

Suspend the Rules And Pass the Bill, H.R. 6225, with Amendments**(The amendments strike all after the enacting clause and insert a new text and a new title)**110TH CONGRESS
2^D SESSION**H. R. 6225**

To amend title 38, United States Code, relating to equitable relief with respect to a State or private employer.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2008

Ms. HERSETH SANDLIN introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, relating to equitable relief with respect to a State or private employer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving SCRA and
5 USERRA Protections Act of 2008”.

6 **SEC. 2. EQUITY POWERS.**

7 Section 4323(e) of title 38, United States Code, is
8 amended by striking “may use” and inserting “shall use,

1 in any case in which the court determines it is appro-
2 priate,”.

3 **SEC. 3. RELIEF FOR STUDENTS WHO ARE MEMBERS OF**
4 **ARMED FORCES DURING PERIOD OF MILI-**
5 **TARY SERVICE.**

6 (a) IN GENERAL.—Title VII of the Servicemembers
7 Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended
8 by adding at the end the following new section:

9 **“SEC. 707. TUITION, REENROLLMENT, AND STUDENT LOAN**
10 **RELIEF FOR POSTSECONDARY STUDENTS**
11 **CALLED TO MILITARY SERVICE.**

12 “(a) TUITION AND REENROLLMENT.—Whenever a
13 servicemember is called, activated, or ordered to military
14 service and withdraws or takes a leave of absence from
15 an institution of higher education in which the
16 servicemember is enrolled, the institution shall—

17 “(1) provide a credit or refund to the
18 servicemember the tuition and fees paid by the
19 servicemember (other than from the proceeds of a
20 grant or scholarship) for the portion of the program
21 of education for which the servicemember did not re-
22 ceive academic credit after such withdrawal or leave;
23 and

24 “(2) provide the servicemember an opportunity
25 to reenroll with the same educational and academic

1 status in such program of education that the
2 servicemember had when activated for military serv-
3 ice.

4 “(b) INSTITUTION OF HIGHER EDUCATION DE-
5 FINED.—In this section, the term ‘institution of higher
6 education’ means a 2-year or 4-year institution of higher
7 education as defined in section 102 of the Higher Edu-
8 cation Act of 1965 (20 U.S.C. 1002).”.

9 (b) EXEMPTION OF STUDENT DEBTS FROM CRED-
10 ITOR PROTECTION BASED ON INCOME LEVEL.—Section
11 207(e) of such Act (50 U.S.C. App. 527(e)) is amended
12 by adding at the end the following new sentence: “This
13 subsection shall not apply with respect to an obligation
14 or liability that is incurred by a servicemember who, at
15 the time the servicemember is called to military service,
16 is a student enrolled within six months of activation at
17 an institution of higher education on a full-time basis, as
18 determined by that institution.”.

19 (c) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of such Act is amended by adding at the
21 end the following new item:

“Sec. 707. Tuition, reenrollment, and student loan relief for postsecondary stu-
dents called to military service.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect for periods of military service
24 beginning after the date of the enactment of this section.

1 **SEC. 4. TERMINATION OR SUSPENSION BY**
2 **SERVICEMEMBERS OF CERTAIN SERVICE**
3 **CONTRACTS ENTERED INTO BEFORE PERMA-**
4 **NENT CHANGE OF STATION OR DEPLOYMENT**
5 **ORDERS.**

6 (a) **TERMINATION.**—Title III of the Servicemembers
7 Civil Relief Act (50 U.S.C. App. 531 et seq.) is amended—

8 (1) by redesignating section 308 as section 309;
9 and

10 (2) by inserting after section 307 the following:

11 **“SEC. 308. TERMINATION OR SUSPENSION OF SERVICE**
12 **CONTRACTS.**

13 **“(a) TERMINATION OR SUSPENSION BY**
14 **SERVICEMEMBER.**—A person in military service who is
15 party to or enters into a contract described in subsection
16 (c) may terminate or suspend, at the person’s option, the
17 contract at any time after the date of the person’s military
18 orders, as described in subsection (c).

