

SENATE BILL NO. 75
INTRODUCED BY C. STAPLETON
BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MONTANA NATIONAL GUARD CIVIL RELIEF ACT; DEFINING TERMS; AUTHORIZING COURTS TO PROVIDE CERTAIN NATIONAL GUARD SERVICE MEMBERS RELIEF FROM CERTAIN CIVIL ACTIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Montana National Guard Civil Relief Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Active duty" means at least 30 consecutive days of full-time state active duty ordered by the governor pursuant to Article VI, section 13, of the Montana constitution or of full-time national guard duty, as defined in 32 U.S.C. 101.

(2) "Dependent" means the spouse or minor child of a service member or any other person legally dependent on the service member for support.

(3) "Military service" means active duty with a Montana army or air national guard military unit.

(4) "Service member" means any member of the Montana army or air national guard serving on active duty.

NEW SECTION. **Section 3. Relief from actions related to mortgage, lease, or rental payments.** (1) A civil action, as described in Title 25, chapter 1, part 1, to evict or penalize a service member or a service member's dependent with respect to the member's or dependent's primary residence for nonpayment on a mortgage, lease, or rental agreement may be stayed by a court, or the payments due may be adjusted.

(2) With respect to an action described in subsection (1), upon application or by its own action, a court may do one or more of the following:

(a) stay the action for up to 3 months unless, in the opinion of the court, the ability of the service member or the service member's dependent to make the required payments is not materially affected by the service member's active duty; or

(b) adjust the mortgage, lease, or rental payment to be made by an amount the court determines to be reasonable, taking into consideration the service member's active duty status; or

(c) order the service member or the service member's dependent to pay an amount specified by the court over the time period specified by the court upon the service member's release from active duty.

NEW SECTION. Section 4. General relief from court actions. If a plaintiff or a defendant in any civil action, as described in Title 25, chapter 1, part 1, is a service member, the court may stay the proceedings if the service member or other person on the service member's behalf makes a request in writing to the court, unless the court determines on the record that the ability of the service member to pursue an action as a plaintiff or to conduct the defense as a defendant is not materially affected by the service member's military service.

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 10, chapter 1, and the provisions of Title 10, chapter 1, apply to [sections 1 through 4].

NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

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