

38:23C-1 to 38:23C-26

LEGISLATIVE HISTORY CHECKLIST

HJSA 38:23C-1 to 38:23C-26 ("Soldiers and Sailors Civil Relief Act"  
--effective until Dec. 31, 1985)

LAWS OF 1979 CHAPTER 317

Bill No. S172

Sponsor(s) Dumont and Dodd

Date Introduced Pre-filed

Committee: Assembly State Govt., Federal & Interstate Relations & Veterans Affairs

Senate Law, Public Safety and Defense

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according to Governor's relations

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Following statements are attached if available:

Sponsor statement Yes  (Below)

Committee Statement: Assembly Yes

Senate Yes

Fiscal Note  Yes  No

Veto message Yes

Message on signing  YES  No

Following were printed:

Reports  Yes  No

Hearings  Yes  No

Sponsor's statement:

This bill replaces P.L. 1968, c.78 which expired July 1, 1974.

9/1/78

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SENATE, No. 172

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators DUMONT and DODD

AN ACT to protect the civil rights of persons serving in the armed forces, providing for the deferment of certain tax and contractual obligations of such persons, providing for stays of proceedings to evict such persons and their families from their homes, according reemployment rights to persons returning from military service and providing penalties for persons violating this act.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. It is hereby declared to be the public policy of the State to  
2 maintain, secure and protect the civil and property rights of  
3 persons in the military service, as hereinafter defined, and of em-  
4 ployees who are members of the organized militia or members of  
5 a reserve component of the Armed Forces of the United States.

6 All the provisions of this act shall be liberally construed for  
7 the accomplishment of this purpose.

8 This act shall be deemed an exercise of the police power of the  
9 State, for the protection of the public welfare, prosperity, health  
10 and peace of the people of the State.

1 2. As used in this act:

2 a. The term "military service" means duty by any person, male  
3 or female, in the active military service of the United States and  
4 active duty in the military service of the State pursuant to an order  
5 of the Governor issued pursuant to law.

6 b. The term "person" when used herein with reference to the  
7 holder of any right alleged to exist against a person in military  
8 service, or against a person secondarily liable under such right,  
9 shall include individuals, partnerships, corporations, and any other  
10 forms of business association.

11 c. The term "court" as used herein, shall include any State court  
12 of competent jurisdiction, whether or not a court of record.

1 3. a. Whenever, pursuant to any of the provisions of this act,  
2 the enforcement of any obligation or liability, the prosecution of  
3 any suit or proceeding, the entry or enforcement of any order,  
4 writ, judgment or decree, or the performance of any act, may be  
5 stayed, postponed or suspended, such stay, postponement or sus-  
6 pension may, in the discretion of the court, likewise be granted  
7 to sureties, guarantors, endorsers and others subject to the obliga-  
8 tion or liability, the performance or enforcement of which is stayed,  
9 postponed or suspended.

10 b. When a judgment or decree is vacated or set aside, in whole  
11 or in part, as provided in this act, the same may, in the discretion  
12 of the court, likewise be set aside and vacated as to any surety,  
13 guarantor, endorsers, accommodation maker or other person  
14 whether primarily or secondarily liable upon the contract or lia-  
15 bility for the enforcement of which the judgment or decree was  
16 entered.

17 c. Nothing contained in this act shall prevent a waiver in writing  
18 of the benefits afforded by paragraphs a. and b. of this section by  
19 any surety, guarantor, endorser, accommodation maker, or other  
20 persons whether primarily or secondarily liable upon the obliga-  
21 tion or liability except that after the date of enactment of this act  
22 no such waiver shall be valid unless it is executed as an instrument  
23 separate from the obligation or liability in respect of which it  
24 applies, and no such waiver shall be valid after the beginning of  
25 the period of military service if executed by an individual who,  
26 subsequent to the execution of such waiver becomes a person in  
27 military service.

1 4. In any civil action or proceeding commenced in any court, if  
2 there shall be a default of an appearance by the defendant, the  
3 plaintiff, within 20 days before the entry of judgment or final order,  
4 shall file in the court an affidavit setting forth facts showing that  
5 the defendant is not in military service. If unable to file such  
6 affidavit, plaintiff shall in lieu thereof file an affidavit setting forth  
7 either that the defendant is in the military service or that plaintiff  
8 is not able to determine whether or not defendant is in such service.  
9 If an affidavit is not filed showing that the defendant is not in the  
10 military service, no judgment or final order shall be entered with-  
11 out first securing an order of court directing such entry, and no  
12 such order shall be made if the defendant is in such service until  
13 after the court shall have appointed an attorney to represent  
14 defendant and protect his interest, and the court shall on applica-  
15 tion make such appointment. Unless it appears that the defendant

16 is not in such service the court may require, as a condition before  
17 judgment or final order is entered, that the plaintiff file a bond,  
18 approved by the court, conditioned to indemnify the defendant,  
19 if in military service, against any loss or damage that he may suffer  
20 by reason of any judgment or final order should the judgment or  
21 final order be thereafter set aside in whole or in part. And the  
22 court may make such other and further order or enter such judg-  
23 ment as in its opinion may be necessary to protect the rights of  
24 the defendant under this act.

1 5. Any person who shall make or use an affidavit required under  
2 section 4, above, knowing it to be false, shall be guilty of perjury,  
3 and shall be punishable by imprisonment not to exceed 1 year or  
4 by fine not to exceed \$1,000.00, or both.

1 6. In any action or proceeding in which a person in military  
2 service is a party, if such party does not personally appear therein  
3 or is not represented by an authorized attorney, the court may  
4 appoint an attorney to represent him; and in such case a like bond  
5 may be required and an order made to protect the rights of such  
6 person. But no attorney appointed under this act to protect a per-  
7 son in military service shall have power to waive any right of the  
8 person for whom he is appointed or bind him by his acts.

1 7. If any judgment or final order shall be rendered in any action  
2 or proceeding governed by sections 4, 5 and 6, above against any  
3 person in military service during the period of such service, or  
4 within 30 days thereafter, and it appears that such person was  
5 prejudiced by reason of his military service in making his defense  
6 thereto, such judgment or order may, upon application, made by  
7 such person or his legal representative, not later than 90 days after  
8 the termination of such service, be opened by the court rendering  
9 the same and such defendant or his legal representative let in to  
10 defend; provided it is made to appear that the defendant has a  
11 meritorious or legal defense to the action or proceeding, or to some  
12 part thereof. Vacating, setting aside, or reversing any judgment  
13 or final order because of any of the provisions of this act shall not  
14 impair any right or title acquired by any bona fide purchaser for  
15 value under such judgment or order.

1 8. At any stage thereof, any action or proceeding in any court  
2 in which a person in military service is involved, either as plaintiff  
3 or defendant, during the period of such service or within 60 days  
4 thereafter may, in the discretion of the court in which it is pending,  
5 on its own motion, and shall, on application to it by such person  
6 or some person on his behalf, be stayed as provided in this act,

7 unless, in the opinion of the court, the ability of plaintiff to prose-  
8 cute the action, or the defendant to conduct his defense, is not  
9 materially affected by reason of his military service.

1 9. When an action for compliance with the terms of any contract  
2 is stayed pursuant to this act no fine or penalty shall accrue by  
3 reason of failure to comply with the terms of such contract during  
4 the period of such stay, and in any case where a person fails to  
5 perform any obligation and a fine or penalty for such nonperform-  
6 ance is incurred a court may, on such terms as may be just, relieve  
7 against the enforcement of such fine or penalty if it shall appear  
8 that the person who would suffer by such fine or penalty was in  
9 the military service when the penalty was incurred, and that by  
10 reason of such service the ability of such person to pay or perform  
11 was thereby materially impaired.

1 10. In any action or proceeding commenced in any court against  
2 a person in military service, before or during the period of such  
3 service, or within 60 days thereafter, the court may, in its discre-  
4 tion, on its own motion, or on application to it by such person or  
5 some person on his behalf shall, unless in the opinion of the court  
6 the ability of the defendant to comply with the judgment or order  
7 entered or sought is not materially affected by reason of his mili-  
8 tary service:

9 a. Stay the execution of any judgment or order entered against  
10 such person, as provided in this act; and

11 b. Vacate or stay any attachment or garnishment of property,  
12 money, or debts in the hands of another, whether before or after  
13 judgment as provided in this act.

1 11. Any stay of any action, proceeding, attachment, or execution  
2 ordered by any court under the provisions of this act may, except  
3 as otherwise provided, be ordered for the period of military service  
4 and 3 months thereafter or any part of such period, and subject  
5 to such terms as may be just, whether as to payment in install-  
6 ments of such amounts and at such times as the court may fix or  
7 otherwise. Where the person in military service is a codefendant  
8 with others the plaintiff may nevertheless, by leave of court, pro-  
9 ceed against the others.

1 12. The period of military service shall not be included in com-  
2 puting any period now or hereafter to be limited by any law,  
3 regulation or order for the bringing of any action or proceeding  
4 in any court, board, bureau, commission, department or other  
5 agency of government of this State or any of its governmental  
6 subdivisions by or against any person in military service, or by or

7 against his heirs, executors, administrators, or assigns, whether  
8 such cause of action or the right or privilege to institute such an  
9 action or proceeding shall have accrued prior to or during the  
10 period of such service, nor shall any part of such period which  
11 occurs after the date of enactment of this act be included in com-  
12 puting any period now or hereafter provided by any law for the  
13 redemption of real property sold or forfeited to enforce any obliga-  
14 tion, tax or assessment.

1 13. a. No eviction or distress shall be made during the period of  
2 military service in respect of any premises for which the agreed  
3 rent does not exceed \$80.00 per month, occupied chiefly for dwelling  
4 purposes by the wife, children, or other dependents of a person  
5 in military service, except upon leave of court granted upon appli-  
6 cation therefor or granted in any action or proceeding affecting  
7 the right of possession.

8 b. On any such application or in any such action the court may,  
9 in its discretion, on its own motion, and shall, on application, unless  
10 in the opinion of the court the ability of the tenant to pay the agreed  
11 rent is not materially affected by reason of military service, stay  
12 the proceedings for not longer than 3 months, as provided in this  
13 act, or it may make such other order as may be just.

14 c. Any person who shall knowingly take part in any eviction or  
15 distress otherwise than as provided in paragraph a. of this section,  
16 or attempts so to do, shall be adjudged a disorderly person, and  
17 shall be punishable by imprisonment not to exceed 1 year or by  
18 fine not to exceed \$1,000.00, or both.

1 14. a. The provisions of this section shall apply to any lease  
2 covering premises occupied for dwelling, professional, business,  
3 agricultural, or similar purposes in any case in which such lease  
4 was executed by or on the behalf of a person who, after the execu-  
5 tion of such lease, entered military service, and the premises so  
6 leased have been occupied for such purposes, or for a combination  
7 of such purposes by such person or by him and his dependents.

8 b. Any such lease may be terminated by notice in writing de-  
9 livered to the lessor (or his grantee) or to the lessor's (or his  
10 grantee's) agent by the lessee at any time following the date of  
11 the beginning of his period of military service. Delivery of such  
12 notice may be accomplished by placing it in an envelope properly  
13 stamped and duly addressed to the lessor (or his grantee) or to  
14 the lessor's (or his grantee's) agent and depositing the notice in  
15 the United States mails. Termination of any such lease providing  
16 for monthly payment of rent shall not be effective until 30 days  
17 after the first date on which the next rental payment is due and

18 payable subsequent to the date when such notice is delivered or  
19 mailed. In the case of all other leases, termination shall be effected  
20 on the last day of the month following the month in which such  
21 notice is delivered or mailed and in such case any unpaid rental  
22 for a period preceding termination shall be proratably computed  
23 and any rental paid in advance for a period succeeding termination  
24 shall be refunded by the lessor (or his assignee). Upon application  
25 by the lessor to the appropriate court prior to the termination  
26 period provided for in the notice, any relief granted in this para-  
27 graph shall be subject to such modifications or restrictions as in  
28 the opinion of the court justice and equity may in the circumstances  
29 require.

30 c. Any person who shall knowingly seize, hold or detain the  
31 personal effects, clothing, furniture or other property of any person  
32 who has lawfully terminated a lease covered by this section, or in  
33 any manner interfere with the removal of such property from the  
34 premises covered by such lease, for the purpose of subjecting or  
35 attempting to subject any of such property to a claim for rent ac-  
36 cruing subsequent to the date of termination of such lease, or at-  
37 tempts so to do, shall be adjudged a disorderly person and shall  
38 be punished by imprisonment not to exceed 1 year or by fine not  
39 to exceed \$1,000.00, or both.

1 15. a. No person who has received, or whose assignor has re-  
2 ceived, under a contract for the purchase of real or personal prop-  
3 erty, or of lease or bailment with a view to purchase of such  
4 property, a deposit or installment of the purchase price or a deposit  
5 or installment under the contract, lease or bailment from a person  
6 or from the assignor of a person who, after the date of payment  
7 of such deposit or installment, has entered military service, shall  
8 exercise any right or option under such contract to rescind or termi-  
9 nate the contract or resume possession of the property for non-  
10 payment of any installment thereunder due or for any other breach  
11 of the terms thereof occurring prior to or during the period of  
12 such military service, except by action in a court of competent  
13 jurisdiction; provided, that nothing contained in this section shall  
14 prevent the modification, termination, or cancellation of any such  
15 contract, or prevent the repossession, retention, foreclosure, sale  
16 or taking possession of property purchased or received or which  
17 is security for any obligation under such contract, pursuant to a  
18 mutual agreement of the parties thereto, or their assignees, if  
19 such agreement is executed in writing subsequent to the making  
20 of such contract and during or after the period of military service  
21 of the person concerned.

22 b. Any person who shall knowingly resume possession of prop-  
23 erty which is the subject of this section otherwise than as provided  
24 in paragraph a. of this section or attempt so to do, shall be adjudged  
25 a disorderly person and shall be punished by imprisonment not to  
26 exceed 1 year, or by fine not to exceed \$1,000.00 or both.

27 c. Upon the hearing of such action the court may order the re-  
28 payment of prior installments or deposits or any part thereof, as  
29 a condition of terminating the contract and resuming possession  
30 of the property, or may, in its discretion, on its own motion, and  
31 shall, except as provided in section 17 of this act, on application  
32 to it by such person in military service or some person on his behalf,  
33 order a stay of proceedings as provided in this act except that such  
34 stay under this section may be ordered for the period of military  
35 service and 6 months thereafter or any part of such period, unless,  
36 in the opinion of the court, the ability of the defendant to comply  
37 with the terms of the contract is not materially affected by reason  
38 of such service; or it may make such other disposition of the case  
39 as may be equitable to conserve the interests of all parties.

