

94TH GENERAL ASSEMBLY**State of Illinois****2005 and 2006****SB2060**

Introduced 2/25/2005, by Sen. Dave Sullivan - Adeline Jay Geo-Karis

SYNOPSIS AS INTRODUCED:

See Index

Provides that the bill may be referred to as the Illinois Patriot Plan. Creates the Military Personnel Cellular Phone Contract Termination Act; provides that any member of the armed services or reserve forces of the United States or member of the Illinois National Guard (a "service member") who is deployed on active duty, or the spouse of that member, may terminate, without penalty, a cellular phone contract that meets specified requirements. Amends the Department of Central Management Services Law of the Civil Administrative Code of Illinois; provides that the Department may enter into a contract to purchase bulk long distance telephone services and make them available at cost, or may make bulk long distance telephone services available at cost under any existing contract the Department has entered into, to members of the immediate family of service members deployed on active duty so that those family members can communicate with the person so deployed. Amends the Illinois Insurance Code; provides that an individual life insurance policy insuring the life of a service member shall not lapse or be forfeited for the nonpayment of premiums during the member's period of military service or during the 2-year period subsequent to the end of the service member's period of military service. Amends the Illinois Municipal Code and the Public Utilities Act; provides that no municipal or public utility company or electric cooperative shall stop gas or electricity from entering the residential premises of any residential consumer who is a service member deployed on active duty for nonpayment for gas or electricity supplied to the residential premises. Amends the Code of Civil Procedure; provides that in an action for possession of residential premises of a tenant or mobile home park resident who is a service member deployed on active duty or of any member of the tenant's or resident's immediate family, the court may stay the proceedings for a period of 90 days or adjust the rental obligation to preserve the parties' interests. Amends the Interest Act; provides that no creditor in connection with an obligation entered into on or after the effective date of this amendatory Act shall charge or collect from a service member who is deployed on active duty, or the spouse of that member, interest or finance charges exceeding 6% per annum during the period that the member is deployed on active duty. Amends the Motor Vehicle Leasing Act; provides that any service member who is deployed on active duty for a period of not less than 180 days, or the spouse of that member, may terminate any motor vehicle lease that meets certain specified requirements. Effective immediately.

LRB094 10968 DRJ 42097 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning military personnel, which may be referred
2 to as the Illinois Patriot Plan.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 1. Short title. This Act may be cited as the
6 Military Personnel Cellular Phone Contract Termination Act.

7 Section 5. Definition. In this Act:

8 "Active duty" means active duty pursuant to an executive
9 order of the President of the United States, an act of the
10 Congress of the United States, or an order of the Governor.

11 "Service member" means a member of the armed services or
12 reserve forces of the United States or a member of the Illinois
13 National Guard.

14 Section 10. Termination of cellular phone contract without
15 penalty. Any service member who is deployed on active duty, or
16 the spouse of that service member, may terminate, without
17 penalty, a cellular phone contract that meets both of the
18 following requirements:

19 (1) The contract is entered into on or after the
20 effective date of this Act.

21 (2) The contract is executed by or on behalf of the
22 service member who is deployed on active duty.

23 Section 15. Effective date of termination. Termination of
24 the cellular phone contract shall not be effective until:

25 (1) thirty days after the service member who is
26 deployed on active duty or the service member's spouse
27 gives notice by certified mail, return receipt requested,
28 of the intention to terminate the cellular phone contract;
29 and

30 (2) unless the service member who is deployed on active

1 duty owns the cellular phone, the cellular phone is
2 returned to the custody or control of the cellular
3 telephone company, or the service member who is deployed on
4 active duty or the service member's spouse agrees in
5 writing to return the cellular phone as soon as practical
6 after the deployment is completed.

7 Section 900. The Department of Central Management Services
8 Law of the Civil Administrative Code of Illinois is amended by
9 adding Section 405-272 as follows:

10 (20 ILCS 405/405-272 new)

11 Sec. 405-272. Bulk long distance telephone services for
12 military personnel on active duty.

13 (a) In this Section:

14 "Active duty" means active duty pursuant to an executive
15 order of the President of the United States, an act of the
16 Congress of the United States, or an order of the Governor.