19 **“(b) SPECIAL RULES.**—(1) A suspension under sub-
20 section (a) of a contract by a person in military service
21 shall continue for the length of the person’s deployment
22 pursuant to the person’s military orders.

23 **“(2) A service provider under a contract suspended**
24 **or terminated under subsection (a) by a person in military**
25 **service may not impose a suspension fee or early termi-**
26 **nation fee in connection with the suspension or termi-**

1 nation of the contract, other than a nominal fee for the
2 suspension; except that the service provider may impose
3 a reasonable fee for any equipment remaining on the
4 premises of the person in military service during the pe-
5 riod of the suspension. The person in military service may
6 defer, without penalty, payment of such a nominal fee or
7 reasonable fee for the length of the person's deployment
8 pursuant to the person's military orders.

9 “(3) In any case in which the contract being sus-
10 pended under subsection (a) is for cellular telephone serv-
11 ice or telephone exchange service, the person in military
12 service, after the date on which the suspension of the con-
13 tract ends, may keep, to the extent practicable and in ac-
14 cordance with all applicable laws and regulations, the
15 same telephone number the person had before the person
16 suspended the contract.

17 “(c) COVERED CONTRACTS.—This section applies to
18 a contract for cellular telephone service, telephone ex-
19 change service, multichannel video programming service,
20 Internet access service, water, electricity, oil, gas, or other
21 utility if the person enters into the contract and thereafter
22 receives military orders—

23 “(1) to deploy with a military unit, or as an in-
24 dividual, in support of a contingency operation for a
25 period of not less than 90 days; or

1 “(2) for a change of permanent station to a lo-
2 cation that does not support the contract.

3 “(d) MANNER OF TERMINATION OR SUSPENSION.—

4 “(1) IN GENERAL.—Termination or suspension
5 of a contract under subsection (a) is made by deliv-
6 ery by the person in military service of written no-
7 tice of such termination or suspension and a copy of
8 the servicemember’s military orders to the other
9 party to the contract (or to that party’s grantee or
10 agent).

11 “(2) NATURE OF NOTICE.—Delivery of notice
12 under paragraph (1) may be accomplished—

13 “(A) by hand delivery;

14 “(B) by private business carrier;

15 “(C) by facsimile; or

16 “(D) by placing the written notice and a
17 copy of the servicemember’s military orders in
18 an envelope with sufficient postage and with re-
19 turn receipt requested, and addressed as des-
20 ignated by the party to be notified (or that par-
21 ty’s grantee or agent), and depositing the enve-
22 lope in the United States mails.

23 “(e) DATE OF CONTRACT TERMINATION OR SUSPEN-
24 SION.—Termination or suspension of a service contract

1 under subsection (a) is effective as of the date on which
2 the notice under subsection (d) is delivered.

3 “(f) OTHER OBLIGATIONS AND LIABILITIES.—The
4 service provider under the contract may not impose an
5 early termination or suspension charge, but any tax or any
6 other obligation or liability of the person in military serv-
7 ice that, in accordance with the terms of the contract, is
8 due and unpaid or unperformed at the time of termination
9 or suspension of the contract shall be paid or performed
10 by the person in military service.

11 “(g) FEES PAID IN ADVANCE.—A fee or amount paid
12 in advance for a period after the effective date of the ter-
13 mination of the contract shall be refunded to the person
14 in military service by the other party (or that party’s
15 grantee or agent) within 60 days of the effective date of
16 the termination of the contract.

17 “(h) RELIEF TO OTHER PARTY.—Upon application
18 by the other party to the contract to a court before the
19 termination date provided in the written notice, relief
20 granted by this section to a person in military service may
21 be modified as justice and equity require.

22 “(i) PENALTIES.—

23 “(1) MISDEMEANOR.—Whoever knowingly vio-
24 lates or attempts to violate this section shall be fined

1 not more than \$5,000 in the case of an individual
2 or \$10,000 in the case of an organization.

3 “(2) PRESERVATION.—The remedy and rights
4 provided under this section are in addition to and do
5 not preclude any remedy for wrongful conversion
6 otherwise available under law to the person claiming
7 relief under this section, including any award for
8 consequential or punitive damages.