1 16. a. The provisions of this section shall apply only to obli-  
2 gations secured by mortgage, trust deed, or other security in the  
3 nature of a mortgage upon real or personal property owned by  
4 a person in military service at the commencement of the period  
5 of his military service and still so owned by him which obligations  
6 originated prior to such person's period of military service.

7 b. In any proceeding commenced in any court during the period  
8 of military service to enforce such obligation arising out of non-  
9 payment of any sum thereunder due or out of any other breach of  
10 the terms thereof occurring prior to or during the period of such  
11 service the court may, after hearing, in its discretion, on its own  
12 motion, and shall, except as hereinafter provided in this act, on  
13 application to it by such person in military service or some person  
14 on his behalf, unless in the opinion of the court the ability of the  
15 defendant to comply with the terms of the obligation is not ma-  
16 terially affected by reason of his military service.

17 (1) Stay the proceedings as provided in this act; or

18 (2) Make such other disposition of the case as may be equitable  
19 to conserve the interests of all parties.

20 c. No sale, foreclosure, or seizure of property for nonpayment  
21 of any sum due under any such obligation, or for any other breach  
22 of the terms thereof, whether under a power of sale, under a judg-  
23 ment entered upon warrant of attorney to confess judgment con-  
24 tained therein, or otherwise, shall be valid if made during the period

25 of military service, or within 3 months thereafter, unless upon an  
26 order of sale previously granted by the court and a return thereto  
27 made and approved by the court.

28 d. Any person who shall knowingly cause to be made any sale,  
29 foreclosure or seizure of property defined as invalid by paragraph  
30 c. hereof, or attempts so to do, shall be adjudged a disorderly per-  
31 son and shall be punished by imprisonment not to exceed 1 year,  
32 or by fine not to exceed \$1,000.00, or both.

1 17. Where a proceeding to foreclose a mortgage upon or to  
2 resume possession of personal property, or to rescind or terminate  
3 a contract for the purchase thereof, has been stayed as provided  
4 in this act, the court may, unless in its opinion an undue hardship  
5 would result to the dependents of the person in military service,  
6 appoint three disinterested parties to appraise the property and,  
7 based upon the report of the appraisers, order such sum, if any, as  
8 may be just, paid to the person in military service or his dependent,  
9 as the case may be, as a condition of foreclosing the mortgage,  
10 resuming possession of the property, or rescinding or terminating  
11 the contract.

1 18. a. The provisions of this section shall apply when any taxes  
2 or assessments, whether general or special, other than taxes on  
3 income, whether falling due prior or during the period of military  
4 service in respect of personal property, money or credits or real  
5 property owned and occupied for dwelling, agricultural, or busi-  
6 ness purposes by a person in military service, or his dependents,  
7 at the commencement of his period of military service and still so  
8 occupied by his dependents or employees, are not paid.

9 b. No sale of such property shall be made to enforce the col-  
10 lection of such tax or assessment, or any proceeding or action for  
11 such purpose commenced, except upon leave of court granted upon  
12 application made therefor by the collector of taxes or other officer  
13 whose duty it is to enforce the collection of taxes or assessments.  
14 The court thereupon, unless in its opinion the ability of the per-  
15 son in military service to pay such taxes or assessments is not  
16 materially affected by reason of such service, may stay such pro-  
17 ceedings or such sale, as provided in this act, for a period extend-  
18 ing not more than 6 months after the termination of the period of  
19 military service of such person.

20 c. When by law such property may be sold or forfeited to en-  
21 force the collection of such tax or assessment, such person in  
22 military service shall have the right to redeem or commence an  
23 action to redeem such property, at any time not later than 6 months

24 after the termination of such service, but in no case later than 6  
25 months after the date when this act ceases to be in force; but this  
26 shall not be taken to shorten any period, now or hereafter pro-  
27 vided by the laws of the State, or any political subdivision thereof,  
28 for such redemption.

29 d. Whenever any tax or assessment shall not be paid when due,  
30 such tax or assessment due and unpaid shall bear interest until  
31 paid at the rate of 6% per annum from the date when such tax  
32 first became a lien, and no other penalty or interest shall be in-  
33 curred by reason of such nonpayment, whether such penalty or  
34 interest shall have accrued prior or shall accrue subsequent to  
35 the commencement of the period of military service of such per-  
36 son. Any lien for such unpaid taxes or assessment shall also in-  
37 clude such interest thereon.

1 19. a. No policy which has not lapsed for the nonpayment of  
2 premium before the commencement of the period of military  
3 service of the insured, and which has been brought within the  
4 benefits of the Federal "soldiers' and sailors' civil relief act"  
5 shall lapse or be forfeited for the nonpayment of premium during  
6 the period of such service, or during 1 year after the expiration  
7 of such period, provided that in no case shall this prohibition  
8 extend for more than 1 year after this act ceases to be in force.

9 b. For the purposes of this section, the term "policy" shall in-  
10 clude any contract of life insurance on the level premium or legal  
11 reserve plan. It shall also include any benefit in the nature of life  
12 insurance arising out of membership in any fraternal or beneficial  
13 association. In no case, however, shall the term "policy" include  
14 insurance exceeding a total face value of \$5,000.00 whether in one  
15 or more companies. The term "premium" shall include member-  
16 ship dues or assessments in such association, and the date of  
17 issuance of policy as herein limited shall refer to the date of  
18 admission to membership in such association; the term "insured"  
19 shall include any person who is the holder of a policy as defined in  
20 this section; the term "insurer" shall include any corporation,  
21 partnership, or other form of association which secures or pro-  
22 vides insurance under any policy as defined herein.

1 20. a. In the case of any person who, in order to perform mili-  
2 tary service, has left or leaves a position, other than a temporary  
3 position, in the employ of any employer, and who

4 (1) Receives a certificate of completion of military service duly  
5 executed by an officer of the applicable force of the Armed Forces  
6 of the United States or by an officer of the applicable force of the  
7 organized militia;

8 (2) Is still qualified to perform the duties of such position; and

9 (3) Makes application for reemployment within 90 days after  
10 he is relieved from such service, if such position was in the employ  
11 of a private employer, such employer shall restore such person to  
12 such position, or to a position of like seniority, status and pay,  
13 unless the employer's circumstances have so changed as to make  
14 it impossible or unreasonable to do so.

15 b. The benefits, rights and privileges granted to persons in the  
16 military service by this section shall be extended to and be ap-  
17 plicable to any person who, in order to participate in assemblies  
18 or annual training or in order to attend service schools conducted  
19 by the Armed Forces of the United States for a period or periods  
20 up to and including 3 months, temporarily leaves or has left his  
21 position, other than a temporary position, in the employ of any  
22 employer and who, being qualified to perform the duties of such  
23 position, makes application for reemployment within 10 days after  
24 completion of such temporary period of service; provided that no  
25 such person shall be entitled to the said benefits, rights and privi-  
26 leges for such attendance at any service school or schools exceed-  
27 ing a total of 3 months during any 4-year period.

28 c. The benefits, rights and privileges granted to persons in the  
29 military service by this section shall be extended to and be ap-  
30 plicable to any person who is or becomes a member of the organized  
31 militia or of a reserve component of the Armed Forces of the  
32 United States and who, because of such membership is discharged  
33 by his employer or whose employment is suspended by his em-  
34 ployer because of such membership and who, being qualified to  
35 perform the duties of such position, makes application for re-  
36 employment or termination of the period of his suspension within  
37 10 days after such discharge or suspension.

38 d. Any person who is restored to a position in accordance with  
39 the provision of this section shall be considered as having been  
40 on furlough or leave of absence during his period of military  
41 service, temporary service under paragraph b. hereof, or of dis-  
42 charge or suspension under paragraph c. hereof, shall be so  
43 restored without loss of seniority, shall be entitled to participate  
44 in insurance or other benefits offered by the employer pursuant  
45 to established rules and practices relating to employees on fur-  
46 lough or leave of absence in effect with the employer at the time  
47 such person entered the military service or commenced such tem-  
48 porary service or was so discharged or suspended and shall not  
49 be discharged from such position without cause, within 1 year after  
50 such restoration.

51 e. In case any private employer fails or refuses to comply with  
52 the provisions of this section the County Court of the county in  
53 which such private employer maintains a place of business, shall  
54 have the power, upon the filing of a complaint, by the person en-  
55 titled to the benefits of such provisions, to specifically require  
56 such employer to comply with such provisions, and may, as an  
57 incident thereto, compensate such person for any loss of wages or  
58 benefits suffered by reason of such employer's unlawful action.  
59 The court shall order a speedy hearing in any such case, and shall  
60 advance it on the calendar. Any person claiming to be entitled to  
61 the benefits of the provisions of this section may appear and be  
62 represented by counsel, or, upon application to the Attorney  
63 General of the State, may request that the Attorney General  
64 appear and act on his behalf. If the Attorney General is reason-  
65 ably satisfied that the person so applying is entitled to such bene-  
66 fits, he shall appear and act as attorney for such person in the  
67 amicable adjustment of the claim, or in the filing of any complaint  
68 and the prosecution thereof. In the hearing and determination of  
69 such applications under this section no fees or court costs shall  
70 be assessed against a person so applying for such benefits.

1 21. Where in any proceeding to enforce a civil right in any  
2 court it is made to appear to the satisfaction of the court that  
3 any interest, property, or contract has since the date of the ap-  
4 proval of this act been transferred or acquired with intent to delay  
5 the just enforcement of such right by taking advantage of this  
6 act, the court shall enter such judgment or make such order as  
7 might lawfully be entered or made, the provisions of this act to  
8 the contrary notwithstanding.

1 22. a. In any proceeding under this act a certificate executed  
2 by an officer of the applicable force of the Armed Forces of the  
3-4 United States or by an officer of the applicable force of the  
5 organized militia shall, when produced, be prima facie evidence  
6 of the facts therein certified and of the authority of the signer  
7 to issue the same.

8 b. When a person in military service has been reported missing,  
9 he shall be presumed to continue in such service until accounted  
10 for, and no period herein limited which begins or ends with the  
11 death of such person shall begin or end until the death of such  
12 person is in fact reported to or proved by the applicable force of  
13 the Armed Forces of the United States or of the organized militia,  
14 or until such death is proved by a court of competent jurisdiction;  
15 provided, that no period herein limited which begins or ends with  
16 the death of such person shall be extended beyond a period of 6  
17 months after the time when this act ceases to be in force.

1 23. a. A person may, at any time during his period of military  
2 service or within 6 months thereafter, apply to a court for relief  
3 in respect of any obligation or liability incurred by such person  
4 prior to his period of military service or in respect of any tax  
5 or assessment whether falling due prior to or during his period  
6 of military service. The court, after appropriate notice and hear-  
7 ing, unless in its opinion the ability of the applicant to comply with  
8 the terms of such obligation or liability or to pay such tax or  
9 assessment has not been materially affected by reason of his mili-  
10 tary service, may grant the following relief:

11 In the case of an obligation payable under its terms in install-  
12 ments under a contract for the purchase of real estate, or secured  
13 by a mortgage or other instrument in the nature of a mortgage  
14 upon real estate, a stay of the enforcement of such obligation during  
15 the applicant's period of military service and, from the date of  
16 termination of such period of military service or from the date of  
17 application if made after such service, for a period equal to the  
18 period of the remaining life of the installment contract or other  
19 instrument plus a period of time equal to the period of military  
20 service of the applicant, or any part of such combined period,  
21 subject to payment of the balance of principal and accumulated  
22 interest due and unpaid at the date of termination of the period of  
23 military service or from the date of application, as the case may be,  
24 in equal installments during such combined period at such rate of  
25 interest on the unpaid balance as is prescribed in such contract, or  
26 other instrument evidencing the obligation, for installments paid  
27 when due, and subject to such other terms as may be just.

28 In the case of any other obligation, liability, tax, or assessment,  
29 a stay of the enforcement thereof during the applicant's period of  
30 military service and, from the date of termination of such period  
31 of military service or from the date of application if made after  
32 such service, for a period of time equal to the period of military  
33 service of the applicant or any part of such period, subject to  
34 payment of the balance of principal and accumulated interest due  
35 and unpaid at the date of the termination of such period of mili-  
36 tary service or the date of application as the case may be, in equal  
37 periodic installments during such extended period at such rate  
38 of interest as may be prescribed for such obligation, liability, tax,  
39 or assessment, if paid when due, and subject to such other terms  
40 as may be just.

41 b. When any court has granted a stay as provided in this section,  
42 no fine or penalty shall accrue during the period the terms and

43 conditions of such stay are complied with by reason of failure to  
44 comply with the terms or conditions of the obligation, liability,  
45 tax, or assessment in respect of which such stay was granted.

1 24. If any clause, sentence, paragraph, section or part of this  
2 act or the application thereof to any person or circumstances,  
3 shall, for any reason, be adjudged by a court of competent juris-  
4 diction to be invalid, such judgment shall not affect, impair, or  
5 invalidate the remainder of this act, and the application thereof  
6 to other persons or circumstances, but shall be confined in its oper-  
7 ation to the clause, sentence, paragraph, section or part thereof  
8 directly involved in the controversy in which such judgment shall  
9 have been rendered and to the person or circumstances involved.  
10 It is hereby declared to be the legislative intent that this act would  
11 have been adopted had such invalid provisions not been included.

1 25. Insofar as the provisions of this act are inconsistent with  
2 the provisions of any other act, the provisions of this act shall be  
3 controlling.

1 26. This act shall remain in force and effect until December 31,  
2 1980; provided, that wherever in any section or provision of this  
3 act a proceeding, remedy, privilege, stay, limitation, accounting or  
4 other transaction has been authorized or provided with respect to  
5 military service performed prior to the date herein fixed for the  
6 termination of this act, such section or provision shall be deemed  
7 to continue in full force and effect so long as may be necessary  
8 for the exercise or enjoyment of such proceeding, remedy, priv-  
9 ilege, stay, limitation, accounting or other transaction.

1 27. This act shall be known and may be cited and referred to as  
2 the "New Jersey Soldiers' and Sailors' Civil Relief Act of 1978."

1 28. This act shall take effect immediately.