17 "Immediate family" means a service member's spouse
18 residing in the service member's household, brothers and
19 sisters of the whole or of the half blood, children, including
20 adopted children and stepchildren, parents, and grandparents.

21 "Service member" means a member of the armed services or
22 reserve forces of the United States or a member of the Illinois
23 National Guard.

24 (b) The Department may enter into a contract to purchase
25 bulk long distance telephone services and make them available
26 at cost, or may make bulk long distance telephone services
27 available at cost under any existing contract the Department
28 has entered into, to persons in the immediate family of service
29 members deployed on active duty so that those persons in the
30 service members' families can communicate with the service
31 members so deployed. If the Department enters into a contract
32 under this Section, it shall do so in accordance with the
33 Illinois Procurement Code and in a nondiscriminatory manner
34 that does not place any potential vendor at a competitive

1 disadvantage.

2 (c) If the Department enters into a contract under this
3 Section, the Department shall adopt rules as necessary to
4 implement this Section.

5 Section 902. The Illinois Municipal Code is amended by
6 adding Section 11-117-12.2 as follows:

7 (65 ILCS 5/11-117-12.2 new)

8 Sec. 11-117-12.2. Military personnel on active duty; no
9 stoppage of gas or electricity; arrearage.

10 (a) In this Section:

11 "Active duty" means active duty pursuant to an executive
12 order of the President of the United States, an act of the
13 Congress of the United States, or an order of the Governor.

14 "Service member" means a member of the armed services or
15 reserve forces of the United States or a member of the Illinois
16 National Guard.

17 (b) No municipality owning a public utility shall stop gas
18 or electricity from entering the residential premises of any
19 residential consumer who is a service member deployed on active
20 duty for nonpayment for gas or electricity supplied to the
21 residential premises.

22 (c) Upon the return from active duty of a residential
23 consumer who is a service member, the municipality shall offer
24 the residential consumer a period equal to at least the period
25 of the residential consumer's deployment on active duty to pay
26 any arrearages incurred during the period of the residential
27 consumer's deployment. The municipality shall inform the
28 residential consumer that, if the period the municipality
29 offers presents a hardship to the consumer, the consumer may
30 request a longer period to pay the arrearages.

31 Section 905. The Illinois Insurance Code is amended by
32 adding Section 224.05 as follows:

1 (215 ILCS 5/224.05 new)

2 Sec. 224.05. Military personnel on active duty; no lapse of
3 life insurance policy.

4 (a) Except as provided in subsection (b), this Section
5 shall apply to any individual life insurance policy insuring
6 the life of a member of the armed services or reserve forces of
7 the United States or a member of the Illinois National Guard
8 who is on active duty pursuant to an executive order of the
9 President of the United States, an act of the Congress of the
10 United States, or an order of the Governor, if the life
11 insurance policy meets both of the following conditions:

12 (1) The policy has been in force for at least 180 days.

13 (2) The policy has been brought within the
14 "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003),
15 50 U.S.C. App. 541 and following.

16 (b) This Section does not apply to any policy that was
17 cancelled or that had lapsed for the nonpayment of premiums
18 prior to the commencement of the insured's period of military
19 service.

20 (c) An individual life insurance policy described in this
21 Section shall not lapse or be forfeited for the nonpayment of
22 premiums during the military service of a member of the armed
23 services or reserve forces of the United States or a member of
24 the Illinois National Guard or during the 2-year period
25 subsequent to the end of the member's period of military
26 service.

27 (d) This Section does not limit a life insurance company's
28 enforcement of provisions in the insured's policy relating to
29 naval or military service in time of war.

30 Section 910. The Public Utilities Act is amended by adding
31 Section 8-201.5 as follows:

32 (220 ILCS 5/8-201.5 new)

33 Sec. 8-201.5. Military personnel on active duty; no
34 stoppage of gas or electricity; arrearage.

1 (a) In this Section:

2 "Active duty" means active duty pursuant to an executive
3 order of the President of the United States, an act of the
4 Congress of the United States, or an order of the Governor.

5 "Service member" means a member of the armed services or
6 reserve forces of the United States or a member of the Illinois
7 National Guard.