9 “(j) EQUITABLE RELIEF.—

10 “(1) IN GENERAL.—In addition to any other
11 remedy available under law, if a person in military
12 service has reason to believe that another party to
13 a contract has violated or is violating this section,
14 the person in military service may—

15 “(A) bring an action to enjoin the violation
16 in any appropriate United States district court
17 or in any other court of competent jurisdiction;
18 or

19 “(B) bring an action in any appropriate
20 United States district court or in any other
21 court of competent jurisdiction to recover dam-
22 ages equal to three times the amount for which
23 the other party is liable to the person in mili-
24 tary service under this section.

1 “(2) ATTORNEY FEES.—If a person in military
2 service is awarded damages under an action de-
3 scribed under paragraph (1), the person shall be
4 awarded, in addition, the costs of the action and rea-
5 sonable attorney fees, as determined by the court.

6 “(k) DEFINITIONS.—For the purposes of this section,
7 the following definitions apply:

8 “(1) MULTICHANNEL VIDEO PROGRAMMING
9 SERVICE.—The term ‘multichannel video program-
10 ming service’ means video programming service pro-
11 vided by a multichannel video programming dis-
12 tributor, as such term is defined in section 602(13)
13 of the Communications Act of 1934 (47 U.S.C.
14 522(13)).

15 “(2) INTERNET ACCESS SERVICE.—The term
16 ‘Internet access service’ has the meaning given that
17 term under section 231(e)(4) of the Communications
18 Act of 1934 (47 U.S.C. 231(e)(4)).

19 “(3) CELLULAR TELEPHONE SERVICE.—The
20 term ‘cellular telephone service’ means commercial
21 mobile service, as that term is defined in section
22 332(d) of the Communications Act of 1934 (47
23 U.S.C. 332(d)).

24 “(4) TELEPHONE EXCHANGE SERVICE.—The
25 term ‘telephone exchange service’ has the meaning

1 given that term under section 3 of the Communica-
2 tions Act of 1934 (47 U.S.C. 153).”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of such Act is amended by striking the
5 item relating to section 308 and inserting the following
6 new items:

“Sec. 308. Termination or suspension of service contracts.

“Sec. 309. Extension of protections to dependents.”.

7 **SEC. 5. PENALTIES FOR VIOLATION OF INTEREST RATE**
8 **LIMITATION UNDER SERVICEMEMBERS CIVIL**
9 **RELIEF ACT.**

10 Section 207 of the Servicemembers Civil Relief Act
11 (50 U.S.C. App. 527) is amended by adding at the end
12 the following new subsections:

13 “(e) PENALTY.—Whoever knowingly violates sub-
14 section (a) shall be fined not more than \$5,000 in the case
15 of an individual or \$10,000 in the case of an organization.

16 “(f) RIGHTS OF SERVICEMEMBERS.—

17 “(1) EQUITABLE RELIEF.—

18 “(A) IN GENERAL.—In addition to any
19 other remedies as are provided under Federal
20 or State law, if a servicemember has reason to
21 believe that a creditor has violated or is vio-
22 lating this section, the servicemember may—

23 “(i) bring an action to enjoin such
24 violation in any appropriate United States

1 district court or in any other court of com-
2 petent jurisdiction; and

3 “(ii) bring an action to recover dam-
4 ages equal to three times the amount of
5 the interest charged in violation of this
6 section (plus interest) for which the cred-
7 itor is liable to the servicemember under
8 this section as a result of the violation.

9 “(B) DETERMINATION OF NUMBER OF
10 VIOLATIONS.—In determining the number of
11 violations by a creditor for which a penalty is
12 imposed under subsection (e) or subparagraph
13 (A), the court shall count as a single violation
14 each obligation or liability of a servicemember
15 with respect to which—

16 “(i) the servicemember properly pro-
17 vided to the creditor written notice and a
18 copy of the military orders calling the
19 servicemember to military service and any
20 orders further extending military service
21 under subsection (b); and

22 “(ii) the creditor failed to treat in ac-
23 cordance with subsection (a).