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#### STATEMENT

This bill replaces P. L. 1968, c. 78 which expired July 1, 1974.

SENATE LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 172

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STATE OF NEW JERSEY

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DATED: JUNE 5, 1978

This bill, referred to as the New Jersey Soldiers and Sailors Relief Act of 1978 replaces P. L. 1968, c. 78 which expired in July of 1974. The purpose of the bill is to protect the civil rights of persons serving in the active military service of the United States or in the State.

SENATE AMENDMENTS TO  
**SENATE, No. 172**

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**STATE OF NEW JERSEY**

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ADOPTED OCTOBER 5, 1978

Amend page 3, section 5, line 2, after "perjury", omit ",", insert ".".

Amend page 3, section 5, line 2, after line 2, omit lines 3 and 4 in entirety.

Amend page 5, section 13a., line 3, omit "\$80.00", insert \$150.00".

Amend page 5, section 13a., line 4, after "by the", omit "wife", insert "spouse".

Amend page 5, section 13c., line 17, after "exceed", omit "1 year", insert "6 months".

Amend page 6, section 14c., line 38, after "exceed", omit "1 year", insert "6 months".

Amend page 7, section 15b., line 26, after "exceed", omit "1 year", insert "6 months".

Amend page 8, section 16d., line 31, after "exceed", omit "1 year", insert "6 months".

Amend page 13, section 26, line 2, omit "1980", insert "1985".

[OFFICIAL COPY REPRINT]

SENATE, No. 172

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators DUMONT and DODD

AN ACT to protect the civil rights of persons serving in the armed forces, providing for the deferment of certain tax and contractual obligations of such persons, providing for stays of proceedings to evict such persons and their families from their homes, according reemployment rights to persons returning from military service and providing penalties for persons violating this act.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. It is hereby declared to be the public policy of the State to  
2 maintain, secure and protect the civil and property rights of  
3 persons in the military service, as hereinafter defined, and of em-  
4 ployees who are members of the organized militia or members of  
5 a reserve component of the Armed Forces of the United States.

6 All the provisions of this act shall be liberally construed for  
7 the accomplishment of this purpose.

8 This act shall be deemed an exercise of the police power of the  
9 State, for the protection of the public welfare, prosperity, health  
10 and peace of the people of the State.

1 2. As used in this act:

2 a. The term "military service" means duty by any person, male  
3 or female, in the active military service of the United States and  
4 active duty in the military service of the State pursuant to an order  
5 of the Governor issued pursuant to law.

6 b. The term "person" when used herein with reference to the  
7 holder of any right alleged to exist against a person in military  
8 service, or against a person secondarily liable under such right,  
9 shall include individuals, partnerships, corporations, and any other  
10 forms of business association.

11 c. The term "court" as used herein, shall include any State court  
12 of competent jurisdiction, whether or not a court of record.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

1 3. a. Whenever, pursuant to any of the provisions of this act,  
2 the enforcement of any obligation or liability, the prosecution of  
3 any suit or proceeding, the entry or enforcement of any order,  
4 writ, judgment or decree, or the performance of any act, may be  
5 stayed, postponed or suspended, such stay, postponement or sus-  
6 pension may, in the discretion of the court, likewise be granted  
7 to sureties, guarantors, endorsers and others subject to the obliga-  
8 tion or liability, the performance or enforcement of which is stayed,  
9 postponed or suspended.

10 b. When a judgment or decree is vacated or set aside, in whole  
11 or in part, as provided in this act, the same may, in the discretion  
12 of the court, likewise be set aside and vacated as to any surety,  
13 guarantor, endorsers, accommodation maker or other person  
14 whether primarily or secondarily liable upon the contract or lia-  
15 bility for the enforcement of which the judgment or decree was  
16 entered.

17 c. Nothing contained in this act shall prevent a waiver in writing  
18 of the benefits afforded by paragraphs a. and b. of this section by  
19 any surety, guarantor, endorser, accommodation maker, or other  
20 persons whether primarily or secondarily liable upon the obliga-  
21 tion or liability except that after the date of enactment of this act  
22 no such waiver shall be valid unless it is executed as an instrument  
23 separate from the obligation or liability in respect of which it  
24 applies, and no such waiver shall be valid after the beginning of  
25 the period of military service if executed by an individual who,  
26 subsequent to the execution of such waiver becomes a person in  
27 military service.

1 4. In any civil action or proceeding commenced in any court, if  
2 there shall be a default of an appearance by the defendant, the  
3 plaintiff, within 20 days before the entry of judgment or final order,  
4 shall file in the court an affidavit setting forth facts showing that  
5 the defendant is not in military service. If unable to file such  
6 affidavit, plaintiff shall in lieu thereof file an affidavit setting forth  
7 either that the defendant is in the military service or that plaintiff  
8 is not able to determine whether or not defendant is in such service.  
9 If an affidavit is not filed showing that the defendant is not in the  
10 military service, no judgment or final order shall be entered with-  
11 out first securing an order of court directing such entry, and no  
12 such order shall be made if the defendant is in such service until  
13 after the court shall have appointed an attorney to represent  
14 defendant and protect his interest, and the court shall on applica-  
15 tion make such appointment. Unless it appears that the defendant

16 is not in such service the court may require, as a condition before  
17 judgment or final order is entered, that the plaintiff file a bond,  
18 approved by the court, conditioned to indemnify the defendant,  
19 if in military service, against any loss or damage that he may suffer  
20 by reason of any judgment or final order should the judgment or  
21 final order be thereafter set aside in whole or in part. And the  
22 court may make such other and further order or enter such judg-  
23 ment as in its opinion may be necessary to protect the rights of  
24 the defendant under this act.

1 5. Any person who shall make or use an affidavit required under  
2 section 4, above, knowing it to be false, shall be guilty of perjury\***]**,  
3 and shall be punishable by imprisonment not to exceed 1 year or  
4 by fine not to exceed \$1,000.00, or both**]**.\*.

1 6. In any action or proceeding in which a person in military  
2 service is a party, if such party does not personally appear therein  
3 or is not represented by an authorized attorney, the court may  
4 appoint an attorney to represent him; and in such case a like bond  
5 may be required and an order made to protect the rights of such  
6 person. But no attorney appointed under this act to protect a per-  
7 son in military service shall have power to waive any right of the  
8 person for whom he is appointed or bind him by his acts.

1 7. If any judgment or final order shall be rendered in any action  
2 or proceeding governed by sections 4, 5 and 6, above against any  
3 person in military service during the period of such service, or  
4 within 30 days thereafter, and it appears that such person was  
5 prejudiced by reason of his military service in making his defense  
6 thereto, such judgment or order may, upon application, made by  
7 such person or his legal representative, not later than 90 days after  
8 the termination of such service, be opened by the court rendering  
9 the same and such defendant or his legal representative let in to  
10 defend; provided it is made to appear that the defendant has a  
11 meritorious or legal defense to the action or proceeding, or to some  
12 part thereof. Vacating, setting aside, or reversing any judgment  
13 or final order because of any of the provisions of this act shall not  
14 impair any right or title acquired by any bona fide purchaser for  
15 value under such judgment or order.

1 8. At any stage thereof, any action or proceeding in any court  
2 in which a person in military service is involved, either as plaintiff  
3 or defendant, during the period of such service or within 60 days  
4 thereafter may, in the discretion of the court in which it is pending,  
5 on its own motion, and shall, on application to it by such person  
6 or some person on his behalf, be stayed as provided in this act,

7 unless, in the opinion of the court, the ability of plaintiff to prose-  
8 cute the action, or the defendant to conduct his defense, is not  
9 materially affected by reason of his military service.

1 9. When an action for compliance with the terms of any contract  
2 is stayed pursuant to this act no fine or penalty shall accrue by  
3 reason of failure to comply with the terms of such contract during  
4 the period of such stay, and in any case where a person fails to  
5 perform any obligation and a fine or penalty for such nonperform-  
6 ance is incurred a court may, on such terms as may be just, relieve  
7 against the enforcement of such fine or penalty if it shall appear  
8 that the person who would suffer by such fine or penalty was in  
9 the military service when the penalty was incurred, and that by  
10 reason of such service the ability of such person to pay or perform  
11 was thereby materially impaired.

1 10. In any action or proceeding commenced in any court against  
2 a person in military service, before or during the period of such  
3 service, or within 60 days thereafter, the court may, in its discre-  
4 tion, on its own motion, or on application to it by such person or  
5 some person on his behalf shall, unless in the opinion of the court  
6 the ability of the defendant to comply with the judgment or order  
7 entered or sought is not materially affected by reason of his mili-  
8 tary service:

9 a. Stay the execution of any judgment or order entered against  
10 such person, as provided in this act; and

11 b. Vacate or stay any attachment or garnishment of property,  
12 money, or debts in the hands of another, whether before or after  
13 judgment as provided in this act.

1 11. Any stay of any action, proceeding, attachment, or execution  
2 ordered by any court under the provisions of this act may, except  
3 as otherwise provided, be ordered for the period of military service  
4 and 3 months thereafter or any part of such period, and subject  
5 to such terms as may be just, whether as to payment in install-  
6 ments of such amounts and at such times as the court may fix or  
7 otherwise. Where the person in military service is a codefendant  
8 with others the plaintiff may nevertheless, by leave of court, pro-  
9 ceed against the others.

1 12. The period of military service shall not be included in com-  
2 puting any period now or hereafter to be limited by any law,  
3 regulation or order for the bringing of any action or proceeding  
4 in any court, board, bureau, commission, department or other  
5 agency of government of this State or any of its governmental  
6 subdivisions by or against any person in military service, or by or

7 against his heirs, executors, administrators, or assigns, whether  
8 such cause of action or the right or privilege to institute such an  
9 action or proceeding shall have accrued prior to or during the  
10 period of such service, nor shall any part of such period which  
11 occurs after the date of enactment of this act be included in com-  
12 puting any period now or hereafter provided by any law for the  
13 redemption of real property sold or forfeited to enforce any obliga-  
14 tion, tax or assessment.

1 13. a. No eviction or distress shall be made during the period of  
2 military service in respect of any premises for which the agreed  
3 rent does not exceed \*~~[\$80.00]~~\* \*\$150.00\* per month, occupied  
4 chiefly for dwelling purposes by the \*~~[wife]~~\* \*spouse\*, children,  
5 or other dependents of a person in military service, except upon  
6 leave of court granted upon application therefor or granted in any  
7 action or proceeding affecting the right of possession.

8 b. On any such application or in any such action the court may,  
9 in its discretion, on its own motion, and shall, on application, unless  
10 in the opinion of the court the ability of the tenant to pay the agreed  
11 rent is not materially affected by reason of military service, stay  
12 the proceedings for not longer than 3 months, as provided in this  
13 act, or it may make such other order as may be just.

14 c. Any person who shall knowingly take part in any eviction or  
15 distress otherwise than as provided in paragraph a. of this section,  
16 or attempts so to do, shall be adjudged a disorderly person, and  
17 shall be punishable by imprisonment not to exceed \*~~[1 year]~~\* \*6  
18 months\* or by fine not to exceed \$1,000.00, or both.

1 14. a. The provisions of this section shall apply to any lease  
2 covering premises occupied for dwelling, professional, business,  
3 agricultural, or similar purposes in any case in which such lease  
4 was executed by or on the behalf of a person who, after the execu-  
5 tion of such lease, entered military service, and the premises so  
6 leased have been occupied for such purposes, or for a combination  
7 of such purposes by such person or by him and his dependents.

8 b. Any such lease may be terminated by notice in writing de-  
9 livered to the lessor (or his grantee) or to the lessor's (or his  
10 grantee's) agent by the lessee at any time following the date of  
11 the beginning of his period of military service. Delivery of such  
12 notice may be accomplished by placing it in an envelope properly  
13 stamped and duly addressed to the lessor (or his grantee) or to  
14 the lessor's (or his grantee's) agent and depositing the notice in  
15 the United States mails. Termination of any such lease providing  
16 for monthly payment of rent shall not be effective until 30 days  
17 after the first date on which the next rental payment is due and

18 payable subsequent to the date when such notice is delivered or  
19 mailed. In the case of all other leases, termination shall be effected  
20 on the last day of the month following the month in which such  
21 notice is delivered or mailed and in such case any unpaid rental  
22 for a period preceding termination shall be proratably computed  
23 and any rental paid in advance for a period succeeding termination  
24 shall be refunded by the lessor (or his assignee). Upon application  
25 by the lessor to the appropriate court prior to the termination  
26 period provided for in the notice, any relief granted in this para-  
27 graph shall be subject to such modifications or restrictions as in  
28 the opinion of the court justice and equity may in the circumstances  
29 require.

30 c. Any person who shall knowingly seize, hold or detain the  
31 personal effects, clothing, furniture or other property of any person  
32 who has lawfully terminated a lease covered by this section, or in  
33 any manner interfere with the removal of such property from the  
34 premises covered by such lease, for the purpose of subjecting or  
35 attempting to subject any of such property to a claim for rent ac-  
36 cruing subsequent to the date of termination of such lease, or at-  
37 tempts so to do, shall be adjudged a disorderly person and shall  
38 be punished by imprisonment not to exceed ~~\*[1 year]\*~~ \*6 months\*  
39 or by fine not to exceed \$1,000.00, or both.

1 15. a. No person who has received, or whose assignor has re-  
2 ceived, under a contract for the purchase of real or personal prop-  
3 erty, or of lease or bailment with a view to purchase of such  
4 property, a deposit or installment of the purchase price or a deposit  
5 or installment under the contract, lease or bailment from a person  
6 or from the assignor of a person who, after the date of payment  
7 of such deposit or installment, has entered military service, shall  
8 exercise any right or option under such contract to rescind or termi-  
9 nate the contract or resume possession of the property for non-  
10 payment of any installment thereunder due or for any other breach  
11 of the terms thereof occurring prior to or during the period of  
12 such military service, except by action in a court of competent  
13 jurisdiction; provided, that nothing contained in this section shall  
14 prevent the modification, termination, or cancellation of any such  
15 contract, or prevent the repossession, retention, foreclosure, sale  
16 or taking possession of property purchased or received or which  
17 is security for any obligation under such contract, pursuant to a  
18 mutual agreement of the parties thereto, or their assignees, if  
19 such agreement is executed in writing subsequent to the making  
20 of such contract and during or after the period of military service  
21 of the person concerned.

