouse, children, or other dependents of a  
28 servicemember, for which the agreed rent does not exceed the  
29 amount published pursuant to paragraph (3) of subsection (a) of  
30 section 531 of the federal "Servicemembers' Civil Relief Act," (50  
31 U.S.C. App. s.501 et seq.), except upon leave of court granted upon  
32 application therefore or granted in any action or proceeding  
33 affecting the right of possession.

34 b. On any such application or in any such action, the court  
35 may, on its own motion, and shall, upon application, stay the  
36 proceedings for three months, unless in the opinion of the court the  
37 ability of the tenant to pay the agreed rent is not materially affected  
38 by reason of military service, or it may make such other order as  
39 may be just.

40 c. A person who knowingly takes part in an eviction or distress  
41 in violation of paragraph a. of this section, or attempts to do so,  
42 shall be adjudged a disorderly person, and shall be subject to a fine  
43 not to exceed \$1,000, or imprisonment not to exceed six months, or  
44 both.

45  
46 15. a. A lease that covers personal property or premises  
47 occupied by a servicemember or the servicemember and the  
48 servicemember's dependent for dwelling, professional, business,

1 agricultural, or similar purposes, and was executed by or on behalf  
2 of a servicemember who began service on active duty after the  
3 execution of the lease, may be terminated by notice in writing  
4 delivered to the lessor, or the lessor's grantee or the lessor's or  
5 grantee's agent, by the lessee at any time following the beginning of  
6 the period of active duty , or in the case of a lease covering personal  
7 property at any time after the 90th consecutive day of service.  
8 Termination of a lease providing for monthly payment of rent shall  
9 not be effective until 30 days after the date on which the next rental  
10 payment is due, and rent shall be payable until the date when the  
11 notice is delivered or mailed.

12 b. For all other leases, termination shall be effected on the last  
13 day of the month following the month in which the notice is  
14 delivered or mailed, and an unpaid rental for the period preceding  
15 termination shall be prorated. A rental paid in advance for a period  
16 succeeding termination shall be refunded by the lessor or the  
17 lessor's assignee.

18 c. Upon application by the lessor to the appropriate court prior  
19 to the termination period provided for in the notice, relief granted in  
20 this section shall be subject to such modifications or restrictions as,  
21 in the opinion of the court, justice and equity may in the  
22 circumstances require.

23 Upon termination of the lease, the former lessee and any co-  
24 signer shall have no further liability to the lessor or the lessor's  
25 assignee, except that the lessee and any co-signer shall be obligated  
26 to the lessor or assignee for any damages to the leased property.  
27 The lessor or lessor's assignee shall not impose any penalty or  
28 charge upon the lessee or any co-signer on the lease for early  
29 termination of the lease. This paragraph shall apply whether or not  
30 the person is the sole signatory of the lease.

31 The provisions of this section which apply to any lease covering  
32 personal property become effective after military service of more  
33 than 90 consecutive days.

34 d. A person who knowingly seizes, holds, or detains the  
35 personal effects, clothing, furniture, or other property of a person  
36 who has lawfully terminated a lease covered by this section, or in  
37 any manner interferes with the removal of property from the  
38 premises covered by such lease, for the purpose of subjecting or  
39 attempting to subject such property to a claim for rent accruing  
40 subsequent to the date of termination of such lease, or who attempts  
41 to do so, shall be adjudged a disorderly person and shall be subject  
42 to a fine not to exceed \$1,000, or imprisonment not to exceed six  
43 months, or both.

44  
45 16. a. (1) A person who has received, or whose assignor has  
46 received, a deposit or installment under a contract for the purchase  
47 of real or personal property, or for a lease or bailment with a view  
48 to purchase of such property, from a person or from the assignor of



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1 a person who has begun service on active duty after the date of  
2 payment of such deposit or installment shall not exercise a right or  
3 option under such contract to rescind or terminate the contract or  
4 resume possession of the property for nonpayment of an installment  
5 thereunder due or for another breach of the terms thereof occurring  
6 prior to or during the period of active duty, except by action in a  
7 court of competent jurisdiction. Nothing contained in this section  
8 shall prevent the modification, termination or cancellation of such a  
9 contract, or prevent the repossession, retention, foreclosure, sale or  
10 taking possession of property which is purchased or received, or  
11 which is security for an obligation under such contract, pursuant to  
12 a mutual agreement of the parties thereto or their assignees if such  
13 agreement is executed in writing subsequent to the making of such  
14 contract and during or after the period of active duty of the person  
15 concerned.

