

MILITARY CIVIL RELIEF ACT
(excerpts)
51 Pa.C.S. § 7301 et seq.

(see section 7315 for lease termination provisions)

TABLE OF CONTENTS

Chapter 73

Section 7301.	Definitions
Section 7302.	Granting military leaves of absence
Section 7303.	Expiration of military leaves of absence
Section 7304.	Reemployment rights
Section 7305.	Seniority rights
Section 7306.	Retirement rights
Section 7307.	Eligibility
Section 7308.	Loss of benefits
Section 7309.	Employment discrimination for military membership or duty
Section 7310.	Contract by minors for servicemen's readjustment loans
Section 7311.	Sale of real property for delinquent taxes and municipal claims
Section 7312.	Stay of eviction or distress during military service
Section 7313.	Educational leave of absence
Section 7314.	Stay of proceedings when military service affects conduct thereof
Section 7315.	Termination of leases and similar obligations by military personnel
Section 7316.	Maximum rates of interest and scheduling of debts
Section 7317.	Deferred motor vehicle insurance coverage
Section 7318.	Unemployment compensation benefits

§ 7301. Definitions

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"ACTIVE MILITARY SERVICE." Active service in any of the armed services or forces of the United States or of this Commonwealth.

"BE DRAFTED." To be drafted, to be ordered into active military service if a member of a reserve component of the armed forces, or in any way to enter involuntarily, or remain in active military service, or to enter voluntarily into active military service for such period as is necessary to satisfy one's draft obligation.

"EMPLOYEE." Any appointed officer or employee regularly employed by the Commonwealth, in its civil service or otherwise, or by any department, board, bureau, commission, authority, agency or office thereof, or by any political subdivision or local authority of the Commonwealth, but shall not mean any employee of any school district or vocational school district.

"ENLIST." To enlist, enroll, reenlist, or in any way voluntarily to enter or remain in active military service.

"RESERVE COMPONENT OF THE ARMED FORCES." The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, Pennsylvania National Guard and Pennsylvania Air National Guard.

§ 7302. Granting military leaves of absence

(a) ENLISTMENT OR DRAFT.-- Whenever any employee shall, in time of war or armed conflict, or emergency proclaimed by the Governor or by the President of the United States, enlist or shall, at any time, be drafted into the active military service of the United States, he shall be automatically granted a military leave of absence. So long as an employee is on military leave of absence, he shall not be removed from his employment and his duties shall either be performed by other employees or by a temporary substitute. During such time he may receive remuneration from his civilian employer.

(b) RESERVE COMPONENTS.-- Whenever any employee who is a member of a reserve component of the armed forces shall be called or ordered to active duty by the United States and whenever any employee who is a member of the Pennsylvania National Guard shall be ordered to active State duty or special State duty by the Governor or his designee, he shall automatically be granted a military leave of absence.

§ 7303. Expiration of military leaves of absence

(a) EMPLOYEES WHO ENLISTED. --Every military leave of absence granted to an employee by reason of his enlistment in the active military service in time of war or armed conflict, or emergency proclaimed by the Governor or by the President of the United States, shall expire 90 days after the expiration of the first period of his enlistment to expire at a time when the United States is not engaged in a war or armed conflict or emergency proclaimed by the Governor or by the President of the United States.

(b) EMPLOYEES WHO WERE DRAFTED. --Every military leave of absence granted to an employee by reason of his having been drafted shall expire 90 days after the expiration of the period for which he was drafted.

(c) EMPLOYEES WHO WERE MEMBERS OF RESERVE COMPONENTS.-- Every military leave of absence granted to an employee by reason of his having been called or ordered to military duty as a member of a reserve component of the armed forces of the United States shall expire 90 days after the expiration of the period of the military duty. Every military leave of absence granted to an employee by reason of his having been ordered to active State duty or special State duty as a member of the Pennsylvania National Guard shall expire 30 days after the expiration of the period of the State duty.

§ 7304. Reemployment rights

Every employee shall have the right to return to his employment at any time prior to the expiration of his military leave of absence upon notifying his employer of his desire and availability so to return.

§ 7305. Seniority rights

Every employee who returns to his employment at the time of or prior to the expiration of his military leave of absence shall be restored as provided in section 7304 (relating to reemployment rights) in such manner as to give him such status in his employment as he would have enjoyed if he had continued in such employment continuously from the time of his entering the armed forces until the time of his restoration to such employment.