24 “(2) ATTORNEY FEES.—If a servicemember is
25 awarded damages under an action described under

1 paragraph (1), the servicemember shall be awarded,
2 in addition, the costs of the action and reasonable
3 attorney fees, as determined by the court.

4 “(g) PRESERVATION OF OTHER REMEDIES.—The
5 rights and remedies provided under subsections (e) and
6 (f) are in addition to and do not preclude any other rem-
7 edy available under law to a person claiming relief under
8 this section, including any award for consequential or pu-
9 nitive damages.”.

10 **SEC. 6. GUARANTEE OF RESIDENCY FOR SPOUSES OF MILI-**
11 **TARY PERSONNEL.**

12 (a) GUARANTEE OF RESIDENCY.—Section 705 of the
13 Servicemembers Civil Relief Act (50 U.S.C. App. 595) is
14 amended—

15 (1) by striking “For” and inserting “(a) For”;

16 and

17 (2) by adding at the end the following new sub-
18 section:

19 “(b) For the purposes of voting for any Federal office
20 (as defined in section 301 of the Federal Election Cam-
21 paign Act of 1971 (2 U.S.C. 431)) or a State or local
22 office, a person who is absent from a State because the
23 person is accompanying the person’s spouse who is absent
24 from that same State in compliance with military or naval
25 orders shall not, solely by reason of that absence—

1 “(1) be deemed to have lost a residence or
2 domicile in that State, without regard to whether or
3 not the person intends to return to that State;

4 “(2) be deemed to have acquired a residence or
5 domicile in any other State; or

6 “(3) be deemed to have become a resident in or
7 a resident of any other State.”.

8 (b) CLERICAL AMENDMENTS.—

9 (1) The heading for such section is amended to
10 read as follows:

11 **“SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PER-**
12 **SONNEL AND SPOUSES OF MILITARY PER-**
13 **SONNEL.”.**

14 (2) The item relating to such section in the
15 table of contents in section 1(b) of such Act is
16 amended to read as follows:

“Sec. 705. Guarantee of residency for military personnel and spouses of military personnel.”.

17 **SEC. 7. RESIDENCE FOR TAX PURPOSES.**

18 Section 511(a) of the Servicemembers Civil Relief Act
19 (50 U.S.C. App. 571(a)) is amended—

20 (1) by striking “A servicemember” and insert-
21 ing the following:

22 “(1) SERVICEMEMBER.—A servicemember”;
23 and

24 (2) by adding at the end the following:

1 “(2) SPOUSE OF SERVICEMEMBER.—A spouse
2 of a servicemember shall neither lose nor acquire a
3 residence or domicile for purposes of taxation with
4 respect to the person, personal property, or income
5 of the spouse by reason of being absent or present
6 in any tax jurisdiction of the United States solely to
7 be with the servicemember in compliance with the
8 servicemember’s military orders if the residence or
9 domicile, as the case may be, is the same for the
10 servicemember and the spouse.”.

11 **SEC. 8. SPOUSE’S COMPENSATION DURING MILITARY SERV-**
12 **ICE.**

13 Section 511 of the Servicemembers Civil Relief Act
14 (50 U.S.C. App. 571(b)) is amended—

15 (1) by striking the subsection designation and
16 heading and all that follows through “Compensa-
17 tion” and inserting the following:

18 “(b) MILITARY SERVICE AND SPOUSE’S COMPENSA-
19 TION.—

20 “(1) MILITARY SERVICE COMPENSATION.—
21 Compensation”;

22 (2) by adding at the end the following:

23 “(2) SPOUSE’S COMPENSATION.—Compensation
24 of a spouse of a servicemember shall not be deemed
25 to be income for services performed or from sources

1 within a tax jurisdiction of the United States if,
2 when the compensation is earned, the spouse of the
3 servicemember is not a resident or domiciliary of the
4 jurisdiction and the jurisdiction is the jurisdiction in
5 which the servicemember is serving in compliance
6 with military orders.”.

Amend the title so as to read: “A bill to amend title 38, United States Code, relating to equitable relief with respect to a State or private employer, and for other purposes.”.