16 (2) A person who prior to serving on active duty for a period of  
17 more than 90 consecutive days leased a non-commercial motor  
18 vehicle for personal use, with or without a view to purchase, may  
19 cancel the lease by giving written notice of cancellation to the  
20 lessor or the lessor's assignor at any time following the date of  
21 receipt of the order to enter active duty. Cancellation of a lease  
22 providing for monthly lease payments shall not be effective until  
23 the last day of the month following the month in which notice of  
24 cancellation is made, or when the leased motor vehicle is returned  
25 to the lessor or the lessor's assignor, whichever is later. Upon  
26 cancellation of the lease, the former lessee and a co-signer shall  
27 have no further liability to the lessor or the lessor's assignor, except  
28 that the lessee and a co-signer shall be obligated to the lessor or  
29 assignor for damages to the motor vehicle and excess mileage over  
30 the pro rata amount permitted as of the date of cancellation of the  
31 lease. The lessor or lessor's assignor shall not impose a penalty or  
32 charge upon the lessee or a co-signer on the lease for early  
33 cancellation of the lease. This subsection shall apply whether or not  
34 the person is the sole signatory of the lease.

35 b. A person who knowingly resumes possession of property  
36 described in this section other than as provided in subsection a. of  
37 this section, or who attempts to do so, shall be adjudged a  
38 disorderly person, and shall be subject to a fine not to exceed  
39 \$1,000, or imprisonment not to exceed six months, or both.

40 c. Upon the hearing of such action, the court may order the  
41 repayment of prior installments or deposits or any part thereof as a  
42 condition of terminating the contract and resuming possession of  
43 the property. The court also may order a stay of proceedings as  
44 provided in this act at its discretion and on its own motion, or shall  
45 order such stay on application to it by a servicemember or another  
46 person on his behalf. A stay under this section may be ordered for  
47 the period of active duty and six months thereafter or any part of  
48 such period unless the ability of the defendant to comply with the

1 terms of the contract is not materially affected, in the opinion of the  
2 court, by reason of service on active duty. The court may make  
3 such other disposition of the case as may be equitable to conserve  
4 the interests of all parties.

5 d. (1) A person who entered into a contract for cellular  
6 telephone service or telephone exchange service may terminate that  
7 contract provided that the person subsequently receives military  
8 orders that require relocation for a period of not less than 90 days to  
9 a location that does not support that contract. Termination of the  
10 contract shall be made by delivery of a written or electronic notice  
11 of such termination and a copy of the servicemember's military  
12 orders to the service provider, delivered in accordance with industry  
13 standards for notification of terminations, together with the date on  
14 which the service is to be terminated.

15 (2) In the case of a contract terminated under paragraph (1) of  
16 this subsection, the service provider under the contract shall allow  
17 the servicemember to keep the telephone number under the contract  
18 unless the period of relocation is greater than three years or the  
19 servicemember does not apply for reinstatement of the telephone  
20 number within 90 days after the period of relocation has ended.

21 (3) A service provider shall not impose an early termination  
22 charge or reinstatement charge for services terminated or reinstated  
23 under the provisions of this subsection. Notwithstanding any  
24 remainder of the monthly or periodic payment for the billing period  
25 in which termination occurs, the service provider shall refund the  
26 servicemember any fee or other amount paid for services after the  
27 effective date of termination of the contract.