8 (b) No company or electric cooperative shall stop gas or
9 electricity from entering the residential premises of any
10 residential consumer who is a service member deployed on active
11 duty for nonpayment for gas or electricity supplied to the
12 residential premises.

13 (c) Upon the return from active duty of a residential
14 consumer who is a service member, the company or electric
15 cooperative shall offer the residential consumer a period equal
16 to at least the period of deployment on active duty to pay any
17 arrearages incurred during the period of the residential
18 consumer's deployment. The company or electric cooperative
19 shall inform the residential consumer that, if the period that
20 the company or electric cooperative offers presents a hardship
21 to the consumer, the consumer may request a longer period to
22 pay the arrearages and, in the case of a company that is a
23 public utility, may request the assistance of the Illinois
24 Commerce Commission to obtain a longer period. No late payment
25 fees or interest shall be charged to the residential consumer
26 during the period of deployment or the repayment period.

27 Section 915. The Code of Civil Procedure is amended by
28 adding Section 9-107.10 as follows:

29 (735 ILCS 5/9-107.10 new)

30 Sec. 9-107.10. Military personnel on active duty; action
31 for possession.

32 (a) In this Section:

33 "Active duty" means active duty pursuant to an executive
34 order of the President of the United States, an act of the

1 Congress of the United States, or an order of the Governor.

2 "Service member" means a member of the armed services or
3 reserve forces of the United States or a member of the Illinois
4 National Guard.

5 (b) In an action for possession of residential premises of
6 a tenant, including a tenant who is a resident of a mobile home
7 park, who is a service member deployed on active duty, or of
8 any member of the tenant's family who resides with the tenant,
9 if the tenant entered into the rental agreement on or after the
10 effective date of this amendatory Act of the 94th General
11 Assembly, the court may, on its own motion, and shall, upon
12 motion made by or on behalf of the tenant, do either of the
13 following if the tenant's ability to pay the agreed rent is
14 materially affected by the tenant's deployment on active duty:

15 (1) Stay the proceedings for a period of 90 days,
16 unless, in the opinion of the court, justice and equity
17 require a longer or shorter period of time.

18 (2) Adjust the obligation under the rental agreement to
19 preserve the interest of all parties to it.

20 (c) If a stay is granted under this Section, the court may
21 grant the landlord or mobile home park operator such relief as
22 equity may require.

23 (d) This Section does not apply to landlords or mobile home
24 park operators operating less than 4 residential premises.

25 Section 920. The Interest Act is amended by changing
26 Section 4 and by adding Section 4.05 as follows:

27 (815 ILCS 205/4) (from Ch. 17, par. 6404)

28 Sec. 4. General interest rate.

29 (1) Except as otherwise provided in this Act, in ~~In~~ all
30 written contracts it shall be lawful for the parties to
31 stipulate or agree that 9% per annum, or any less sum of
32 interest, shall be taken and paid upon every \$100 of money
33 loaned or in any manner due and owing from any person to any
34 other person or corporation in this state, and after that rate

1 for a greater or less sum, or for a longer or shorter time,
2 except as herein provided.

3 The maximum rate of interest that may lawfully be
4 contracted for is determined by the law applicable thereto at
5 the time the contract is made. Any provision in any contract,
6 whether made before or after July 1, 1969, which provides for
7 or purports to authorize, contingent upon a change in the
8 Illinois law after the contract is made, any rate of interest
9 greater than the maximum lawful rate at the time the contract
10 is made, is void.

11 It is lawful for a state bank or a branch of an
12 out-of-state bank, as those terms are defined in Section 2 of
13 the Illinois Banking Act, to receive or to contract to receive
14 and collect interest and charges at any rate or rates agreed
15 upon by the bank or branch and the borrower. It is lawful for a
16 savings bank chartered under the Savings Bank Act or a savings
17 association chartered under the Illinois Savings and Loan Act
18 of 1985 to receive or contract to receive and collect interest
19 and charges at any rate agreed upon by the savings bank or
20 savings association and the borrower.