22 b. Any person who shall knowingly resume possession of prop-  
23 erty which is the subject of this section otherwise than as provided  
24 in paragraph a. of this section or attempt so to do, shall be adjudged  
25 a disorderly person and shall be punished by imprisonment not to  
26 exceed ~~\*[1 year]\*~~ \*6 months\*, or by fine not to exceed \$1,000.00,  
26A or both.

27 c. Upon the hearing of such action the court may order the re-  
28 payment of prior installments or deposits or any part thereof, as  
29 a condition of terminating the contract and resuming possession  
30 of the property, or may, in its discretion, on its own motion, and  
31 shall, except as provided in section 17 of this act, on application  
32 to it by such person in military service or some person on his behalf,  
33 order a stay of proceedings as provided in this act except that such  
34 stay under this section may be ordered for the period of military  
35 service and 6 months thereafter or any part of such period, unless,  
36 in the opinion of the court, the ability of the defendant to comply  
37 with the terms of the contract is not materially affected by reason  
38 of such service; or it may make such other disposition of the case  
39 as may be equitable to conserve the interests of all parties.

1 16. a. The provisions of this section shall apply only to obli-  
2 gations secured by mortgage, trust deed, or other security in the  
3 nature of a mortgage upon real or personal property owned by  
4 a person in military service at the commencement of the period  
5 of his military service and still so owned by him which obligations  
6 originated prior to such person's period of military service.

7 b. In any proceeding commenced in any court during the period  
8 of military service to enforce such obligation arising out of non-  
9 payment of any sum thereunder due or out of any other breach of  
10 the terms thereof occurring prior to or during the period of such  
11 service the court may, after hearing, in its discretion, on its own  
12 motion, and shall, except as hereinafter provided in this act, on  
13 application to it by such person in military service or some person  
14 on his behalf, unless in the opinion of the court the ability of the  
15 defendant to comply with the terms of the obligation is not ma-  
16 terially affected by reason of his military service.

17 (1) Stay the proceedings as provided in this act; or

18 (2) Make such other disposition of the case as may be equitable  
19 to conserve the interests of all parties.

20 c. No sale, foreclosure, or seizure of property for nonpayment  
21 of any sum due under any such obligation, or for any other breach  
22 of the terms thereof, whether under a power of sale, under a judg-  
23 ment entered upon warrant of attorney to confess judgment con-  
24 tained therein, or otherwise, shall be valid if made during the period

25 of military service, or within 3 months thereafter, unless upon an  
26 order of sale previously granted by the court and a return thereto  
27 made and approved by the court.

28 d. Any person who shall knowingly cause to be made any sale,  
29 foreclosure or seizure of property defined as invalid by paragraph  
30 c. hereof, or attempts so to do, shall be adjudged a disorderly per-  
31 son and shall be punished by imprisonment not to exceed \*~~1~~  
32 year]\* \*6 months\*, or by fine not to exceed \$1,000.00, or both.

1 17. Where a proceeding to foreclose a mortgage upon or to  
2 resume possession of personal property, or to rescind or terminate  
3 a contract for the purchase thereof, has been stayed as provided  
4 in this act, the court may, unless in its opinion an undue hardship  
5 would result to the dependents of the person in military service,  
6 appoint three disinterested parties to appraise the property and,  
7 based upon the report of the appraisers, order such sum, if any, as  
8 may be just, paid to the person in military service or his dependent,  
9 as the case may be, as a condition of foreclosing the mortgage,  
10 resuming possession of the property, or rescinding or terminating  
11 the contract.

1 18. a. The provisions of this section shall apply when any taxes  
2 or assessments, whether general or special, other than taxes on  
3 income, whether falling due prior or during the period of military  
4 service in respect of personal property, money or credits or real  
5 property owned and occupied for dwelling, agricultural, or busi-  
6 ness purposes by a person in military service, or his dependents,  
7 at the commencement of his period of military service and still so  
8 occupied by his dependents or employees, are not paid.

9 b. No sale of such property shall be made to enforce the col-  
10 lection of such tax or assessment, or any proceeding or action for  
11 such purpose commenced, except upon leave of court granted upon  
12 application made therefor by the collector of taxes or other officer  
13 whose duty it is to enforce the collection of taxes or assessments.  
14 The court thereupon, unless in its opinion the ability of the per-  
15 son in military service to pay such taxes or assessments is not  
16 materially affected by reason of such service, may stay such pro-  
17 ceedings or such sale, as provided in this act, for a period extend-  
18 ing not more than 6 months after the termination of the period of  
19 military service of such person.

20 c. When by law such property may be sold or forfeited to en-  
21 force the collection of such tax or assessment, such person in  
22 military service shall have the right to redeem or commence an  
23 action to redeem such property, at any time not later than 6 months

24 after the termination of such service, but in no case later than 6  
25 months after the date when this act ceases to be in force; but this  
26 shall not be taken to shorten any period, now or hereafter pro-  
27 vided by the laws of the State, or any political subdivision thereof,  
28 for such redemption.

29 d. Whenever any tax or assessment shall not be paid when due,  
30 such tax or assessment due and unpaid shall bear interest until  
31 paid at the rate of 6% per annum from the date when such tax  
32 first became a lien, and no other penalty or interest shall be in-  
33 curred by reason of such nonpayment, whether such penalty or  
34 interest shall have accrued prior or shall accrue subsequent to  
35 the commencement of the period of military service of such per-  
36 son. Any lien for such unpaid taxes or assessment shall also in-  
37 clude such interest thereon.

1 19. a. No policy which has not lapsed for the nonpayment of  
2 premium before the commencement of the period of military  
3 service of the insured, and which has been brought within the  
4 benefits of the Federal "soldiers' and sailors' civil relief act"  
5 shall lapse or be forfeited for the nonpayment of premium during  
6 the period of such service, or during 1 year after the expiration  
7 of such period, provided that in no case shall this prohibition  
8 extend for more than 1 year after this act ceases to be in force.

9 b. For the purposes of this section, the term "policy" shall in-  
10 clude any contract of life insurance on the level premium or legal  
11 reserve plan. It shall also include any benefit in the nature of life  
12 insurance arising out of membership in any fraternal or beneficial  
13 association. In no case, however, shall the term "policy" include  
14 insurance exceeding a total face value of \$5,000.00 whether in one  
15 or more companies. The term "premium" shall include member-  
16 ship dues or assessments in such association, and the date of  
17 issuance of policy as herein limited shall refer to the date of  
18 admission to membership in such association; the term "insured"  
19 shall include any person who is the holder of a policy as defined in  
20 this section; the term "insurer" shall include any corporation,  
21 partnership, or other form of association which secures or pro-  
22 vides insurance under any policy as defined herein.

1 20. a. In the case of any person who, in order to perform mili-  
2 tary service, has left or leaves a position, other than a temporary  
3 position, in the employ of any employer, and who

4 (1) Receives a certificate of completion of military service duly  
5 executed by an officer of the applicable force of the Armed Forces  
6 of the United States or by an officer of the applicable force of the  
7 organized militia;

8 (2) Is still qualified to perform the duties of such position; and

9 (3) Makes application for reemployment within 90 days after  
10 he is relieved from such service, if such position was in the employ  
11 of a private employer, such employer shall restore such person to  
12 such position, or to a position of like seniority, status and pay,  
13 unless the employer's circumstances have so changed as to make  
14 it impossible or unreasonable to do so.

15 b. The benefits, rights and privileges granted to persons in the  
16 military service by this section shall be extended to and be ap-  
17 plicable to any person who, in order to participate in assemblies  
18 or annual training or in order to attend service schools conducted  
19 by the Armed Forces of the United States for a period or periods  
20 up to and including 3 months, temporarily leaves or has left his  
21 position, other than a temporary position, in the employ of any  
22 employer and who, being qualified to perform the duties of such  
23 position, makes application for reemployment within 10 days after  
24 completion of such temporary period of service; provided that no  
25 such person shall be entitled to the said benefits, rights and privi-  
26 leges for such attendance at any service school or schools exceed-  
27 ing a total of 3 months during any 4-year period.

28 c. The benefits, rights and privileges granted to persons in the  
29 military service by this section shall be extended to and be ap-  
30 plicable to any person who is or becomes a member of the organized  
31 militia or of a reserve component of the Armed Forces of the  
32 United States and who, because of such membership is discharged  
33 by his employer or whose employment is suspended by his em-  
34 ployer because of such membership and who, being qualified to  
35 perform the duties of such position, makes application for re-  
36 employment or termination of the period of his suspension within  
37 10 days after such discharge or suspension.

38 d. Any person who is restored to a position in accordance with  
39 the provision of this section shall be considered as having been  
40 on furlough or leave of absence during his period of military  
41 service, temporary service under paragraph b. hereof, or of dis-  
42 charge or suspension under paragraph c. hereof, shall be so  
43 restored without loss of seniority, shall be entitled to participate  
44 in insurance or other benefits offered by the employer pursuant  
45 to established rules and practices relating to employees on fur-  
46 lough or leave of absence in effect with the employer at the time  
47 such person entered the military service or commenced such tem-  
48 porary service or was so discharged or suspended and shall not  
49 be discharged from such position without cause, within 1 year after  
50 such restoration.

51 e. In case any private employer fails or refuses to comply with  
52 the provisions of this section the County Court of the county in  
53 which such private employer maintains a place of business, shall  
54 have the power, upon the filing of a complaint, by the person en-  
55 titled to the benefits of such provisions, to specifically require  
56 such employer to comply with such provisions, and may, as an  
57 incident thereto, compensate such person for any loss of wages or  
58 benefits suffered by reason of such employer's unlawful action.  
59 The court shall order a speedy hearing in any such case, and shall  
60 advance it on the calendar. Any person claiming to be entitled to  
61 the benefits of the provisions of this section may appear and be  
62 represented by counsel, or, upon application to the Attorney  
63 General of the State, may request that the Attorney General  
64 appear and act on his behalf. If the Attorney General is reason-  
65 ably satisfied that the person so applying is entitled to such bene-  
66 fits, he shall appear and act as attorney for such person in the  
67 amicable adjustment of the claim, or in the filing of any complaint  
68 and the prosecution thereof. In the hearing and determination of  
69 such applications under this section no fees or court costs shall  
70 be assessed against a person so applying for such benefits.

1 21. Where in any proceeding to enforce a civil right in any  
2 court it is made to appear to the satisfaction of the court that  
3 any interest, property, or contract has since the date of the ap-  
4 proval of this act been transferred or acquired with intent to delay  
5 the just enforcement of such right by taking advantage of this  
6 act, the court shall enter such judgment or make such order as  
7 might lawfully be entered or made, the provisions of this act to  
8 the contrary notwithstanding.

1 22. a. In any proceeding under this act a certificate executed  
2 by an officer of the applicable force of the Armed Forces of the  
3-4 United States or by an officer of the applicable force of the  
5 organized militia shall, when produced, be prima facie evidence  
6 of the facts therein certified and of the authority of the signer  
7 to issue the same.

8 b. When a person in military service has been reported missing,  
9 he shall be presumed to continue in such service until accounted  
10 for, and no period herein limited which begins or ends with the  
11 death of such person shall begin or end until the death of such  
12 person is in fact reported to or proved by the applicable force of  
13 the Armed Forces of the United States or of the organized militia,  
14 or until such death is proved by a court of competent jurisdiction;  
15 provided, that no period herein limited which begins or ends with  
16 the death of such person shall be extended beyond a period of 6  
17 months after the time when this act ceases to be in force.

1 23. a. A person may, at any time during his period of military  
2 service or within 6 months thereafter, apply to a court for relief  
3 in respect of any obligation or liability incurred by such person  
4 prior to his period of military service or in respect of any tax  
5 or assessment whether falling due prior to or during his period  
6 of military service. The court, after appropriate notice and hear-  
7 ing, unless in its opinion the ability of the applicant to comply with  
8 the terms of such obligation or liability or to pay such tax or  
9 assessment has not been materially affected by reason of his mili-  
10 tary service, may grant the following relief:

11 In the case of an obligation payable under its terms in install-  
12 ments under a contract for the purchase of real estate, or secured  
13 by a mortgage or other instrument in the nature of a mortgage  
14 upon real estate, a stay of the enforcement of such obligation during  
15 the applicant's period of military service and, from the date of  
16 termination of such period of military service or from the date of  
17 application if made after such service, for a period equal to the  
18 period of the remaining life of the installment contract or other  
19 instrument plus a period of time equal to the period of military  
20 service of the applicant, or any part of such combined period,  
21 subject to payment of the balance of principal and accumulated  
22 interest due and unpaid at the date of termination of the period of  
23 military service or from the date of application, as the case may be,  
24 in equal installments during such combined period at such rate of  
25 interest on the unpaid balance as is prescribed in such contract, or  
26 other instrument evidencing the obligation, for installments paid  
27 when due, and subject to such other terms as may be just.

28 In the case of any other obligation, liability, tax, or assessment,  
29 a stay of the enforcement thereof during the applicant's period of  
30 military service and, from the date of termination of such period  
31 of military service or from the date of application if made after  
32 such service, for a period of time equal to the period of military  
33 service of the applicant or any part of such period, subject to  
34 payment of the balance of principal and accumulated interest due  
35 and unpaid at the date of the termination of such period of mili-  
36 tary service or the date of application as the case may be, in equal  
37 periodic installments during such extended period at such rate  
38 of interest as may be prescribed for such obligation, liability, tax,  
39 or assessment, if paid when due, and subject to such other terms  
40 as may be just.

41 b. When any court has granted a stay as provided in this section,  
42 no fine or penalty shall accrue during the period the terms and

43 conditions of such stay are complied with by reason of failure to  
44 comply with the terms or conditions of the obligation, liability,  
45 tax, or assessment in respect of which such stay was granted.

1 24. If any clause, sentence, paragraph, section or part of this  
2 act or the application thereof to any person or circumstances,  
3 shall, for any reason, be adjudged by a court of competent juris-  
4 diction to be invalid, such judgment shall not affect, impair, or  
5 invalidate the remainder of this act, and the application thereof  
6 to other persons or circumstances, but shall be confined in its oper-  
7 ation to the clause, sentence, paragraph, section or part thereof  
8 directly involved in the controversy in which such judgment shall  
9 have been rendered and to the person or circumstances involved.  
10 It is hereby declared to be the legislative intent that this act would  
11 have been adopted had such invalid provisions not been included.

1 25. Insofar as the provisions of this act are inconsistent with  
2 the provisions of any other act, the provisions of this act shall be  
3 controlling.