§ 7306. Retirement rights

(a) OPTIONS AVAILABLE TO EMPLOYEES. --Any employee who is a member of a retirement system at the time he is granted a military leave of absence shall be entitled to exercise any one of the following options in regard thereto:

(1) He may continue to make regular payments into the fund during the period of his military leave of absence. The amount of such payments shall be the same as they would have been, had he not been granted a military leave of absence, but had instead remained actively in his employment. The time of making such payments shall be mutually agreed upon by the employee and the retirement association of which he is a member, but in no event shall be less frequent than semiannually. The employer shall make its contributions on the same basis as is used to compute the

employee's contributions. In this case, his retirement rights shall be determined on the basis that he was in the active, continuous and uninterrupted employ of his employer for the period during which he was on military leave of absence.

(2) He may discontinue making payments into the fund during the period of his military leave of absence. In such event, the employer shall also discontinue making its contributions during this period. In this case, his retirement rights shall be determined by completely disregarding the period of his military leave of absence for all purposes.

(b) EXERCISE OF OPTIONS. --Any employee, desiring to exercise option (1) in subsection (a), shall so signify, in writing, to the retirement association of which he is a member within 60 days after the commencement of his military leave of absence or within 60 days after the effective date of this chapter, whichever shall later occur. Any employee who does not exercise option (1) in this manner will be deemed to have exercised option (2).

(c) CHANGE OF OPTION. --Any employee who has exercised option (2) in subsection (a), but who, upon the expiration of his military leave of absence, returns to his employment and desires to receive the benefits of option (1), shall have the right to receive such benefits if he shall comply with the following requirements:

(1) He shall, within six months after he returns to his employment, give written notice to the retirement association of which he is a member of his desire to receive the benefits of option (1).

(2) He shall pay into the retirement fund an amount equal to the total payments he would have made had he exercised option (1). Payment of such amount may be spread over a period of time agreeable to the retirement association and the employee, which in no event shall exceed a period commencing with the date he returned to his employment and equal in duration to the duration of his military leave of absence. Such agreed upon payments shall be made in the same manner as his regular payments into the fund are made. In this case, his employer shall pay into the fund an amount equal to the total payments it would have made had the employee exercised option (1). Payment of such amount by the employer shall be spread over the same time as the employee's payments.

§ 7307. Eligibility

Every employee otherwise eligible for a military leave of absence shall be granted a military leave of absence commencing upon the date of his eligibility therefor, regardless of whether such date occurred before or after the effective date of this chapter.

§ 7308. Loss of benefits

Any employee who is separated from the service by an undesirable, bad conduct or dishonorable discharge shall not be entitled to any of the benefits of this chapter, except such vested rights as he may have acquired prior thereto by virtue of payments made pursuant to his exercise of option (1) of section 7306 (relating to retirement rights).

§ 7309. Employment discrimination for military membership or duty

(a) GENERAL RULE.-- It is unlawful for the Commonwealth or any of its departments, boards, commissions, agencies or any political subdivision, or for any private employer, to refuse to hire or employ any individual not on extended active duty because of his membership in the National Guard or any one of the other reserve components of the armed forces of the United States, or because he is called or ordered to active State duty or special State duty by the Governor during an emergency or as otherwise authorized by law, or because he is called or ordered to active duty by the Federal Government under provisions of 10 U.S.C. (relating to armed forces) or 32 U.S.C. (relating to National Guard), or to discharge from employment such individual, or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment because of such membership, or because he is called or ordered to active State duty by the Governor during an emergency or because he is called or ordered to other military duty authorized by law.

(b) REEMPLOYMENT FOLLOWING EMERGENCY OR OTHER MILITARY DUTY.-- Upon the completion of such emergency or other military duty any such member of the Pennsylvania National Guard or any other reserve component of the armed forces of the United States shall be restored by such public or private employer or his successor

in interest to such position or to a position of like seniority, status and pay which such member held prior to such emergency or other military duty, but if any such member is not qualified to perform the duties of such position by reason of disability sustained during such emergency or other military duty but qualified to perform the duties of any other position in the employ of such private employer or his successor in interest, such member shall be restored to such other position, the duties of which he is qualified to perform, as will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of the case, unless such public or private employer's or his successor in interests, circumstances have so changed as to make it impossible or unreasonable to do so.