28  
29 17. a. When an obligation is secured by mortgage, trust deed, or  
30 other security in the nature of a mortgage upon real or personal  
31 property owned by a servicemember originating prior to the  
32 commencement of the period of military service, a court may stay a  
33 proceeding as provided in this act commenced during the period of  
34 active duty to enforce such obligation arising out of nonpayment of  
35 a sum due or out of another breach of terms occurring prior to or  
36 during the period of active duty, or make such other disposition of  
37 the case as may be equitable to conserve the interest of all parties.  
38 The court may do so at its discretion and on its own motion or upon  
39 application to it by the servicemember or another person on his or  
40 her behalf. This subsection shall apply unless the ability of the  
41 defendant to comply with the terms of the obligation, in the opinion  
42 of the court, is not materially affected by reason of service on active  
43 duty.

44 b. A sale, foreclosure, or seizure of property for nonpayment of  
45 a sum due under such an obligation, or for another breach of the  
46 terms thereof, whether under a power of sale, under a judgment  
47 entered upon warrant of attorney to confess judgment contained  
48 therein or otherwise, shall not be valid if made during the period of

1 active duty or within three months thereafter except upon an order  
2 of sale previously granted by the court and a return thereto is made  
3 and approved by the court.

4 c. A person who knowingly causes to be made a sale,  
5 foreclosure, or seizure of property defined as invalid by subsection  
6 b. of this section, or attempts to do so, shall be adjudged a  
7 disorderly person, and shall be subject to a fine not to exceed  
8 \$1,000, or imprisonment not to exceed six months, or both.

9  
10 18. When a proceeding to foreclose a mortgage or to resume  
11 possession of personal property, or to rescind or terminate a  
12 contract for the purchase thereof, has been stayed as provided in  
13 this act the court may appoint three disinterested parties to appraise  
14 the property, unless in its opinion an undue hardship would result to  
15 the dependents of the servicemember. Based upon the report of the  
16 appraisers, the court may order such sum, if any, as may be just to  
17 be paid to the servicemember or his dependent as a condition of  
18 foreclosing the mortgage, resuming possession of the property, or  
19 rescinding or terminating the contract.

20  
21 19. a. A sale of property shall not be made to enforce the  
22 collection of a general or special tax or an assessment for failure to  
23 pay prior to or during the period of active duty with respect to  
24 personal property, money or credits or real property owned and  
25 occupied for dwelling, agricultural, or business purposes by a  
26 servicemember or his dependents at the commencement of the  
27 period of active duty and still occupied by the person's dependents  
28 or employees in a proceeding or action commenced for such  
29 purpose except upon leave of court granted upon application made  
30 by the collector of taxes or other officer whose duty it is to enforce  
31 the collection of taxes or assessments. The court may stay such  
32 proceedings or sale as provided in this act for a period extending  
33 not more than six months after the termination of the period of  
34 active duty, unless in the opinion of the court the ability of the  
35 defendant to comply with the terms of the obligation is not  
36 materially affected by reason of service on active duty.

37 This section shall not apply to taxes on income.

38 b. When by law property may be sold or forfeited to enforce  
39 the collection of a tax or assessment described in subsection a. of  
40 this section, a servicemember shall have the right to redeem, or  
41 commence an action to redeem, such property at any time not later  
42 than six months after the termination of service on active duty. The  
43 provisions of this subsection shall not be construed to shorten a  
44 period provided by the laws of the State, or a political subdivision  
45 thereof, for such redemption.

46 c. If a tax or assessment is not paid when due, it shall bear  
47 interest until paid at the rate of six percent per annum from the date  
48 when the tax first became a lien. Another penalty or interest shall

1 not be incurred by reason of such nonpayment, whether the penalty  
2 or interest accrued prior or accrues subsequent to the  
3 commencement of the period of active duty. A lien for unpaid taxes  
4 or assessment shall also include such interest.

5  
6 20. A policy that has not lapsed for the nonpayment of premium  
7 before the commencement of the period of active duty of the  
8 insured, and which has been brought within the protection of the  
9 federal "Servicemembers' Civil Relief Act," 50 U.S.C. App. s.501  
10 et seq., shall not lapse or be forfeited for the nonpayment of  
11 premium during the period of active duty or two years thereafter.