1 26. This act shall remain in force and effect until December 31,  
2 \***[1980]**\* \*1985\*; provided, that wherever in any section or provi-  
3 sion of this act a proceeding, remedy, privilege, stay, limitation,  
4 accounting or other transaction has been authorized or provided  
5 with respect to military service performed prior to the date herein  
6 fixed for the termination of this act, such section or provision shall  
7 be deemed to continue in full force and effect so long as may be  
8 necessary for the exercise or enjoyment of such proceeding, remedy,  
9 privilege, stay, limitation, accounting or other transaction.

1 27. This act shall be known and may be cited and referred to as  
2 the "New Jersey Soldiers' and Sailors' Civil Relief Act of 1978."

1 28. This act shall take effect immediately.

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ASSEMBLY STATE GOVERNMENT, FEDERAL AND  
INTERSTATE RELATIONS AND VETERANS  
AFFAIRS COMMITTEE

STATEMENT TO  
**SENATE, No. 172**

[OFFICIAL COPY REPRINT]  
with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 28, 1979

SUMMARY OF THE BILL AS AMENDED

This bill referred to as the "New Jersey Soldiers' and Sailors' Civil Relief Act of 1979," replaces P. L. 1968, c. 78, which expired in July of 1974. The purpose of the bill is to protect the civil rights of persons serving in the active military service of the United States or of the State, provide for the deferment of certain tax and contractual obligations of such persons, provide for stays of proceedings to evict such persons and their families from their homes, accord reemployment rights to persons returning from military service, and provide penalties for persons violating this act. This act would remain in effect until December 31, 1985.

COMMITTEE AMENDMENTS

The committee amended the short title of the bill.

ASSEMBLY COMMITTEE AMENDMENT TO

**SENATE, No. 172**

[OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

ADOPTED JUNE 14, 1979

Amend page 13, section 27, line 2, omit "1978", insert "1979".

[ASSEMBLY REPRINT]  
**SENATE, No. 172**  
[OFFICIAL COPY REPRINT]

with Assembly committee amendment adopted June 14, 1979

**STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators DUMONT and DODD

AN ACT to protect the civil rights of persons serving in the armed forces, providing for the deferment of certain tax and contractual obligations of such persons, providing for stays of proceedings to evict such persons and their families from their homes, according reemployment rights to persons returning from military service and providing penalties for persons violating this act.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. It is hereby declared to be the public policy of the State to  
2 maintain, secure and protect the civil and property rights of  
3 persons in the military service, as hereinafter defined, and of em-  
4 ployees who are members of the organized militia or members of  
5 a reserve component of the Armed Forces of the United States.

6 All the provisions of this act shall be liberally construed for  
7 the accomplishment of this purpose.

8 This act shall be deemed an exercise of the police power of the  
9 State, for the protection of the public welfare, prosperity, health  
10 and peace of the people of the State.

1 2. As used in this act:

2 a. The term "military service" means duty by any person, male  
3 or female, in the active military service of the United States and  
4 active duty in the military service of the State pursuant to an order  
5 of the Governor issued pursuant to law.

6 b. The term "person" when used herein with reference to the  
7 holder of any right alleged to exist against a person in military  
8 service, or against a person secondarily liable under such right,  
9 shall include individuals, partnerships, corporations, and any other  
10 forms of business association.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

11 c. The term "court" as used herein, shall include any State court  
12 of competent jurisdiction, whether or not a court of record.

1 3. a. Whenever, pursuant to any of the provisions of this act,  
2 the enforcement of any obligation or liability, the prosecution of  
3 any suit or proceeding, the entry or enforcement of any order,  
4 writ, judgment or decree, or the performance of any act, may be  
5 stayed, postponed or suspended, such stay, postponement or sus-  
6 pension may, in the discretion of the court, likewise be granted  
7 to sureties, guarantors, endorsers and others subject to the obliga-  
8 tion or liability, the performance or enforcement of which is stayed,  
9 postponed or suspended.

10 b. When a judgment or decree is vacated or set aside, in whole  
11 or in part, as provided in this act, the same may, in the discretion  
12 of the court, likewise be set aside and vacated as to any surety,  
13 guarantor, endorsers, accommodation maker or other person  
14 whether primarily or secondarily liable upon the contract or lia-  
15 bility for the enforcement of which the judgment or decree was  
16 entered.

17 c. Nothing contained in this act shall prevent a waiver in writing  
18 of the benefits afforded by paragraphs a. and b. of this section by  
19 any surety, guarantor, endorser, accommodation maker, or other  
20 persons whether primarily or secondarily liable upon the obliga-  
21 tion or liability except that after the date of enactment of this act  
22 no such waiver shall be valid unless it is executed as an instrument  
23 separate from the obligation or liability in respect of which it  
24 applies, and no such waiver shall be valid after the beginning of  
25 the period of military service if executed by an individual who,  
26 subsequent to the execution of such waiver becomes a person in  
27 military service.

1 4. In any civil action or proceeding commenced in any court, if  
2 there shall be a default of an appearance by the defendant, the  
3 plaintiff, within 20 days before the entry of judgment or final order,  
4 shall file in the court an affidavit setting forth facts showing that  
5 the defendant is not in military service. If unable to file such  
6 affidavit, plaintiff shall in lieu thereof file an affidavit setting forth  
7 either that the defendant is in the military service or that plaintiff  
8 is not able to determine whether or not defendant is in such service.  
9 If an affidavit is not filed showing that the defendant is not in the  
10 military service, no judgment or final order shall be entered with-  
11 out first securing an order of court directing such entry, and no  
12 such order shall be made if the defendant is in such service until  
13 after the court shall have appointed an attorney to represent  
14 defendant and protect his interest, and the court shall on applica-

15 tion make such appointment. Unless it appears that the defendant  
16 is not in such service the court may require, as a condition before  
17 judgment or final order is entered, that the plaintiff file a bond,  
18 approved by the court, conditioned to indemnify the defendant,  
19 if in military service, against any loss or damage that he may suffer  
20 by reason of any judgment or final order should the judgment or  
21 final order be thereafter set aside in whole or in part. And the  
22 court may make such other and further order or enter such judg-  
23 ment as in its opinion may be necessary to protect the rights of  
24 the defendant under this act.

1 5. Any person who shall make or use an affidavit required under  
2 section 4, above, knowing it to be false, shall be guilty of perjury\***]**,  
3 and shall be punishable by imprisonment not to exceed 1 year or  
4 by fine not to exceed \$1,000.00, or both**]**\*

1 6. In any action or proceeding in which a person in military  
2 service is a party, if such party does not personally appear therein  
3 or is not represented by an authorized attorney, the court may  
4 appoint an attorney to represent him; and in such case a like bond  
5 may be required and an order made to protect the rights of such  
6 person. But no attorney appointed under this act to protect a per-  
7 son in military service shall have power to waive any right of the  
8 person for whom he is appointed or bind him by his acts.

1 7. If any judgment or final order shall be rendered in any action  
2 or proceeding governed by sections 4, 5 and 6, above against any  
3 person in military service during the period of such service, or  
4 within 30 days thereafter, and it appears that such person was  
5 prejudiced by reason of his military service in making his defense  
6 thereto, such judgment or order may, upon application, made by  
7 such person or his legal representative, not later than 90 days after  
8 the termination of such service, be opened by the court rendering  
9 the same and such defendant or his legal representative let in to  
10 defend; provided it is made to appear that the defendant has a  
11 meritorious or legal defense to the action or proceeding, or to some  
12 part thereof. Vacating, setting aside, or reversing any judgment  
13 or final order because of any of the provisions of this act shall not  
14 impair any right or title acquired by any bona fide purchaser for  
15 value under such judgment or order.

1 8. At any stage thereof, any action or proceeding in any court  
2 in which a person in military service is involved, either as plaintiff  
3 or defendant, during the period of such service or within 60 days  
4 thereafter may, in the discretion of the court in which it is pending,  
5 on its own motion, and shall, on application to it by such person  
6 or some person on his behalf, be stayed as provided in this act,

7 unless, in the opinion of the court, the ability of plaintiff to prose-  
8 cute the action, or the defendant to conduct his defense, is not  
9 materially affected by reason of his military service.

1 9. When an action for compliance with the terms of any contract  
2 is stayed pursuant to this act no fine or penalty shall accrue by  
3 reason of failure to comply with the terms of such contract during  
4 the period of such stay, and in any case where a person fails to  
5 perform any obligation and a fine or penalty for such nonperform-  
6 ance is incurred a court may, on such terms as may be just, relieve  
7 against the enforcement of such fine or penalty if it shall appear  
8 that the person who would suffer by such fine or penalty was in  
9 the military service when the penalty was incurred, and that by  
10 reason of such service the ability of such person to pay or perform  
11 was thereby materially impaired.

1 10. In any action or proceeding commenced in any court against  
2 a person in military service, before or during the period of such  
3 service, or within 60 days thereafter, the court may, in its discre-  
4 tion, on its own motion, or on application to it by such person or  
5 some person on his behalf shall, unless in the opinion of the court  
6 the ability of the defendant to comply with the judgment or order  
7 entered or sought is not materially affected by reason of his mili-  
8 tary service:

9 a. Stay the execution of any judgment or order entered against  
10 such person, as provided in this act; and

11 b. Vacate or stay any attachment or garnishment of property,  
12 money, or debts in the hands of another, whether before or after  
13 judgment as provided in this act.

1 11. Any stay of any action, proceeding, attachment, or execution  
2 ordered by any court under the provisions of this act may, except  
3 as otherwise provided, be ordered for the period of military service  
4 and 3 months thereafter or any part of such period, and subject  
5 to such terms as may be just, whether as to payment in install-  
6 ments of such amounts and at such times as the court may fix or  
7 otherwise. Where the person in military service is a codefendant  
8 with others the plaintiff may nevertheless, by leave of court, pro-  
9 ceed against the others.

1 12. The period of military service shall not be included in com-  
2 puting any period now or hereafter to be limited by any law,  
3 regulation or order for the bringing of any action or proceeding  
4 in any court, board, bureau, commission, department or other  
5 agency of government of this State or any of its governmental  
6 subdivisions by or against any person in military service, or by or

7 against his heirs, executors, administrators, or assigns, whether  
8 such cause of action or the right or privilege to institute such an  
9 action or proceeding shall have accrued prior to or during the  
10 period of such service, nor shall any part of such period which  
11 occurs after the date of enactment of this act be included in com-  
12 puting any period now or hereafter provided by any law for the  
13 redemption of real property sold or forfeited to enforce any obliga-  
14 tion, tax or assessment.

1 13. a. No eviction or distress shall be made during the period of  
2 military service in respect of any premises for which the agreed  
3 rent does not exceed \*~~[\$80.00]~~\* \*\$150.00\* per month, occupied  
4 chiefly for dwelling purposes by the \*~~[wife]~~\* \*spouse\*, children,  
5 or other dependents of a person in military service, except upon  
6 leave of court granted upon application therefor or granted in any  
7 action or proceeding affecting the right of possession.

8 b. On any such application or in any such action the court may,  
9 in its discretion, on its own motion, and shall, on application, unless  
10 in the opinion of the court the ability of the tenant to pay the agreed  
11 rent is not materially affected by reason of military service, stay  
12 the proceedings for not longer than 3 months, as provided in this  
13 act, or it may make such other order as may be just.

14 c. Any person who shall knowingly take part in any eviction or  
15 distress otherwise than as provided in paragraph a. of this section,  
16 or attempts so to do, shall be adjudged a disorderly person, and  
17 shall be punishable by imprisonment not to exceed \*~~[1 year]~~\* \*6  
18 months\* or by fine not to exceed \$1,000.00, or both.

1 14. a. The provisions of this section shall apply to any lease  
2 covering premises occupied for dwelling, professional, business,  
3 agricultural, or similar purposes in any case in which such lease  
4 was executed by or on the behalf of a person who, after the execu-  
5 tion of such lease, entered military service, and the premises so  
6 leased have been occupied for such purposes, or for a combination  
7 of such purposes by such person or by him and his dependents.

8 b. Any such lease may be terminated by notice in writing de-  
9 livered to the lessor (or his grantee) or to the lessor's (or his  
10 grantee's) agent by the lessee at any time following the date of  
11 the beginning of his period of military service. Delivery of such  
12 notice may be accomplished by placing it in an envelope properly  
13 stamped and duly addressed to the lessor (or his grantee) or to  
14 the lessor's (or his grantee's) agent and depositing the notice in  
15 the United States mails. Termination of any such lease providing  
16 for monthly payment of rent shall not be effective until 30 days  
17 after the first date on which the next rental payment is due and

18 payable subsequent to the date when such notice is delivered or  
19 mailed. In the case of all other leases, termination shall be effected  
20 on the last day of the month following the month in which such  
21 notice is delivered or mailed and in such case any unpaid rental  
22 for a period preceding termination shall be proratably computed  
23 and any rental paid in advance for a period succeeding termination  
24 shall be refunded by the lessor (or his assignee). Upon application  
25 by the lessor to the appropriate court prior to the termination  
26 period provided for in the notice, any relief granted in this para-  
27 graph shall be subject to such modifications or restrictions as in  
28 the opinion of the court justice and equity may in the circumstances  
29 require.

30 c. Any person who shall knowingly seize, hold or detain the  
31 personal effects, clothing, furniture or other property of any person  
32 who has lawfully terminated a lease covered by this section, or in  
33 any manner interfere with the removal of such property from the  
34 premises covered by such lease, for the purpose of subjecting or  
35 attempting to subject any of such property to a claim for rent ac-  
36 cruing subsequent to the date of termination of such lease, or at-  
37 tempts so to do, shall be adjudged a disorderly person and shall  
38 be punished by imprisonment not to exceed ~~\*[1 year]\*~~ *\*6 months\**  
39 or by fine not to exceed \$1,000.00, or both.

1 15. a. No person who has received, or whose assignor has re-  
2 ceived, under a contract for the purchase of real or personal prop-  
3 erty, or of lease or bailment with a view to purchase of such  
4 property, a deposit or installment of the purchase price or a deposit  
5 or installment under the contract, lease or bailment from a person  
6 or from the assignor of a person who, after the date of payment  
7 of such deposit or installment, has entered military service, shall  
8 exercise any right or option under such contract to rescind or termi-  
9 nate the contract or resume possession of the property for non-  
10 payment of any installment thereunder due or for any other breach  
11 of the terms thereof occurring prior to or during the period of  
12 such military service, except by action in a court of competent  
13 jurisdiction; provided, that nothing contained in this section shall  
14 prevent the modification, termination, or cancellation of any such  
15 contract, or prevent the repossession, retention, foreclosure, sale  
16 or taking possession of property purchased or received or which  
17 is security for any obligation under such contract, pursuant to a  
18 mutual agreement of the parties thereto, or their assignees, if  
19 such agreement is executed in writing subsequent to the making  
20 of such contract and during or after the period of military service  
21 of the person concerned.