21 It is lawful to receive or to contract to receive and
22 collect interest and charges as authorized by this Act and as
23 authorized by the Consumer Installment Loan Act and by the
24 "Consumer Finance Act", approved July 10, 1935, as now or
25 hereafter amended. It is lawful to charge, contract for, and
26 receive any rate or amount of interest or compensation with
27 respect to the following transactions:

28 (a) Any loan made to a corporation;

29 (b) Advances of money, repayable on demand, to an
30 amount not less than \$5,000, which are made upon warehouse
31 receipts, bills of lading, certificates of stock,
32 certificates of deposit, bills of exchange, bonds or other
33 negotiable instruments pledged as collateral security for
34 such repayment, if evidenced by a writing;

35 (c) Any credit transaction between a merchandise
36 wholesaler and retailer; any business loan to a business

1 association or copartnership or to a person owning and
2 operating a business as sole proprietor or to any persons
3 owning and operating a business as joint venturers, joint
4 tenants or tenants in common, or to any limited
5 partnership, or to any trustee owning and operating a
6 business or whose beneficiaries own and operate a business,
7 except that any loan which is secured (1) by an assignment
8 of an individual obligor's salary, wages, commissions or
9 other compensation for services, or (2) by his household
10 furniture or other goods used for his personal, family or
11 household purposes shall be deemed not to be a loan within
12 the meaning of this subsection; and provided further that a
13 loan which otherwise qualifies as a business loan within
14 the meaning of this subsection shall not be deemed as not
15 so qualifying because of the inclusion, with other security
16 consisting of business assets of any such obligor, of real
17 estate occupied by an individual obligor solely as his
18 residence. The term "business" shall be deemed to mean a
19 commercial, agricultural or industrial enterprise which is
20 carried on for the purpose of investment or profit, but
21 shall not be deemed to mean the ownership or maintenance of
22 real estate occupied by an individual obligor solely as his
23 residence;

24 (d) Any loan made in accordance with the provisions of
25 Subchapter I of Chapter 13 of Title 12 of the United States
26 Code, which is designated as "Housing Renovation and
27 Modernization";

28 (e) Any mortgage loan insured or upon which a
29 commitment to insure has been issued under the provisions
30 of the National Housing Act, Chapter 13 of Title 12 of the
31 United States Code;

32 (f) Any mortgage loan guaranteed or upon which a
33 commitment to guaranty has been issued under the provisions
34 of the Veterans' Benefits Act, Subchapter II of Chapter 37
35 of Title 38 of the United States Code;

36 (g) Interest charged by a broker or dealer registered

1 under the Securities Exchange Act of 1934, as amended, or
2 registered under the Illinois Securities Law of 1953,
3 approved July 13, 1953, as now or hereafter amended, on a
4 debit balance in an account for a customer if such debit
5 balance is payable at will without penalty and is secured
6 by securities as defined in Uniform Commercial
7 Code-Investment Securities;

8 (h) Any loan made by a participating bank as part of
9 any loan guarantee program which provides for loans and for
10 the refinancing of such loans to medical students, interns
11 and residents and which are guaranteed by the American
12 Medical Association Education and Research Foundation;

13 (i) Any loan made, guaranteed, or insured in accordance
14 with the provisions of the Housing Act of 1949, Subchapter
15 III of Chapter 8A of Title 42 of the United States Code and
16 the Consolidated Farm and Rural Development Act,
17 Subchapters I, II, and III of Chapter 50 of Title 7 of the
18 United States Code;

19 (j) Any loan by an employee pension benefit plan, as
20 defined in Section 3 (2) of the Employee Retirement Income
21 Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an
22 individual participating in such plan, provided that such
23 loan satisfies the prohibited transaction exemption
24 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108
25 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d)
26 (1)) of the Employee Retirement Income Security Act of
27 1974;

28 (k) Written contracts, agreements or bonds for deed
29 providing for installment purchase of real estate;

30 (1) Loans secured by a mortgage on real estate;

31 (m) Loans made by a sole proprietorship, partnership,
32 or corporation to an employee or to a person who has been
33 offered employment by such sole proprietorship,
34 partnership, or corporation made for the sole purpose of
35 transferring an employee or person who has been offered
36 employment to another office maintained and operated by the

1 same sole proprietorship, partnership, or corporation;

2 (n) Loans to or for the benefit of students made by an
3 institution of higher education.