(c) EXTENSION OF BENEFITS DURING MILITARY DUTY.-- Whenever a member of the Pennsylvania National Guard is called or ordered into active Federal service or active State duty under orders authorized by law or a member of any reserve component is called or ordered onto active duty, other than active duty for training, the public or private employer of the member shall, at no cost to the member, continue health insurance and other benefits in effect for at least the first 30 days of the military duty. After the expiration of the first 30 days, the public or private employer shall give the member of the National Guard or other reserve component the voluntary option of continuing such health insurance and other benefits in effect at his own expense by paying for the insurance or benefits at the same rates paid by the employer, and the insurance coverage shall continue, except for injuries incurred in the line of military duty.

§ 7310. Contract by minors for servicemen's readjustment loans

(a) GENERAL RULE. --Any minor, who is at least 17 years of age, and who is eligible for guaranty or insurance of a loan pursuant to the act of Congress known as the "Servicemen's Readjustment Act of 1944," amended and supplemented, is hereby authorized and empowered, notwithstanding such minority, to enter into any contract in this Commonwealth, for any loan, or loans guaranteed by the United States, or any agency thereof, in accordance with the provisions of said act of Congress, as amended and supplemented, and the rules and regulations promulgated from time to time pursuant thereto; or any agency of the Commonwealth hereafter created; and such minor is also authorized and empowered to execute, and acknowledge, all documents, deeds, mortgages, and other or similar papers, necessary and incident to such contracts.

(b) JOINDER BY MINOR SPOUSE. --The minor spouse of any person who is eligible for guaranty or insurance of a loan pursuant to said act of Congress, whether or not such person is a minor and regardless of the age of the spouse, is hereby authorized and empowered, notwithstanding such minority, to join in the execution of any such contract.

(c) MINORITY NO BASIS FOR AVOIDANCE OR DEFENSE. --In the event a person who is eligible for guaranty or insurance of a loan pursuant to said act of Congress, and who is a minor or whose spouse is a minor, or both, obtains such a loan, or loans, neither of them, despite any law or decision of any court to the contrary, shall be permitted to avoid the contract of such loan or loans because of the age of either of them, nor shall either of them be permitted to interpose the defense that either of them is a minor in any action or actions based upon such contract, or contracts, or arising out of any loan or loans authorized herein.

(d) LIABILITY OF PARENT OR REPRESENTATIVE. --The parent or parents, or guardian or guardians, or trustee or trustees of any minor shall not be liable in any way whatsoever because of or on account of such contract or contracts, or loan or loans, which may be entered into or joined in by such minor pursuant hereto, unless expressly a party thereto.

§ 7311. Sale of real property for delinquent taxes and municipal claims

(a) LIEN SAVED ON STAY OF SALE. --Whenever, pursuant to the provisions of the Federal Soldiers' and Sailors' Civil Relief Act of 1940 and the amendments thereto, a sale of any real property, owned and occupied for dwelling, professional, business or agricultural purposes by a person in military service, or his dependents, at the commencement of his period of military service and still so occupied by his dependents or employees, to enforce the collection of a delinquent tax or municipal claim, or the commencement of any proceeding or action for such purposes, is stayed by any court of record of this Commonwealth, the lien of the tax or of a tax or municipal claim affected thereby, shall not be lost.

(b) SALE AND LIEN TIME LIMITATIONS EXTENDED. --In all such cases the time fixed by statute for any such sale, or the commencement of any such proceeding or action, and the lien of the tax or the tax or municipal claim, is hereby extended for a period equal to the time during which the stay of the court was effective.

(c) REDEMPTION PERIOD EXTENDED. --Whenever the real property, owned and occupied for dwelling, professional, business or agricultural purposes by a person in the military service, or his dependents, at the commencement of his military service and still so occupied by his dependents or employees, has been sold to enforce the collection of any tax or municipal claim, and such person in military service has the right to redeem the same, and the period of redemption shall expire at any time before the expiration of six months after the termination of the military service of such person, the period of redemption as to such real property shall be extended, and such person in military service shall have the right to redeem such property at any time not later than six months after the termination of the military service of such person.

§ 7312. Stay of eviction or distress during military service

(a) GENERAL RULE.-- Whenever any member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States shall be called or ordered to active duty, other than active duty for training, or, in the case of members of the Pennsylvania National Guard, shall be called or ordered to active State duty, no eviction or distress shall be made of premises occupied chiefly for dwelling purposes by the member or any member of his family or other dependents, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession.