12 For the purposes of this section,

13 "policy" means any individual contract for whole, endowment,  
14 universal, or term life insurance, other than group term life  
15 insurance coverage, including any benefit in the nature of such  
16 insurance arising out of membership in a fraternal or beneficial  
17 association but shall not mean insurance exceeding a total face  
18 value of \$400,000, or an amount equal to the Servicemembers'  
19 Group Life Insurance maximum limit, whichever is greater, whether  
20 in one or more companies.

21 "insured" means a person whose life is insured under a policy.

22 "premium" shall include the membership dues or assessments in  
23 a fraternal or beneficial association with the date of issuance of a  
24 policy as herein limited referring to the date of admission to  
25 membership in such association.

26  
27 21. A person holding a lien for the storage, repair, or cleaning of  
28 the property or effects of a servicemember shall not foreclose or  
29 enforce any such lien, during any period of military service of the  
30 servicemember and for 90 days thereafter, without a court order  
31 granted before foreclosure or enforcement. A court may, on its own  
32 motion, and shall, upon application by a servicemember whose  
33 ability to comply with the obligation is materially affected by his  
34 military service, stay the proceeding for a period of time as justice  
35 and equity may require and adjust the obligation to preserve the  
36 interests of all parties.

37 A person who shall knowingly take an action contrary to this  
38 section, or attempts to do so, shall be adjudged a disorderly person,  
39 and shall be subject to a fine not to exceed \$1,000, or imprisonment  
40 not to exceed six months, or both.

41  
42 22. a. At any time during the period of active duty or within six  
43 months thereafter, a person may apply to a court for relief with  
44 respect to an obligation or liability incurred by such person prior to  
45 the period of active duty or with respect to a tax or assessment  
46 which becomes due prior to or during the period of active duty.  
47 Unless in the court's opinion the ability of the applicant to comply  
48 with the terms of such obligation or liability or to pay such tax or

1 assessment has not been materially affected by reason of service on  
2 active duty, the court may grant the following relief after  
3 appropriate notice and hearing:

4 (1) In the case of an obligation payable under its terms in  
5 installments under a contract for the purchase of real estate, or  
6 secured by a mortgage or other instrument in the nature of a  
7 mortgage upon real estate, a court may stay the enforcement of such  
8 obligation during the applicant's period of active duty and, from the  
9 date of termination of such period of active duty or from the date of  
10 application if made after active duty, for a period equal to the  
11 period of the remaining life of the installment contract or other  
12 instrument plus a period of time equal to the period of active duty  
13 of the applicant, or any part of such combined period. The stay  
14 shall be subject to payment of the balance of principal and  
15 accumulated interest due and unpaid at the date of termination of  
16 the period of active duty or from the date of application in equal  
17 installments during such combined period at such rate of interest on  
18 the unpaid balance as is prescribed in such contract, or other  
19 instrument evidencing the obligation, for installments paid when  
20 due. The court may impose such other terms as may be just.

21 (2) In the case of another obligation, liability, tax, or  
22 assessment, a court may stay the enforcement thereof during the  
23 applicant's period of active duty and from the date of termination of  
24 the period of active duty or from the date of application if made  
25 after active duty, for a period of time equal to the period of active  
26 duty of the applicant or any part of such period. The stay shall be  
27 subject to payment of the balance of principal and accumulated  
28 interest due and unpaid at the date of the termination of such period  
29 of active duty or the date of application in equal periodic  
30 installments during such extended period at such rate of interest as  
31 may be prescribed for such obligation, liability, tax, or assessment,  
32 if paid when due. The court may impose such other terms as may be  
33 just.

34 b. When any court has granted a stay as provided in this  
35 section, a fine or penalty shall not accrue during the period the  
36 terms and conditions of such stay are complied with by reason of  
37 failure to comply with the terms or conditions of the obligation,  
38 liability, tax or, assessment with respect to which such stay was  
39 granted.

40  
41 23. a. In a proceeding under this act, a certificate executed by  
42 an officer of the applicable force of the Armed Forces of the United  
43 States or by an officer of the applicable force of the National Guard  
44 shall be prima facie evidence of the facts therein certified and of the  
45 authority of the signer to issue the same.