22 b. Any person who shall knowingly resume possession of prop-  
23 erty which is the subject of this section otherwise than as provided  
24 in paragraph a. of this section or attempt so to do, shall be adjudged  
25 a disorderly person and shall be punished by imprisonment not to  
26 exceed \*~~[1 year]~~\* \*6 months\*, or by fine not to exceed \$1,000.00,  
26A or both.

27 c. Upon the hearing of such action the court may order the re-  
28 payment of prior installments or deposits or any part thereof, as  
29 a condition of terminating the contract and resuming possession  
30 of the property, or may, in its discretion, on its own motion, and  
31 shall, except as provided in section 17 of this act, on application  
32 to it by such person in military service or some person on his behalf,  
33 order a stay of proceedings as provided in this act except that such  
34 stay under this section may be ordered for the period of military  
35 service and 6 months thereafter or any part of such period, unless,  
36 in the opinion of the court, the ability of the defendant to comply  
37 with the terms of the contract is not materially affected by reason  
38 of such service; or it may make such other disposition of the case  
39 as may be equitable to conserve the interests of all parties.

1 16. a. The provisions of this section shall apply only to obli-  
2 gations secured by mortgage, trust deed, or other security in the  
3 nature of a mortgage upon real or personal property owned by  
4 a person in military service at the commencement of the period  
5 of his military service and still so owned by him which obligations  
6 originated prior to such person's period of military service.

7 b. In any proceeding commenced in any court during the period  
8 of military service to enforce such obligation arising out of non-  
9 payment of any sum thereunder due or out of any other breach of  
10 the terms thereof occurring prior to or during the period of such  
11 service the court may, after hearing, in its discretion, on its own  
12 motion, and shall, except as hereinafter provided in this act, on  
13 application to it by such person in military service or some person  
14 on his behalf, unless in the opinion of the court the ability of the  
15 defendant to comply with the terms of the obligation is not ma-  
16 terially affected by reason of his military service.

17 (1) Stay the proceedings as provided in this act; or

18 (2) Make such other disposition of the case as may be equitable  
19 to conserve the interests of all parties.

20 c. No sale, foreclosure, or seizure of property for nonpayment  
21 of any sum due under any such obligation, or for any other breach  
22 of the terms thereof, whether under a power of sale, under a judg-  
23 ment entered upon warrant of attorney to confess judgment con-  
24 tained therein, or otherwise, shall be valid if made during the period

25 of military service, or within 3 months thereafter, unless upon an  
26 order of sale previously granted by the court and a return thereto  
27 made and approved by the court.

28 d. Any person who shall knowingly cause to be made any sale,  
29 foreclosure or seizure of property defined as invalid by paragraph  
30 c. hereof, or attempts so to do, shall be adjudged a disorderly per-  
31 son and shall be punished by imprisonment not to exceed \***[1**  
32 year]\* \*6 months\*, or by fine not to exceed \$1,000.00, or both.

1 17. Where a proceeding to foreclose a mortgage upon or to  
2 resume possession of personal property, or to rescind or terminate  
3 a contract for the purchase thereof, has been stayed as provided  
4 in this act, the court may, unless in its opinion an undue hardship  
5 would result to the dependents of the person in military service,  
6 appoint three disinterested parties to appraise the property and,  
7 based upon the report of the appraisers, order such sum, if any, as  
8 may be just, paid to the person in military service or his dependent,  
9 as the case may be, as a condition of foreclosing the mortgage,  
10 resuming possession of the property, or rescinding or terminating  
11 the contract.

1 18. a. The provisions of this section shall apply when any taxes  
2 or assessments, whether general or special, other than taxes on  
3 income, whether falling due prior or during the period of military  
4 service in respect of personal property, money or credits or real  
5 property owned and occupied for dwelling, agricultural, or busi-  
6 ness purposes by a person in military service, or his dependents,  
7 at the commencement of his period of military service and still so  
8 occupied by his dependents or employees, are not paid.

9 b. No sale of such property shall be made to enforce the col-  
10 lection of such tax or assessment, or any proceeding or action for  
11 such purpose commenced, except upon leave of court granted upon  
12 application made therefor by the collector of taxes or other officer  
13 whose duty it is to enforce the collection of taxes or assessments.  
14 The court thereupon, unless in its opinion the ability of the per-  
15 son in military service to pay such taxes or assessments is not  
16 materially affected by reason of such service, may stay such pro-  
17 ceedings or such sale, as provided in this act, for a period extend-  
18 ing not more than 6 months after the termination of the period of  
19 military service of such person.

20 c. When by law such property may be sold or forfeited to en-  
21 force the collection of such tax or assessment, such person in  
22 military service shall have the right to redeem or commence an  
23 action to redeem such property, at any time not later than 6 months

24 after the termination of such service, but in no case later than 6  
25 months after the date when this act ceases to be in force; but this  
26 shall not be taken to shorten any period, now or hereafter pro-  
27 vided by the laws of the State, or any political subdivision thereof,  
28 for such redemption.

29 d. Whenever any tax or assessment shall not be paid when due,  
30 such tax or assessment due and unpaid shall bear interest until  
31 paid at the rate of 6% per annum from the date when such tax  
32 first became a lien, and no other penalty or interest shall be in-  
33 curred by reason of such nonpayment, whether such penalty or  
34 interest shall have accrued prior or shall accrue subsequent to  
35 the commencement of the period of military service of such per-  
36 son. Any lien for such unpaid taxes or assessment shall also in-  
37 clude such interest thereon.

1 19. a. No policy which has not lapsed for the nonpayment of  
2 premium before the commencement of the period of military  
3 service of the insured, and which has been brought within the  
4 benefits of the Federal "soldiers' and sailors' civil relief act"  
5 shall lapse or be forfeited for the nonpayment of premium during  
6 the period of such service, or during 1 year after the expiration  
7 of such period, provided that in no case shall this prohibition  
8 extend for more than 1 year after this act ceases to be in force.

9 b. For the purposes of this section, the term "policy" shall in-  
10 clude any contract of life insurance on the level premium or legal  
11 reserve plan. It shall also include any benefit in the nature of life  
12 insurance arising out of membership in any fraternal or beneficial  
13 association. In no case, however, shall the term "policy" include  
14 insurance exceeding a total face value of \$5,000.00 whether in one  
15 or more companies. The term "premium" shall include member-  
16 ship dues or assessments in such association, and the date of  
17 issuance of policy as herein limited shall refer to the date of  
18 admission to membership in such association; the term "insured"  
19 shall include any person who is the holder of a policy as defined in  
20 this section; the term "insurer" shall include any corporation,  
21 partnership, or other form of association which secures or pro-  
22 vides insurance under any policy as defined herein.

1 20. a. In the case of any person who, in order to perform mili-  
2 tary service, has left or leaves a position, other than a temporary  
3 position, in the employ of any employer, and who

4 (1) Receives a certificate of completion of military service duly  
5 executed by an officer of the applicable force of the Armed Forces  
6 of the United States or by an officer of the applicable force of the  
7 organized militia;

8 (2) Is still qualified to perform the duties of such position; and

9 (3) Makes application for reemployment within 90 days after  
10 he is relieved from such service, if such position was in the employ  
11 of a private employer, such employer shall restore such person to  
12 such position, or to a position of like seniority, status and pay,  
13 unless the employer's circumstances have so changed as to make  
14 it impossible or unreasonable to do so.

15 b. The benefits, rights and privileges granted to persons in the  
16 military service by this section shall be extended to and be ap-  
17 plicable to any person who, in order to participate in assemblies  
18 or annual training or in order to attend service schools conducted  
19 by the Armed Forces of the United States for a period or periods  
20 up to and including 3 months, temporarily leaves or has left his  
21 position, other than a temporary position, in the employ of any  
22 employer and who, being qualified to perform the duties of such  
23 position, makes application for reemployment within 10 days after  
24 completion of such temporary period of service; provided that no  
25 such person shall be entitled to the said benefits, rights and privi-  
26 leges for such attendance at any service school or schools exceed-  
27 ing a total of 3 months during any 4-year period.

28 c. The benefits, rights and privileges granted to persons in the  
29 military service by this section shall be extended to and be ap-  
30 plicable to any person who is or becomes a member of the organized  
31 militia or of a reserve component of the Armed Forces of the  
32 United States and who, because of such membership is discharged  
33 by his employer or whose employment is suspended by his em-  
34 ployer because of such membership and who, being qualified to  
35 perform the duties of such position, makes application for re-  
36 employment or termination of the period of his suspension within  
37 10 days after such discharge or suspension.

38 d. Any person who is restored to a position in accordance with  
39 the provision of this section shall be considered as having been  
40 on furlough or leave of absence during his period of military  
41 service, temporary service under paragraph b. hereof, or of dis-  
42 charge or suspension under paragraph c. hereof, shall be so  
43 restored without loss of seniority, shall be entitled to participate  
44 in insurance or other benefits offered by the employer pursuant  
45 to established rules and practices relating to employees on fur-  
46 lough or leave of absence in effect with the employer at the time  
47 such person entered the military service or commenced such tem-  
48 porary service or was so discharged or suspended and shall not  
49 be discharged from such position without cause, within 1 year after  
50 such restoration.

51 e. In case any private employer fails or refuses to comply with  
52 the provisions of this section the County Court of the county in  
53 which such private employer maintains a place of business, shall  
54 have the power, upon the filing of a complaint, by the person en-  
55 titled to the benefits of such provisions, to specifically require  
56 such employer to comply with such provisions, and may, as an  
57 incident thereto, compensate such person for any loss of wages or  
58 benefits suffered by reason of such employer's unlawful action.  
59 The court shall order a speedy hearing in any such case, and shall  
60 advance it on the calendar. Any person claiming to be entitled to  
61 the benefits of the provisions of this section may appear and be  
62 represented by counsel, or, upon application to the Attorney  
63 General of the State, may request that the Attorney General  
64 appear and act on his behalf. If the Attorney General is reason-  
65 ably satisfied that the person so applying is entitled to such bene-  
66 fits, he shall appear and act as attorney for such person in the  
67 amicable adjustment of the claim, or in the filing of any complaint  
68 and the prosecution thereof. In the hearing and determination of  
69 such applications under this section no fees or court costs shall  
70 be assessed against a person so applying for such benefits.

1 21. Where in any proceeding to enforce a civil right in any  
2 court it is made to appear to the satisfaction of the court that  
3 any interest, property, or contract has since the date of the ap-  
4 proval of this act been transferred or acquired with intent to delay  
5 the just enforcement of such right by taking advantage of this  
6 act, the court shall enter such judgment or make such order as  
7 might lawfully be entered or made, the provisions of this act to  
8 the contrary notwithstanding.

1 22. a. In any proceeding under this act a certificate executed  
2 by an officer of the applicable force of the Armed Forces of the  
3-4 United States or by an officer of the applicable force of the  
5 organized militia shall, when produced, be prima facie evidence  
6 of the facts therein certified and of the authority of the signer  
7 to issue the same.

8 b. When a person in military service has been reported missing,  
9 he shall be presumed to continue in such service until accounted  
10 for, and no period herein limited which begins or ends with the  
11 death of such person shall begin or end until the death of such  
12 person is in fact reported to or proved by the applicable force of  
13 the Armed Forces of the United States or of the organized militia,  
14 or until such death is proved by a court of competent jurisdiction;  
15 provided, that no period herein limited which begins or ends with  
16 the death of such person shall be extended beyond a period of 6  
17 months after the time when this act ceases to be in force.

1 23. a. A person may, at any time during his period of military  
2 service or within 6 months thereafter, apply to a court for relief  
3 in respect of any obligation or liability incurred by such person  
4 prior to his period of military service or in respect of any tax  
5 or assessment whether falling due prior to or during his period  
6 of military service. The court, after appropriate notice and hear-  
7 ing, unless in its opinion the ability of the applicant to comply with  
8 the terms of such obligation or liability or to pay such tax or  
9 assessment has not been materially affected by reason of his mili-  
10 tary service, may grant the following relief:

11 In the case of an obligation payable under its terms in install-  
12 ments under a contract for the purchase of real estate, or secured  
13 by a mortgage or other instrument in the nature of a mortgage  
14 upon real estate, a stay of the enforcement of such obligation during  
15 the applicant's period of military service and, from the date of  
16 termination of such period of military service or from the date of  
17 application if made after such service, for a period equal to the  
18 period of the remaining life of the installment contract or other  
19 instrument plus a period of time equal to the period of military  
20 service of the applicant, or any part of such combined period,  
21 subject to payment of the balance of principal and accumulated  
22 interest due and unpaid at the date of termination of the period of  
23 military service or from the date of application, as the case may be,  
24 in equal installments during such combined period at such rate of  
25 interest on the unpaid balance as is prescribed in such contract, or  
26 other instrument evidencing the obligation, for installments paid  
27 when due, and subject to such other terms as may be just.

28 In the case of any other obligation, liability, tax, or assessment,  
29 a stay of the enforcement thereof during the applicant's period of  
30 military service and, from the date of termination of such period  
31 of military service or from the date of application if made after  
32 such service, for a period of time equal to the period of military  
33 service of the applicant or any part of such period, subject to  
34 payment of the balance of principal and accumulated interest due  
35 and unpaid at the date of the termination of such period of mili-  
36 tary service or the date of application as the case may be, in equal  
37 periodic installments during such extended period at such rate  
38 of interest as may be prescribed for such obligation, liability, tax,  
39 or assessment, if paid when due, and subject to such other terms  
40 as may be just.

41 b. When any court has granted a stay as provided in this section,  
42 no fine or penalty shall accrue during the period the terms and

43 conditions of such stay are complied with by reason of failure to  
44 comply with the terms or conditions of the obligation, liability,  
45 tax, or assessment in respect of which such stay was granted.

