

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 484
PROPOSED COMMITTEE SUBSTITUTE H484-PCS10211-BD-19

Short Title: Servicemembers Civil Relief Act.

(Public)

Sponsors:

Referred to:

March 28, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA SERVICEMEMBERS CIVIL RELIEF
3 ACT.

4 The General Assembly of North Carolina enacts:

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

7 "Article 4.

8 "Servicemembers Civil Relief Act.

9 **"§ 127B-25. Title.**

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

11 **"§ 127B-26. Purpose.**

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

16 **"§ 127B-27. Definitions.**

17 The following definitions apply in this Article:

18 (1) Dependent. – Any of the following:

19 a. The servicemember's spouse.

20 b. The servicemember's child as defined in 50 U.S.C. § 3911(4).

21 c. An individual for whom the servicemember provided more than
22 one-half of the individual's support for 180 days immediately
23 preceding an application for relief under this Article.

24 (2) Military order. – Official military orders, or any notification, certification, or
25 verification from the servicemember's commanding officer, with respect to
26 the servicemember's current or future military duty status. In the case of a
27 member of the North Carolina National Guard, the term order shall include
28 an order from the Governor pursuant to Chapter 127A of the General
29 Statutes and, in the case of a member of the National Guard of another state,
30 shall include an order from the governor of that state.

31 (3) Military service. – Any of the following:

32 a. As defined in 50 U.S.C. § 3911(2).

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



1 c. In the case of a member of the National Guard of another state,
2 service under an order of the governor of that state, which is similar
3 to State active duty, for a period of more than 30 consecutive days.

4 (4) Servicemember. – A member in military service as defined in subdivision
5 (3) of this section.

6 **"§ 127B-28. Expansion of federal Servicemembers Civil Relief Act.**

7 The rights, benefits, and protections of the federal Servicemembers Civil Relief Act, 50
8 U.S.C. § 3901, et seq., apply to a servicemember engaged in military service. However, in the
9 case of a servicemember engaged in military service under G.S. 127B-27(3)b. or c., a person is
10 not subject to the remedies or penalties of this Article unless the servicemember gives to the
11 person a written or electronic copy of the order to military service. A violation of the federal
12 Servicemembers Civil Relief Act, as expanded by this section, is a violation of this Article.

13 **"§ 127B-29. Termination of contract upon receipt of military order; requirements.**

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

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

23 (1) Telecommunication service.

24 (2) Internet service.

25 (3) Television service.

26 (4) Satellite radio service.

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

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

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

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

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

43 **"§ 127B-30. Action by Attorney General.**

44 (a) Civil Action. – The Attorney General may commence a civil action, including
45 actions under Chapter 75 of the General Statutes, against any person that violates any provision
46 of this Article.

47 (b) Remedies. – The court may order any of the following remedies:

48 (1) Injunction.

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

51 (3) Any other remedy provided under Chapter 75 of the General Statutes.

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

5 **"§ 127B-31. Private right of action.**

6 (a) Civil Action. – A servicemember aggrieved by a person's violation of any provision
7 of this Article may commence a civil action against that person.

8 (b) Remedies. – The court may order any of the following remedies:

9 (1) Injunction.

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

12 (3) Damages.

13 (4) Any other remedy provided under Chapter 75 of the General Statutes.

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

16 **"§ 127B-32. No waiver.**

17 This Article supersedes any agreement that reduces, limits, or eliminates any right or
18 benefit provided by this Article.

19 **"§ 127B-33. Violations are unfair or deceptive trade practice.**

20 A violation of this Article is an unfair or deceptive trade practice for purposes of Chapter 75
21 of the General Statutes."

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

24 **"§ 127A-65. List of rights; posting.**

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

29 **SECTION 3.** If any section or provision of this act is declared unconstitutional or
30 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
31 the part declared unconstitutional or invalid.

32 **SECTION 4.** This act becomes effective October 1, 2017, and applies to contracts
33 entered into, renewed, or modified on or after that date.