46 b. When a person serving on active duty is reported missing,  
47 the person shall be presumed to continue on active duty until  
48 accounted for. A period herein limited that begins or ends with the

1 death of such person shall not begin or end until the death of such  
2 person is in fact reported to or proved by the applicable force of the  
3 Armed Forces of the United States or of the National Guard, or  
4 proved by a court of competent jurisdiction.

5  
6 24. A power of attorney of a servicemember that expires by its  
7 terms after the servicemember enters missing status shall be  
8 automatically extended for the period that the servicemember is in a  
9 missing status, provided that the power of attorney: was duly  
10 executed by the servicemember while in military service or before  
11 entry into military service but after the servicemember received a  
12 call or order to report for military service or notice that such call or  
13 order may occur; and designates the servicemember's spouse,  
14 parent, or other named relative as the servicemember's attorney in  
15 fact. This section shall not apply to a document that, by its terms,  
16 clearly indicates that the power granted expires on a specific date.

17  
18 25. a. Coverage under a professional liability insurance policy  
19 of a servicemember who was engaged in furnishing professional  
20 services immediately before receiving an order to active duty shall  
21 be suspended by the insurer upon receipt of a written request from  
22 the servicemember. The insurer shall not require that premiums be  
23 paid on behalf of such a servicemember during the period that  
24 coverage is suspended and shall refund any amount paid for  
25 coverage of the period of such suspension unless the servicemember  
26 elects to apply such amount to any premium due upon the  
27 reinstatement of coverage. The insurer shall not be liable for a  
28 claim that is based on professional conduct of a servicemember that  
29 occurs during the period of suspension, except that the failure of a  
30 servicemember to make adequate provision for a patient, client, or  
31 other person to receive professional services or assistance during  
32 the period of the servicemember's military service shall be  
33 considered to arise prior to the period of suspension.

34 b. Coverage under a professional liability insurance policy that  
35 has been suspended pursuant to subsection a. of this section shall be  
36 reinstated by the insurer on the date on which that servicemember  
37 transmits a written request for reinstatement to the insurer, provided  
38 that the written request is transmitted to the insurer within 30 days  
39 after the date on which the servicemember is released from active  
40 duty. Such reinstatement shall be for a period of at least the  
41 balance of the period for which coverage would have continued  
42 under the insurance policy if coverage had not been suspended. The  
43 insurer shall not increase the amount of the premium during such  
44 required period except to the extent that the insurer has increased  
45 premiums with general applicability.

46 c. The insurer shall be liable for a claim for damages for  
47 professional negligence or other professional liability during the  
48 period of suspension, to the same extent the insurer would be liable

1 during a period of coverage, in the case where a servicemember dies  
2 during the period of suspension.

3  
4 26. Upon application within 120 days after the date of  
5 termination of or release from military service, a servicemember  
6 shall be entitled to reinstatement of health insurance that was in  
7 effect on the day before entrance into military service and was  
8 terminated during the period of such service. Such reinstatement  
9 shall not be subject to an exclusion or waiting period if the  
10 condition arose before or during the period of military service, an  
11 exclusion or waiting period would not have been imposed for the  
12 condition during the period of coverage, and the condition has not  
13 been determined by the Secretary of Veterans Affairs to be a  
14 disability incurred or aggravated in the line of duty. The insurer  
15 shall not increase the amount of the premium during the balance of  
16 the period for which coverage would have been continued had the  
17 coverage not been terminated except to the extent that the insurer  
18 has increased premiums with general applicability.

19  
20 27. If the trade or business of a servicemember has an obligation  
21 or liability for which the servicemember is personally liable, the  
22 assets of the servicemember not held in connection with that trade  
23 or business shall not be available for satisfaction of the obligation  
24 or liability during the period of the servicemember's military  
25 service, except where a court determines, upon application by an  
26 obligor affected by this section, that justice and equity require  
27 otherwise.