(b) STAY OF PROCEEDINGS.-- On any such application or in any action brought pursuant to subsection (a), the court may, in its own discretion, on its own motion, and shall, on application of the member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, any member of his family or dependent, stay the proceedings for six months unless, in the opinion of the court, the ability of the tenant to pay the agreed rent is not materially affected by reason of the military service. The court may make such other order as may be just under the circumstances, including an order temporarily adjusting the rental payments.

(c) IMPACTS ON LANDLORDS.-- When a stay of eviction is granted or other order is made by the court, the owner of the premises shall be entitled, upon application therefor, to such relief as the court may determine just and equitable under the circumstances, including an order for the member to pay the arrearage in rent upon release from military duty to the extent and for such period as may appear to the court to be just.

§ 7313. Educational leave of absence

Whenever any member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States shall be called or ordered to active duty, other than active duty for training, including, in the case of members of the Pennsylvania National Guard, active State duty, the educational institution in which the member is enrolled shall grant the member a military leave of absence from their education. Persons on military leave of absence from their educational institution shall be entitled, upon release from military duty, to be restored to the educational status they had attained prior to their being ordered to military duty without loss of academic credits earned, scholarships or grants awarded or tuition and other fees paid prior to the commencement of the military duty. It shall be the duty of the educational institution to refund tuition or fees paid or to credit the tuition and fees to the next semester or term after the termination of the educational military leave of absence at the option of the student.

§ 7314. Stay of proceedings when military service affects conduct thereof

At any stage thereof any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within 60 days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in the act of October 17, 1940, known as the Soldiers' and Sailors' Civil Relief Act of 1940, unless, in the opinion of the court, the ability of the plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.

§ 7315. Termination of leases and similar obligations by military personnel

(a) **APPLICABILITY.**-- This section shall apply to members of the Pennsylvania National Guard who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, or to State active duty under this title, and members of other reserve components who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, when the period of active duty or State active duty is 30 consecutive days or more.

(b) **LEASES WHICH MAY BE TERMINATED.**-- A member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, as described in subsection (a), or his agent or attorney-in-fact may terminate or cancel without cost, payment or penalty any lease for premises occupied or used by the member for dwelling, professional, business or agricultural purposes and any lease for an automobile, other motor vehicle, boat, aircraft, furniture, appliances, fixtures or other tangible personal property used by the member for personal, business, agricultural or other private use, provided the lease was executed by or on behalf of the member prior to the commencement of the period of active duty or State active duty and provided the lease was not intended as security under the definition of "security interest" in *13 Pa.C.S. § 1201* (relating to general definitions).

(c) **PROCEDURES FOR TERMINATION.**-- The member may terminate or cancel the lease by notice in writing delivered to the lessor or to the lessor's agent at any time following the beginning of the member's active duty or State active duty. Delivery of the notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor or the lessor's agent and depositing the notice in the United States mail. In the case of leases of premises or tangible personal property providing for monthly payments, termination of the lease shall be effective 30 days after the first date on which the next rental or lease payment is due and payable subsequent to the date when the notice is mailed or delivered. In the case of all other leases, termination shall be effective on the last day of the month following the month in which the notice is delivered or mailed, and, in such case, any rental paid in advance for a period after termination shall be refunded to the member by the lessor or his agent.

(d) **RELIEF GRANTED TO LESSOR.**-- Upon application by the lessor to the appropriate court of common pleas prior to the termination provided for in this section, any relief granted by this section shall be subject to such modifications or restrictions as, in the opinion of the court, justice and equity may require in the circumstances. This section does not prohibit the forfeiture, in whole or in part, of a security or damage deposit paid by the member when the forfeiture is authorized by law and the lessor demonstrates that the forfeiture of the deposit is necessary to pay for actual damages to the premises or tangible personal property arising during the period prior to termination of the lease when the premises or tangible personal property were under the care, custody and control of the member or his family.

(e) **MEMBERSHIPS SUBJECT TO TERMINATION.**-- A member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, as described in subsection (a), may terminate without cost or penalty any membership or similar obligation incurred prior to the member's entry on active duty in a health club, fitness center, country club, outdoor or indoor recreational organization or similar organization where periodic payments are required to maintain membership, or the member, at his option, may suspend his periodic payments during his period of active service and shall be readmitted to active membership without payment of any initiation or other initial membership fee upon release from active service. The notice described in subsection (c) shall be sufficient for a member to notify the club or organization of the termination or suspension of membership.

