

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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HOUSE BILL 484*

Short Title: Servicemembers Civil Relief Act. (Public)

Sponsors: Representatives G. Martin and Grange (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Homeland Security, Military, and Veterans Affairs, if favorable, Judiciary I

March 28, 2017

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA SERVICEMEMBERS CIVIL RELIEF ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 127B of the General Statutes is amended by adding a new Article to read:

"Article 4.

"Servicemembers Civil Relief Act.

"§ 127B-25. Title.

This Article may be cited as the North Carolina Servicemembers Civil Relief Act.

"§ 127B-26. Purpose.

This Article is intended to expand and supplement the rights, benefits, and protections of the federal Servicemembers Civil Relief Act, 50 U.S.C. § 3901, et seq. Nothing in this Article shall be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a servicemember under federal law.

"§ 127B-27. Definitions.

The following definitions apply in this Article:

(1) Dependent. – As defined in 50 U.S.C. § 3911(4).

(2) Military service. – Any of the following:

a. As defined in 50 U.S.C. § 3911(2).

b. In the case of a member of the North Carolina National Guard, State active duty under an order of the Governor pursuant to Chapter 127A of the General Statutes, for a period of more than 30 consecutive days.

c. 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 State active duty, for a period of more than 30 consecutive days.

(3) Servicemember. – As defined in 50 U.S.C. § 3911(1).

"§ 127B-28. Expansion of federal Servicemembers Civil Relief Act.

The rights, benefits, and protections of the federal Servicemembers Civil Relief Act, 50 U.S.C. § 3901, et seq., apply to a servicemember engaged in military service. However, in the case of a servicemember engaged in military service under G.S. 127B-27(2)b. or c., 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.



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1 **"§ 127B-29. Dependent's rights and protections.**

2 A dependent of a servicemember engaged in military service has the same rights and
3 protections provided to a servicemember under G.S. 127B-30 and under Subchapter II of
4 Chapter 50 of Title 50 of the United States Code.

5 **"§ 127B-30. Termination of contract upon receipt of military order; requirements.**

6 (a) Termination of Contract. – In addition to the rights and protections regarding
7 consumer transactions, contracts, and service providers provided to a servicemember under
8 Subchapter III of Chapter 50 of Title 50 of the United States Code, a servicemember may
9 terminate a contract described in subsection (b) of this section at any time after the date the
10 servicemember receives an order to relocate for a period of military service of at least 90 days
11 to a location that does not support the contract.

12 (b) Applicability. – This section applies to a prepaid entertainment contract as defined
13 in G.S. 66-118(3). This section also applies to a contract to provide any of the following
14 services:

15 (1) Telecommunication service.

16 (2) Internet service.

17 (3) Television service.

18 (4) Satellite radio service.

19 (c) Notices. – A servicemember shall give to the service provider under the contract
20 written or electronic notice of the termination and a written or electronic copy of the order to
21 relocate. If a servicemember terminates a contract, the service provider shall give to the
22 servicemember written or electronic notice of the servicemember's rights posted on the North
23 Carolina National Guard's Web site pursuant to G.S. 127A-65.

24 (d) No Early Termination Charge. – For any contract terminated under this section, the
25 service provider shall not impose an early termination charge.

26 (e) Refund. – Not later than 60 days after the termination date of the contract, the
27 service provider shall refund to the servicemember any fee paid for a service that extends
28 beyond the termination date of the contract.

29 (f) Unpaid Obligation. – Any tax, liability, or other obligation due and unpaid at the
30 time of the termination remains the obligation of the servicemember.

31 (g) Resubscription. – If the servicemember resubscribes to the service provided under
32 the contract, the service provider shall not impose any charge or fee, other than the usual and
33 customary charges and fees for the installation or acquisition of customer equipment imposed
34 on any other subscriber.

35 **"§ 127B-31. Action by Attorney General.**

36 (a) Civil Action. – The Attorney General may commence a civil action against any
37 person that violates any provision of this Article.

38 (b) Remedies. – The court may order the following remedies:

39 (1) Injunction.

40 (2) Payment of restitution to a servicemember in the amount of money
41 unlawfully received from, or required to be refunded to, the servicemember.

42 (c) Civil Penalty. – The court may assess a civil penalty not to exceed five thousand
43 dollars (\$5,000) per violation. The clear proceeds of civil penalties imposed pursuant to this
44 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
45 G.S. 115C-457.2.

46 **"§ 127B-32. Private right of action.**

47 (a) Civil Action. – A servicemember aggrieved by a person's violation of any provision
48 of this Article may commence a civil action against that person. A violation of this Article is an
49 unfair trade or deceptive practice for purposes of Chapter 75 of the General Statutes.

50 (b) Remedies. – The court may order the following remedies:

51 (1) Injunction.

- 1 (2) Payment of restitution to a servicemember in the amount of money
- 2 unlawfully received from, or required to be refunded to, the servicemember.
- 3 (3) Damages.
- 4 (4) Any other remedy provided under Chapter 75 of the General Statutes.

5 (c) Costs. – A servicemember who prevails in an action under this section may recover
6 attorneys' fees and court costs.

7 **"§ 127B-33. No waiver.**

8 This Article supersedes any agreement that reduces, limits, or eliminates any right or
9 benefit provided by this Article."

10 **SECTION 2.** Article 3 of Chapter 127A of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 127A-65. List of rights; posting.**

13 The North Carolina National Guard shall post on its Web site a list of the rights a
14 servicemember or a dependent of a servicemember has under the North Carolina
15 Servicemembers Civil Relief Act and under the federal Servicemembers Civil Relief Act, 50
16 U.S.C. § 3901, et seq."

17 **SECTION 3.** This act becomes effective October 1, 2017, and applies to contracts
18 entered into, renewed, or modified on or after that date.