28  
29 28. a. When a person leaves a position other than a temporary  
30 one in the employ of an employer in order to serve on active duty,  
31 the employer shall restore such person to the position, or to a  
32 position of like seniority, status, and pay, unless the employer's  
33 circumstances have so changed as to make it impossible or  
34 unreasonable to do so, if the person:

35 receives a certificate of completion of active duty duly executed  
36 by an officer of the applicable force of the Armed Forces of the  
37 United States or by an officer of the applicable force of the National  
38 Guard;

39 is still qualified to perform the duties of such position; and  
40 in the case of a private employer, makes application for  
41 reemployment within 90 days after the person has completed  
42 service on active duty.

43 If the circumstances of an employer have so changed because of  
44 reasons of economy or efficiency or other related reason as to make  
45 it impossible or unreasonable to restore a person who left to enter  
46 active military service in the Armed Forces of the United States in  
47 time of war or emergency, such employer shall restore such person

1 to any available position, if requested by such person, for which the  
2 person is able or qualified to perform the duties.

3 b. The benefits, rights, and privileges granted to a  
4 servicemember by this section shall be applicable to a person who  
5 temporarily leaves a position other than a temporary one in the  
6 employ of an employer in order to participate in assemblies or  
7 annual training or in order to attend service schools conducted by  
8 the Armed Forces of the United States for a period up to and  
9 including three months, if the person is still qualified to perform the  
10 duties of such position and makes application for reemployment  
11 within 10 days after completion of such temporary period of  
12 service. A person shall not be entitled to the benefits, rights, and  
13 privileges for such attendance at a service school exceeding a total  
14 of three months during any four-year period.

15 c. The benefits, rights, and privileges granted to a  
16 servicemember by this section shall be applicable to a person who is  
17 or becomes a member of the National Guard or of a reserve  
18 component of the Armed Forces of the United States and who is  
19 discharged or suspended by his employer because of such  
20 membership, if the person is still qualified to perform the duties of  
21 such position and makes application for reemployment or  
22 termination of suspension within 10 days after such discharge or  
23 suspension.

24 d. A person who is restored to a position in accordance with the  
25 provisions of this section shall be considered as having been on  
26 furlough or leave of absence during the period of active duty,  
27 temporary service, discharge, or suspension. The person shall be so  
28 restored without loss of seniority and entitled to participate in  
29 insurance or other benefits offered by the employer pursuant to  
30 established rules and practices relating to employees on furlough or  
31 leave of absence in effect with the employer at the time such person  
32 began serving on active duty or commenced such temporary service  
33 or was so discharged or suspended. The person shall not be  
34 discharged from the position without cause, within one year after  
35 such restoration.

36 e. If a private employer fails or refuses to comply with the  
37 provisions of this section, a person entitled to the benefits of such  
38 provisions may file a complaint in the Superior Court and the court  
39 shall have the power to specifically require the employer to comply  
40 with such provisions. The court may also compensate the person  
41 for loss of wages or benefits suffered by reason of the employer's  
42 unlawful action. The court shall order an expedited hearing in such  
43 a case. A person claiming to be entitled to the benefits of the  
44 provisions of this section may appear and be represented by  
45 counsel. A person may request in writing that the Attorney General  
46 of the State appear and act on the person's behalf. If the Attorney  
47 General is reasonably satisfied that the person so applying is  
48 entitled to such benefits, the Attorney General shall appear and act



1 as attorney for such person in the amicable adjustment of the claim,  
2 or in the filing of a complaint and the prosecution thereof. In the  
3 hearing and determination of a complaint or application under this  
4 section, fees or court costs shall not be assessed against a person  
5 applying for such benefits.  
6

7 29. Nothing in this act shall be construed to limit, restrict, or  
8 forfeit the rights and privileges of a servicemember in regard to  
9 public lands, desert-land entries, mining claims, mineral permits  
10 and leases, and any other land rights that may be provided for by  
11 federal law.  
12

13 30. A servicemember may waive any of the rights or protections  
14 provided by this act only if such waiver is in writing, in at least 12-  
15 point font, executed as an instrument separate from the obligation  
16 or liability to which it applies, and includes an acknowledgment of  
17 the desirability of seeking advice from an attorney in connection  
18 with the waiver, and the servicemember is given a reasonable  
19 opportunity to seek such advice.  
20

21 31. In any proceeding to enforce a civil right, if a court  
22 determines that any interest, property, or contract has been  
23 transferred or acquired with the intent to improperly delay the just  
24 enforcement of such right, the court may enter such judgment or  
25 make such order as justice and equity may require.  
26

27 32. a. The Attorney General may commence a civil action  
28 against any person who engages in a pattern or practice of violating  
29 this act or engages in a violation of this act that raises an issue of  
30 significant public importance.