4 (2) Except for loans described in subparagraph (a), (c),
5 (d), (e), (f) or (i) of subsection (1) of this Section, and
6 except to the extent permitted by the applicable statute for
7 loans made pursuant to Section 4a or pursuant to the Consumer
8 Installment Loan Act:

9 (a) Whenever the rate of interest exceeds 8% per annum
10 on any written contract, agreement or bond for deed
11 providing for the installment purchase of residential real
12 estate, or on any loan secured by a mortgage on residential
13 real estate, it shall be unlawful to provide for a
14 prepayment penalty or other charge for prepayment.

15 (b) No agreement, note or other instrument evidencing a
16 loan secured by a mortgage on residential real estate, or
17 written contract, agreement or bond for deed providing for
18 the installment purchase of residential real estate, may
19 provide for any change in the contract rate of interest
20 during the term thereof. However, if the Congress of the
21 United States or any federal agency authorizes any class of
22 lender to enter, within limitations, into mortgage
23 contracts or written contracts, agreements or bonds for
24 deed in which the rate of interest may be changed during
25 the term of the contract, any person, firm, corporation or
26 other entity not otherwise prohibited from entering into
27 mortgage contracts or written contracts, agreements or
28 bonds for deed in Illinois may enter into mortgage
29 contracts or written contracts, agreements or bonds for
30 deed in which the rate of interest may be changed during
31 the term of the contract, within the same limitations.

32 (3) In any contract or loan which is secured by a mortgage,
33 deed of trust, or conveyance in the nature of a mortgage, on
34 residential real estate, the interest which is computed,
35 calculated, charged, or collected pursuant to such contract or
36 loan, or pursuant to any regulation or rule promulgated

1 pursuant to this Act, may not be computed, calculated, charged
2 or collected for any period of time occurring after the date on
3 which the total indebtedness, with the exception of late
4 payment penalties, is paid in full.

5 For purposes of this Section, a prepayment shall mean the
6 payment of the total indebtedness, with the exception of late
7 payment penalties if incurred or charged, on any date before
8 the date specified in the contract or loan agreement on which
9 the total indebtedness shall be paid in full, or before the
10 date on which all payments, if timely made, shall have been
11 made. In the event of a prepayment of the indebtedness which is
12 made on a date after the date on which interest on the
13 indebtedness was last computed, calculated, charged, or
14 collected but before the next date on which interest on the
15 indebtedness was to be calculated, computed, charged, or
16 collected, the lender may calculate, charge and collect
17 interest on the indebtedness for the period which elapsed
18 between the date on which the prepayment is made and the date
19 on which interest on the indebtedness was last computed,
20 calculated, charged or collected at a rate equal to 1/360 of
21 the annual rate for each day which so elapsed, which rate shall
22 be applied to the indebtedness outstanding as of the date of
23 prepayment. The lender shall refund to the borrower any
24 interest charged or collected which exceeds that which the
25 lender may charge or collect pursuant to the preceding
26 sentence. The provisions of this amendatory Act of 1985 shall
27 apply only to contracts or loans entered into on or after the
28 effective date of this amendatory Act, but shall not apply to
29 contracts or loans entered into on or after that date that are
30 subject to Section 4a of this Act, the Consumer Installment
31 Loan Act, or the Retail Installment Sales Act, or that provide
32 for the refund of precomputed interest on prepayment in the
33 manner provided by such Act.

34 (Source: P.A. 92-483, eff. 8-23-01.)

35 (815 ILCS 205/4.05 new)

1 Sec. 4.05. Military personnel on active duty; limitation on
2 interest rate.

3 (a) In this Section:

4 "Active duty" means active duty pursuant to an executive
5 order of the President of the United States, an act of the
6 Congress of the United States, or an order of the Governor.

7 "Obligation" means any retail installment sales contract,
8 other contract for the purchase of goods or services, or bond,
9 bill, note, or other instrument of writing for the payment of
10 money arising out of a contract or other transaction for the
11 purchase of goods or services.

12 "Service member" means a member of the armed services or
13 reserve forces of the United States or a member of the Illinois
14 National Guard.