1 24. If any clause, sentence, paragraph, section or part of this  
2 act or the application thereof to any person or circumstances,  
3 shall, for any reason, be adjudged by a court of competent juris-  
4 diction to be invalid, such judgment shall not affect, impair, or  
5 invalidate the remainder of this act, and the application thereof  
6 to other persons or circumstances, but shall be confined in its oper-  
7 ation to the clause, sentence, paragraph, section or part thereof  
8 directly involved in the controversy in which such judgment shall  
9 have been rendered and to the person or circumstances involved.  
10 It is hereby declared to be the legislative intent that this act would  
11 have been adopted had such invalid provisions not been included.

1 25. Insofar as the provisions of this act are inconsistent with  
2 the provisions of any other act, the provisions of this act shall be  
3 controlling.

1 26. This act shall remain in force and effect until December 31,  
2 **\*[1980]\* \*1985\***; provided, that wherever in any section or provi-  
3 sion of this act a proceeding, remedy, privilege, stay, limitation,  
4 accounting or other transaction has been authorized or provided  
5 with respect to military service performed prior to the date herein  
6 fixed for the termination of this act, such section or provision shall  
7 be deemed to continue in full force and effect so long as may be  
8 necessary for the exercise or enjoyment of such proceeding, remedy,  
9 privilege, stay, limitation, accounting or other transaction.

1 27. This act shall be known and may be cited and referred to as  
2 the "New Jersey Soldiers' and Sailors' Civil Relief Act of  
3 **\*\*[1978]\*\* \*\*1979\*\*."**

1 28. This act shall take effect immediately.

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[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 172

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators DUMONT and DODD

AN ACT to protect the civil rights of persons serving in the armed forces, providing for the deferment of certain tax and contractual obligations of such persons, providing for stays of proceedings to evict such persons and their families from their homes, according reemployment rights to persons returning from military service and providing penalties for persons violating this act.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. It is hereby declared to be the public policy of the State to  
2 maintain, secure and protect the civil and property rights of  
3 persons in the military service, as hereinafter defined, and of em-  
4 ployees who are members of the organized militia or members of  
5 a reserve component of the Armed Forces of the United States.

6 All the provisions of this act shall be liberally construed for  
7 the accomplishment of this purpose.

8 This act shall be deemed an exercise of the police power of the  
9 State, for the protection of the public welfare, prosperity, health  
10 and peace of the people of the State.

1 2. As used in this act:

2 a. The term "military service" means duty by any person, male  
3 or female, in the active military service of the United States and  
4 active duty in the military service of the State pursuant to an order  
5 of the Governor issued pursuant to law.

6 b. The term "person" when used herein with reference to the  
7 holder of any right alleged to exist against a person in military  
8 service, or against a person secondarily liable under such right,  
9 shall include individuals, partnerships, corporations, and any other  
10 forms of business association.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

11 c. The term "court" as used herein, shall include any State court  
12 of competent jurisdiction, whether or not a court of record.

1 3. a. Whenever, pursuant to any of the provisions of this act,  
2 the enforcement of any obligation or liability, the prosecution of  
3 any suit or proceeding, the entry or enforcement of any order,  
4 writ, judgment or decree, or the performance of any act, may be  
5 stayed, postponed or suspended, such stay, postponement or sus-  
6 pension may, in the discretion of the court, likewise be granted  
7 to sureties, guarantors, endorsers and others subject to the obliga-  
8 tion or liability, the performance or enforcement of which is stayed,  
9 postponed or suspended.

10 b. When a judgment or decree is vacated or set aside, in whole  
11 or in part, as provided in this act, the same may, in the discretion  
12 of the court, likewise be set aside and vacated as to any surety,  
13 guarantor, endorsers, accommodation maker or other person  
14 whether primarily or secondarily liable upon the contract or lia-  
15 bility for the enforcement of which the judgment or decree was  
16 entered.

17 c. Nothing contained in this act shall prevent a waiver in writing  
18 of the benefits afforded by paragraphs a. and b. of this section by  
19 any surety, guarantor, endorser, accommodation maker, or other  
20 persons whether primarily or secondarily liable upon the obliga-  
21 tion or liability except that after the date of enactment of this act  
22 no such waiver shall be valid unless it is executed as an instrument  
23 separate from the obligation or liability in respect of which it  
24 applies, and no such waiver shall be valid after the beginning of  
25 the period of military service if executed by an individual who,  
26 subsequent to the execution of such waiver becomes a person in  
27 military service.

1 4. In any civil action or proceeding commenced in any court, if  
2 there shall be a default of an appearance by the defendant, the  
3 plaintiff, within 20 days before the entry of judgment or final order,  
4 shall file in the court an affidavit setting forth facts showing that  
5 the defendant is not in military service. If unable to file such  
6 affidavit, plaintiff shall in lieu thereof file an affidavit setting forth  
7 either that the defendant is in the military service or that plaintiff  
8 is not able to determine whether or not defendant is in such service.  
9 If an affidavit is not filed showing that the defendant is not in the  
10 military service, no judgment or final order shall be entered with-  
11 out first securing an order of court directing such entry, and no  
12 such order shall be made if the defendant is in such service until  
13 after the court shall have appointed an attorney to represent  
14 defendant and protect his interest, and the court shall on applica-

15 tion make such appointment. Unless it appears that the defendant  
16 is not in such service the court may require, as a condition before  
17 judgment or final order is entered, that the plaintiff file a bond,  
18 approved by the court, conditioned to indemnify the defendant,  
19 if in military service, against any loss or damage that he may suffer  
20 by reason of any judgment or final order should the judgment or  
21 final order be thereafter set aside in whole or in part. And the  
22 court may make such other and further order or enter such judg-  
23 ment as in its opinion may be necessary to protect the rights of  
24 the defendant under this act.

1 5. Any person who shall make or use an affidavit required under  
2 section 4, above, knowing it to be false, shall be guilty of perjury\***[**  
3 and shall be punishable by imprisonment not to exceed 1 year or  
4 by fine not to exceed \$1,000.00, or both**]**\*.

1 6. In any action or proceeding in which a person in military  
2 service is a party, if such party does not personally appear therein  
3 or is not represented by an authorized attorney, the court may  
4 appoint an attorney to represent him; and in such case a like bond  
5 may be required and an order made to protect the rights of such  
6 person. But no attorney appointed under this act to protect a per-  
7 son in military service shall have power to waive any right of the  
8 person for whom he is appointed or bind him by his acts.

1 7. If any judgment or final order shall be rendered in any action  
2 or proceeding governed by sections 4, 5 and 6, above against any  
3 person in military service during the period of such service, or  
4 within 30 days thereafter, and it appears that such person was  
5 prejudiced by reason of his military service in making his defense  
6 thereto, such judgment or order may, upon application, made by  
7 such person or his legal representative, not later than 90 days after  
8 the termination of such service, be opened by the court rendering  
9 the same and such defendant or his legal representative let in to  
10 defend; provided it is made to appear that the defendant has a  
11 meritorious or legal defense to the action or proceeding, or to some  
12 part thereof. Vacating, setting aside, or reversing any judgment  
13 or final order because of any of the provisions of this act shall not  
14 impair any right or title acquired by any bona fide purchaser for  
15 value under such judgment or order.

1 8. At any stage thereof, any action or proceeding in any court  
2 in which a person in military service is involved, either as plaintiff  
3 or defendant, during the period of such service or within 60 days  
4 thereafter may, in the discretion of the court in which it is pending,  
5 on its own motion, and shall, on application to it by such person  
6 or some person on his behalf, be stayed as provided in this act,

7 unless, in the opinion of the court, the ability of plaintiff to prose-  
8 cute the action, or the defendant to conduct his defense, is not  
9 materially affected by reason of his military service.

1 9. When an action for compliance with the terms of any contract  
2 is stayed pursuant to this act no fine or penalty shall accrue by  
3 reason of failure to comply with the terms of such contract during  
4 the period of such stay, and in any case where a person fails to  
5 perform any obligation and a fine or penalty for such nonperform-  
6 ance is incurred a court may, on such terms as may be just, relieve  
7 against the enforcement of such fine or penalty if it shall appear  
8 that the person who would suffer by such fine or penalty was in  
9 the military service when the penalty was incurred, and that by  
10 reason of such service the ability of such person to pay or perform  
11 was thereby materially impaired.

1 10. In any action or proceeding commenced in any court against  
2 a person in military service, before or during the period of such  
3 service, or within 60 days thereafter, the court may, in its discre-  
4 tion, on its own motion, or on application to it by such person or  
5 some person on his behalf shall, unless in the opinion of the court  
6 the ability of the defendant to comply with the judgment or order  
7 entered or sought is not materially affected by reason of his mili-  
8 tary service:

9 a. Stay the execution of any judgment or order entered against  
10 such person, as provided in this act; and

11 b. Vacate or stay any attachment or garnishment of property,  
12 money, or debts in the hands of another, whether before or after  
13 judgment as provided in this act.

1 11. Any stay of any action, proceeding, attachment, or execution  
2 ordered by any court under the provisions of this act may, except  
3 as otherwise provided, be ordered for the period of military service  
4 and 3 months thereafter or any part of such period, and subject  
5 to such terms as may be just, whether as to payment in install-  
6 ments of such amounts and at such times as the court may fix or  
7 otherwise. Where the person in military service is a codefendant  
8 with others the plaintiff may nevertheless, by leave of court, pro-  
9 ceed against the others.

1 12. The period of military service shall not be included in com-  
2 puting any period now or hereafter to be limited by any law,  
3 regulation or order for the bringing of any action or proceeding  
4 in any court, board, bureau, commission, department or other  
5 agency of government of this State or any of its governmental  
6 subdivisions by or against any person in military service, or by or

7 against his heirs, executors, administrators, or assigns, whether  
8 such cause of action or the right or privilege to institute such an  
9 action or proceeding shall have accrued prior to or during the  
10 period of such service, nor shall any part of such period which  
11 occurs after the date of enactment of this act be included in com-  
12 puting any period now or hereafter provided by any law for the  
13 redemption of real property sold or forfeited to enforce any obliga-  
14 tion, tax or assessment.

1 13. a. No eviction or distress shall be made during the period of  
2 military service in respect of any premises for which the agreed  
3 rent does not exceed \*~~[\$80.00]~~\* \*\$150.00\* per month, occupied  
4 chiefly for dwelling purposes by the \*~~[wife]~~\* \*spouse\*, children,  
5 or other dependents of a person in military service, except upon  
6 leave of court granted upon application therefor or granted in any  
7 action or proceeding affecting the right of possession.

8 b. On any such application or in any such action the court may,  
9 in its discretion, on its own motion, and shall, on application, unless  
10 in the opinion of the court the ability of the tenant to pay the agreed  
11 rent is not materially affected by reason of military service, stay  
12 the proceedings for not longer than 3 months, as provided in this  
13 act, or it may make such other order as may be just.

14 c. Any person who shall knowingly take part in any eviction or  
15 distress otherwise than as provided in paragraph a. of this section,  
16 or attempts so to do, shall be adjudged a disorderly person, and  
17 shall be punishable by imprisonment not to exceed \*~~[1 year]~~\* \*6  
18 months\* or by fine not to exceed \$1,000.00, or both.

1 14. a. The provisions of this section shall apply to any lease  
2 covering premises occupied for dwelling, professional, business,  
3 agricultural, or similar purposes in any case in which such lease  
4 was executed by or on the behalf of a person who, after the execu-  
5 tion of such lease, entered military service, and the premises so  
6 leased have been occupied for such purposes, or for a combination  
7 of such purposes by such person or by him and his dependents.

8 b. Any such lease may be terminated by notice in writing de-  
9 livered to the lessor (or his grantee) or to the lessor's (or his  
10 grantee's) agent by the lessee at any time following the date of  
11 the beginning of his period of military service. Delivery of such  
12 notice may be accomplished by placing it in an envelope properly  
13 stamped and duly addressed to the lessor (or his grantee) or to  
14 the lessor's (or his grantee's) agent and depositing the notice in  
15 the United States mails. Termination of any such lease providing  
16 for monthly payment of rent shall not be effective until 30 days  
17 after the first date on which the next rental payment is due and

18 payable subsequent to the date when such notice is delivered or  
19 mailed. In the case of all other leases, termination shall be effected  
20 on the last day of the month following the month in which such  
21 notice is delivered or mailed and in such case any unpaid rental  
22 for a period preceding termination shall be proratably computed  
23 and any rental paid in advance for a period succeeding termination  
24 shall be refunded by the lessor (or his assignee). Upon application  
25 by the lessor to the appropriate court prior to the termination  
26 period provided for in the notice, any relief granted in this para-  
27 graph shall be subject to such modifications or restrictions as in  
28 the opinion of the court justice and equity may in the circumstances  
29 require.

30 c. Any person who shall knowingly seize, hold or detain the  
31 personal effects, clothing, furniture or other property of any person  
32 who has lawfully terminated a lease covered by this section, or in  
33 any manner interfere with the removal of such property from the  
34 premises covered by such lease, for the purpose of subjecting or  
35 attempting to subject any of such property to a claim for rent ac-  
36 cruing subsequent to the date of termination of such lease, or at-  
37 tempts so to do, shall be adjudged a disorderly person and shall  
38 be punished by imprisonment not to exceed ~~\*[1 year]\*~~ \*6 months\*  
39 or by fine not to exceed \$1,000.00, or both.

1 15. a. No person who has received, or whose assignor has re-  
2 ceived, under a contract for the purchase of real or personal prop-  
3 erty, or of lease or bailment with a view to purchase of such  
4 property, a deposit or installment of the purchase price or a deposit  
5 or installment under the contract, lease or bailment from a person  
6 or from the assignor of a person who, after the date of payment  
7 of such deposit or installment, has entered military service, shall  
8 exercise any right or option under such contract to rescind or termi-  
9 nate the contract or resume possession of the property for non-  
10 payment of any installment thereunder due or for any other breach  
11 of the terms thereof occurring prior to or during the period of  
12 such military service, except by action in a court of competent  
13 jurisdiction; provided, that nothing contained in this section shall  
14 prevent the modification, termination, or cancellation of any such  
15 contract, or prevent the repossession, retention, foreclosure, sale  
16 or taking possession of property purchased or received or which  
17 is security for any obligation under such contract, pursuant to a  
18 mutual agreement of the parties thereto, or their assignees, if  
19 such agreement is executed in writing subsequent to the making  
20 of such contract and during or after the period of military service  
21 of the person concerned.