31 In a civil action commenced under this subsection, a court may  
32 grant any appropriate equitable or declaratory relief with respect to  
33 the violation of this act, award all other appropriate relief, including  
34 monetary damages, to any person aggrieved by the violation, and  
35 assess a civil penalty, to vindicate the public interest, in an amount  
36 not to exceed \$55,000 for a first violation or \$110,000 for any  
37 subsequent violation.

38 Upon timely application, a person aggrieved by a violation of  
39 this act with respect to which a civil action is commenced may  
40 intervene in such action, and may obtain such appropriate relief as  
41 the person could obtain in a civil action under subsection b. of this  
42 section with respect to that violation, along with costs and a  
43 reasonable attorney fee.

44 b. Any person aggrieved by a violation of this act may, in a  
45 civil action, obtain any appropriate equitable or declaratory relief  
46 with respect to the violation and recover all other appropriate relief,  
47 including monetary damages. The court may award a person  
48 aggrieved by a violation of this act who prevails in an action

1 brought under this subsection the costs of the action, including a  
2 reasonable attorney fee.

3 c. Nothing in subsection a. or b. of this section shall be  
4 construed to preclude or limit any remedy otherwise available under  
5 other law, including consequential and punitive damages.

6  
7 33. The Department of Military and Veterans Affairs shall  
8 ensure that notice of the benefits and protections afforded by this  
9 act is provided to servicemembers and their dependents.

10  
11 34. The “New Jersey Soldiers’ and Sailors’ Civil Relief Act of  
12 1979,” P.L.1979, c.317 (C.38:23C-1 et seq.) is repealed.

13  
14 35. This act shall take effect immediately.

15

16

17

#### STATEMENT

18

19 This bill creates the New Jersey Servicemembers’ Civil Relief Act  
20 and repeals the “New Jersey Soldiers’ and Sailors’ Civil Relief Act of  
21 1979,” (C.38:23C-1 et seq.). The purpose of the bill is to update and  
22 modernize the benefits and protections afforded to military  
23 servicemembers and their dependents and to bring such benefits and  
24 protections in line with those provided for by federal law. No benefits  
25 or protections are reduced in this bill.

26 This bill, expands the definition of those who are protected under  
27 New Jersey law, reconciles any differences between State and federal  
28 law, and affords greater protections to servicemembers in the State.  
29 These protections include:

- 30 • Mandatory stays of civil proceedings and executions of  
31 judgments in circumstances when the servicemember’s  
32 ability to represent himself is materially affected by his  
33 military service;
- 34 • Allowance of application for anticipatory relief by the  
35 servicemember;
- 36 • Protections against default judgments which cannot be  
37 properly defended by reason of military service;
- 38 • Relief from contracts that cannot be performed due to  
39 military service;
- 40 • Tolling of the statute of limitations during the period of  
41 military service;
- 42 • A maximum six-percent rate of interest on debts incurred  
43 before military service;
- 44 • Relief related to evictions, foreclosures, and certain taxes;
- 45 • Termination of leases executed before an individual was  
46 called into military service;
- 47 • Protections against liens for storage, repair, and cleaning of  
48 property and effects;

**S211 CONNORS, BEACH**

19

- 1           • Automatic extension of the power of attorney for
- 2           servicemembers who have entered missing status;
- 3           • Protections regarding life insurance, professional liability
- 4           insurance, and health insurance;
- 5           • Employment protections for those returning from military
- 6           service;
- 7           • Reservation of land rights provided under federal law;
- 8           • Procedures to effect waiver of any rights provided under
- 9           the act; and
- 10          • Creation of a civil action which may be brought by the
- 11          Attorney General or a person aggrieved by a violation of the
- 12          act