15 (b) Notwithstanding any contrary provision of law, no
16 creditor in connection with an obligation entered into on or
17 after the effective date of this amendatory Act of the 94th
18 General Assembly shall charge or collect from a service member
19 who is deployed on active duty, or the spouse of that service
20 member, interest or finance charges exceeding 6% per annum
21 during the period that the service member is deployed on active
22 duty.

23 (c) Notwithstanding any contrary provision of law,
24 interest or finance charges in excess of 6% per annum that
25 otherwise would be incurred but for the prohibition in
26 subsection (b) are forgiven.

27 (d) The amount of any periodic payment due from a service
28 member who is deployed on active duty, or the spouse of that
29 service member, under the terms of the obligation shall be
30 reduced by the amount of the interest and finance charges
31 forgiven under subsection (c) that is allocable to the period
32 for which the periodic payment is made.

33 (e) In order for an obligation to be subject to the
34 interest and finance charges limitation of this Section, the
35 service member deployed on active duty, or the spouse of that
36 service member, shall provide the creditor with written notice

1 of and a copy of the military or gubernatorial orders calling
2 the service member to active duty and of any orders further
3 extending the service member's period of active duty, not later
4 than 180 days after the date of the service member's
5 termination of or release from active duty.

6 (f) Upon receipt of the written notice and a copy of the
7 orders referred to in subsection (e), the creditor shall treat
8 the obligation in accordance with subsection (b), effective as
9 of the date on which the service member is deployed to active
10 duty.

11 (g) A court may grant a creditor relief from the interest
12 and finance charges limitation of this Section, if, in the
13 opinion of the court, the ability of the service member
14 deployed on active duty, or the spouse of that service member,
15 to pay interest or finance charges with respect to the
16 obligation at a rate in excess of 6% per annum is not
17 materially affected by reason of the service member's
18 deployment on active duty.

19 Section 925. The Motor Vehicle Leasing Act is amended by
20 adding Section 37 as follows:

21 (815 ILCS 636/37 new)

22 Sec. 37. Military personnel on active duty; termination of
23 lease.

24 (a) In this Act:

25 "Active duty" means active duty pursuant to an executive
26 order of the President of the United States, an act of the
27 Congress of the United States, or an order of the Governor.

28 "Motor vehicle" means any automobile, car minivan,
29 passenger van, sport utility vehicle, pickup truck, or other
30 self-propelled vehicle not operated or driven on fixed rails or
31 track.

32 "Service member" means a member of the armed services or
33 reserve forces of the United States or a member of the Illinois
34 National Guard.

1 (b) Any service member who is deployed on active duty for a
2 period of not less than 180 days, or the spouse of that service
3 member, may terminate any motor vehicle lease that meets both
4 of the following requirements:

5 (1) The lease is entered into on or after the effective
6 date of this amendatory Act of the 94th General Assembly.

7 (2) The lease is executed by or on behalf of the
8 service member who is deployed on active duty.

9 (c) Termination of the motor vehicle lease shall not be
10 effective until:

11 (1) the service member who is deployed on active duty,
12 or the service member's spouse, gives the lessor by
13 certified mail, return receipt requested, a notice of the
14 intention to terminate the lease together with a copy of
15 the military or gubernatorial orders calling the service
16 member to active duty; and

17 (2) the motor vehicle subject to the lease is returned
18 to the custody or control of the lessor not later than 15
19 days after the delivery of the written notice.

20 (d) Lease amounts unpaid for the period preceding the
21 effective date of the lease's termination shall be paid on a
22 prorated basis. The lessor may not impose an early termination
23 charge, but any taxes, costs of summons, and title or
24 registration fees and any other obligation and liability of the
25 lessee under the terms of the lease, including reasonable
26 charges to the lessee for excess wear, use, and mileage, that
27 are due and unpaid at the time of the lease's termination shall
28 be paid by the lessee.

29 (e) The lessor shall refund to the lessee lease amounts
30 paid in advance for a period after the effective date of the
31 lease's termination within 30 days after the effective date of
32 the lease's termination.

33 (f) Upon application by the lessor to a court before the
34 effective date of the lease's termination, relief granted by
35 this Section may be modified as justice and equity require.

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.

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