§ 7316. Maximum rates of interest and scheduling of debts

(a) **APPLICABILITY.**-- This section shall apply to members of the Pennsylvania National Guard who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, or to State active duty under this title, and members of other reserve components who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, when the period of active duty or State active duty is 30 consecutive days or more.

(b) **MAXIMUM RATES OF INTEREST.**-- No obligation or liability bearing interest at a rate in excess of the rate established under section 206 of the Soldiers' and Sailors' Civil Relief Act of 1940, as may be amended from time to time, incurred by a person in military service, as described in subsection (a), shall, during any part of the period of

service which occurs after the enactment of this section, bear interest at a rate in excess of the rate under section 206, calculated as an annual percentage rate in accordance with applicable laws and regulations, unless, in the opinion of the court, upon application thereto by the obligee, the ability of the person in the military service to pay interest upon the obligation or liability at a rate in excess of the rate under section 206 is not materially affected by reason of service, in which case the court may make the order as in its opinion may be just.

(c) **RECALCULATION OF REPAYMENT SCHEDULE.**-- Upon the reduction of the annual rate of interest pursuant to this section, there shall be a corresponding and proportionate reduction of the amount of any periodic payments made to satisfy the obligation based on a recalculation of the repayment schedule with the same repayment frequency and an interest rate equal to the rate established under section 206 of the Soldiers' and Sailors' Civil Relief Act of 1940, amortized over the original term of the loan.

(d) **RESCHEDULING OF DEBT PAYMENTS.**-- When a member's income is materially reduced as a result of his being called or ordered to active duty, the member, his spouse or his agent or attorney-in-fact may apply to his creditors for a rescheduling of his debt payments to take into account the material reduction in his income. The member, his spouse or his agent or attorney-in-fact shall provide the creditor with a statement of his income prior to being called or ordered to active duty and his income thereafter. Based on proof of a material reduction in income, the creditor shall thereafter adjust or reschedule the monthly or other periodic payments of the member. Nothing in this subsection shall be construed to relieve a member of the obligation to repay the principal of his debt after his release or discharge from active duty and restoration of his income at periodic payments equal to those in effect prior to activation.

(e) **INTEREST.**-- As used in this section, the term "interest" includes service charges, renewal fees, fees or any other charges, except bona fide insurance, in respect of the obligation or liability.

§ 7317. Deferred motor vehicle insurance coverage

(a) **APPLICABILITY.**-- This section shall apply to members of the Pennsylvania National Guard who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, or to State active duty under this title, and members of other reserve components who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, when the period of active duty or State active duty is 30 consecutive days or more.

(b) **DEFERRAL OF COVERAGE.**-- A member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, as described in subsection (a), may defer without cost or penalty motor vehicle insurance coverage during the period of active duty on one or more vehicles owned by the member, either individually or jointly with another person, provided the member certifies to the insurer the vehicle will not be operated during his absence on active duty, and, if a motor vehicle serves as collateral for a loan, the member shall continue to insure it against the risks of property damage and theft as required by the lender.

(c) **LIMITED EXEMPTION.**-- Any person described in subsection (a) shall have the same limited exemption from financial responsibility requirements as established in 75 Pa.C.S. § 1786(d)(2) (relating to required financial responsibility).

(d) **REFUND OR CREDITING OF PREPAID PREMIUMS.**-- The insurer shall, at the election of the member, refund premiums paid for coverage during the period of deferral or credit such premiums to coverage in effect after the end of the deferral period.

(e) **REINSTATEMENT OF DEFERRED COVERAGE.**-- Upon the member's release or discharge from active duty, the insurer shall, upon notice, reinstate the member's coverage at the rates then in effect.

§ 7318. Unemployment compensation benefits

(a) **GENERAL RULE.**-- Compensation payable under the act of December 5, 1936, known as the Unemployment Compensation Law, shall not be reduced pursuant to section 404(d)(1) of that act by reason of any military pay and allowances paid to a member of the Pennsylvania National Guard or a member of a reserve component of the armed

forces for periods of active duty for emergencies as declared by the Governor or drill and instruction under 32 U.S.C. § 502(a)(1) (relating to required drills and field exercises) or for a member of a reserve component of the armed forces for drill or instruction under 10 U.S.C. (relating to armed forces).

(b) APPLICABILITY.-- This section shall not apply to military pay and allowances paid to a member of the Pennsylvania National Guard for active Federal service or participation in annual training under 32 U.S.C. § 502(a)(2) or for a member of a reserve component of the armed forces for active military duty under 10 U.S.C. (relating to armed forces).