22 b. Any person who shall knowingly resume possession of prop-  
23 erty which is the subject of this section otherwise than as provided  
24 in paragraph a. of this section or attempt so to do, shall be adjudged  
25 a disorderly person and shall be punished by imprisonment not to  
26 exceed \*~~[1 year]~~\* \*6 months\*, or by fine not to exceed \$1,000.00,  
26A or both.

27 c. Upon the hearing of such action the court may order the re-  
28 payment of prior installments or deposits or any part thereof, as  
29 a condition of terminating the contract and resuming possession  
30 of the property, or may, in its discretion, on its own motion, and  
31 shall, except as provided in section 17 of this act, on application  
32 to it by such person in military service or some person on his behalf,  
33 order a stay of proceedings as provided in this act except that such  
34 stay under this section may be ordered for the period of military  
35 service and 6 months thereafter or any part of such period, unless,  
36 in the opinion of the court, the ability of the defendant to comply  
37 with the terms of the contract is not materially affected by reason  
38 of such service; or it may make such other disposition of the case  
39 as may be equitable to conserve the interests of all parties.

1 16. a. The provisions of this section shall apply only to obli-  
2 gations secured by mortgage, trust deed, or other security in the  
3 nature of a mortgage upon real or personal property owned by  
4 a person in military service at the commencement of the period  
5 of his military service and still so owned by him which obligations  
6 originated prior to such person's period of military service.

7 b. In any proceeding commenced in any court during the period  
8 of military service to enforce such obligation arising out of non-  
9 payment of any sum thereunder due or out of any other breach of  
10 the terms thereof occurring prior to or during the period of such  
11 service the court may, after hearing, in its discretion, on its own  
12 motion, and shall, except as hereinafter provided in this act, on  
13 application to it by such person in military service or some person  
14 on his behalf, unless in the opinion of the court the ability of the  
15 defendant to comply with the terms of the obligation is not ma-  
16 terially affected by reason of his military service.

17 (1) Stay the proceedings as provided in this act; or

18 (2) Make such other disposition of the case as may be equitable  
19 to conserve the interests of all parties.

20 c. No sale, foreclosure, or seizure of property for nonpayment  
21 of any sum due under any such obligation, or for any other breach  
22 of the terms thereof, whether under a power of sale, under a judg-  
23 ment entered upon warrant of attorney to confess judgment con-  
24 tained therein, or otherwise, shall be valid if made during the period

25 of military service, or within 3 months thereafter, unless upon an  
26 order of sale previously granted by the court and a return thereto  
27 made and approved by the court.

28 d. Any person who shall knowingly cause to be made any sale,  
29 foreclosure or seizure of property defined as invalid by paragraph  
30 c. hereof, or attempts so to do, shall be adjudged a disorderly per-  
31 son and shall be punished by imprisonment not to exceed \***[1**  
32 **year]**\* *\*6 months\**, or by fine not to exceed \$1,000.00, or both.

1 17. Where a proceeding to foreclose a mortgage upon or to  
2 resume possession of personal property, or to rescind or terminate  
3 a contract for the purchase thereof, has been stayed as provided  
4 in this act, the court may, unless in its opinion an undue hardship  
5 would result to the dependents of the person in military service,  
6 appoint three disinterested parties to appraise the property and,  
7 based upon the report of the appraisers, order such sum, if any, as  
8 may be just, paid to the person in military service or his dependent,  
9 as the case may be, as a condition of foreclosing the mortgage,  
10 resuming possession of the property, or rescinding or terminating  
11 the contract.

1 18. a. The provisions of this section shall apply when any taxes  
2 or assessments, whether general or special, other than taxes on  
3 income, whether falling due prior or during the period of military  
4 service in respect of personal property, money or credits or real  
5 property owned and occupied for dwelling, agricultural, or busi-  
6 ness purposes by a person in military service, or his dependents,  
7 at the commencement of his period of military service and still so  
8 occupied by his dependents or employees, are not paid.

9 b. No sale of such property shall be made to enforce the col-  
10 lection of such tax or assessment, or any proceeding or action for  
11 such purpose commenced, except upon leave of court granted upon  
12 application made therefor by the collector of taxes or other officer  
13 whose duty it is to enforce the collection of taxes or assessments.  
14 The court thereupon, unless in its opinion the ability of the per-  
15 son in military service to pay such taxes or assessments is not  
16 materially affected by reason of such service, may stay such pro-  
17 ceedings or such sale, as provided in this act, for a period extend-  
18 ing not more than 6 months after the termination of the period of  
19 military service of such person.

20 c. When by law such property may be sold or forfeited to en-  
21 force the collection of such tax or assessment, such person in  
22 military service shall have the right to redeem or commence an  
23 action to redeem such property, at any time not later than 6 months

24 after the termination of such service, but in no case later than 6  
25 months after the date when this act ceases to be in force; but this  
26 shall not be taken to shorten any period, now or hereafter pro-  
27 vided by the laws of the State, or any political subdivision thereof,  
28 for such redemption.

29 d. Whenever any tax or assessment shall not be paid when due,  
30 such tax or assessment due and unpaid shall bear interest until  
31 paid at the rate of 6% per annum from the date when such tax  
32 first became a lien, and no other penalty or interest shall be in-  
33 curred by reason of such nonpayment, whether such penalty or  
34 interest shall have accrued prior or shall accrue subsequent to  
35 the commencement of the period of military service of such per-  
36 son. Any lien for such unpaid taxes or assessment shall also in-  
37 clude such interest thereon.

1 19. a. No policy which has not lapsed for the nonpayment of  
2 premium before the commencement of the period of military  
3 service of the insured, and which has been brought within the  
4 benefits of the Federal "soldiers' and sailors' civil relief act"  
5 shall lapse or be forfeited for the nonpayment of premium during  
6 the period of such service, or during 1 year after the expiration  
7 of such period, provided that in no case shall this prohibition  
8 extend for more than 1 year after this act ceases to be in force.

9 b. For the purposes of this section, the term "policy" shall in-  
10 clude any contract of life insurance on the level premium or legal  
11 reserve plan. It shall also include any benefit in the nature of life  
12 insurance arising out of membership in any fraternal or beneficial  
13 association. In no case, however, shall the term "policy" include  
14 insurance exceeding a total face value of \$5,000.00 whether in one  
15 or more companies. The term "premium" shall include member-  
16 ship dues or assessments in such association, and the date of  
17 issuance of policy as herein limited shall refer to the date of  
18 admission to membership in such association; the term "insured"  
19 shall include any person who is the holder of a policy as defined in  
20 this section; the term "insurer" shall include any corporation,  
21 partnership, or other form of association which secures or pro-  
22 vides insurance under any policy as defined herein.

1 20. a. In the case of any person who, in order to perform mili-  
2 tary service, has left or leaves a position, other than a temporary  
3 position, in the employ of any employer, and who

4 (1) Receives a certificate of completion of military service duly  
5 executed by an officer of the applicable force of the Armed Forces  
6 of the United States or by an officer of the applicable force of the  
7 organized militia;

8 (2) Is still qualified to perform the duties of such position; and

9 (3) Makes application for reemployment within 90 days after  
10 he is relieved from such service, if such position was in the employ  
11 of a private employer, such employer shall restore such person to  
12 such position, or to a position of like seniority, status and pay,  
13 unless the employer's circumstances have so changed as to make  
14 it impossible or unreasonable to do so.

15 b. The benefits, rights and privileges granted to persons in the  
16 military service by this section shall be extended to and be ap-  
17 plicable to any person who, in order to participate in assemblies  
18 or annual training or in order to attend service schools conducted  
19 by the Armed Forces of the United States for a period or periods  
20 up to and including 3 months, temporarily leaves or has left his  
21 position, other than a temporary position, in the employ of any  
22 employer and who, being qualified to perform the duties of such  
23 position, makes application for reemployment within 10 days after  
24 completion of such temporary period of service; provided that no  
25 such person shall be entitled to the said benefits, rights and privi-  
26 leges for such attendance at any service school or schools exceed-  
27 ing a total of 3 months during any 4-year period.

28 c. The benefits, rights and privileges granted to persons in the  
29 military service by this section shall be extended to and be ap-  
30 plicable to any person who is or becomes a member of the organized  
31 militia or of a reserve component of the Armed Forces of the  
32 United States and who, because of such membership is discharged  
33 by his employer or whose employment is suspended by his em-  
34 ployer because of such membership and who, being qualified to  
35 perform the duties of such position, makes application for re-  
36 employment or termination of the period of his suspension within  
37 10 days after such discharge or suspension.

38 d. Any person who is restored to a position in accordance with  
39 the provision of this section shall be considered as having been  
40 on furlough or leave of absence during his period of military  
41 service, temporary service under paragraph b. hereof, or of dis-  
42 charge or suspension under paragraph c. hereof, shall be so  
43 restored without loss of seniority, shall be entitled to participate  
44 in insurance or other benefits offered by the employer pursuant  
45 to established rules and practices relating to employees on fur-  
46 lough or leave of absence in effect with the employer at the time  
47 such person entered the military service or commenced such tem-  
48 porary service or was so discharged or suspended and shall not  
49 be discharged from such position without cause, within 1 year after  
50 such restoration.

51 e. In case any private employer fails or refuses to comply with  
52 the provisions of this section the County Court of the county in  
53 which such private employer maintains a place of business, shall  
54 have the power, upon the filing of a complaint, by the person en-  
55 titled to the benefits of such provisions, to specifically require  
56 such employer to comply with such provisions, and may, as an  
57 incident thereto, compensate such person for any loss of wages or  
58 benefits suffered by reason of such employer's unlawful action.  
59 The court shall order a speedy hearing in any such case, and shall  
60 advance it on the calendar. Any person claiming to be entitled to  
61 the benefits of the provisions of this section may appear and be  
62 represented by counsel, or, upon application to the Attorney  
63 General of the State, may request that the Attorney General  
64 appear and act on his behalf. If the Attorney General is reason-  
65 ably satisfied that the person so applying is entitled to such bene-  
66 fits, he shall appear and act as attorney for such person in the  
67 amicable adjustment of the claim, or in the filing of any complaint  
68 and the prosecution thereof. In the hearing and determination of  
69 such applications under this section no fees or court costs shall  
70 be assessed against a person so applying for such benefits.

1 21. Where in any proceeding to enforce a civil right in any  
2 court it is made to appear to the satisfaction of the court that  
3 any interest, property, or contract has since the date of the ap-  
4 proval of this act been transferred or acquired with intent to delay  
5 the just enforcement of such right by taking advantage of this  
6 act, the court shall enter such judgment or make such order as  
7 might lawfully be entered or made, the provisions of this act to  
8 the contrary notwithstanding.

1 22. a. In any proceeding under this act a certificate executed  
2 by an officer of the applicable force of the Armed Forces of the  
3-4 United States or by an officer of the applicable force of the  
5 organized militia shall, when produced, be prima facie evidence  
6 of the facts therein certified and of the authority of the signer  
7 to issue the same.

8 b. When a person in military service has been reported missing,  
9 he shall be presumed to continue in such service until accounted  
10 for, and no period herein limited which begins or ends with the  
11 death of such person shall begin or end until the death of such  
12 person is in fact reported to or proved by the applicable force of  
13 the Armed Forces of the United States or of the organized militia,  
14 or until such death is proved by a court of competent jurisdiction;  
15 provided, that no period herein limited which begins or ends with  
16 the death of such person shall be extended beyond a period of 6  
17 months after the time when this act ceases to be in force.

1 23. a. A person may, at any time during his period of military  
2 service or within 6 months thereafter, apply to a court for relief  
3 in respect of any obligation or liability incurred by such person  
4 prior to his period of military service or in respect of any tax  
5 or assessment whether falling due prior to or during his period  
6 of military service. The court, after appropriate notice and hear-  
7 ing, unless in its opinion the ability of the applicant to comply with  
8 the terms of such obligation or liability or to pay such tax or  
9 assessment has not been materially affected by reason of his mili-  
10 tary service, may grant the following relief:

11 In the case of an obligation payable under its terms in install-  
12 ments under a contract for the purchase of real estate, or secured  
13 by a mortgage or other instrument in the nature of a mortgage  
14 upon real estate, a stay of the enforcement of such obligation during  
15 the applicant's period of military service and, from the date of  
16 termination of such period of military service or from the date of  
17 application if made after such service, for a period equal to the  
18 period of the remaining life of the installment contract or other  
19 instrument plus a period of time equal to the period of military  
20 service of the applicant, or any part of such combined period,  
21 subject to payment of the balance of principal and accumulated  
22 interest due and unpaid at the date of termination of the period of  
23 military service or from the date of application, as the case may be,  
24 in equal installments during such combined period at such rate of  
25 interest on the unpaid balance as is prescribed in such contract, or  
26 other instrument evidencing the obligation, for installments paid  
27 when due, and subject to such other terms as may be just.

28 In the case of any other obligation, liability, tax, or assessment,  
29 a stay of the enforcement thereof during the applicant's period of  
30 military service and, from the date of termination of such period  
31 of military service or from the date of application if made after  
32 such service, for a period of time equal to the period of military  
33 service of the applicant or any part of such period, subject to  
34 payment of the balance of principal and accumulated interest due  
35 and unpaid at the date of the termination of such period of mili-  
36 tary service or the date of application as the case may be, in equal  
37 periodic installments during such extended period at such rate  
38 of interest as may be prescribed for such obligation, liability, tax,  
39 or assessment, if paid when due, and subject to such other terms  
40 as may be just.

41 b. When any court has granted a stay as provided in this section,  
42 no fine or penalty shall accrue during the period the terms and

43 conditions of such stay are complied with by reason of failure to  
44 comply with the terms or conditions of the obligation, liability,  
45 tax, or assessment in respect of which such stay was granted.

1 24. If any clause, sentence, paragraph, section or part of this  
2 act or the application thereof to any person or circumstances,  
3 shall, for any reason, be adjudged by a court of competent juris-  
4 diction to be invalid, such judgment shall not affect, impair, or  
5 invalidate the remainder of this act, and the application thereof  
6 to other persons or circumstances, but shall be confined in its oper-  
7 ation to the clause, sentence, paragraph, section or part thereof  
8 directly involved in the controversy in which such judgment shall  
9 have been rendered and to the person or circumstances involved.  
10 It is hereby declared to be the legislative intent that this act would  
11 have been adopted had such invalid provisions not been included.

1 25. Insofar as the provisions of this act are inconsistent with  
2 the provisions of any other act, the provisions of this act shall be  
3 controlling.

1 26. This act shall remain in force and effect until December 31,  
2 **\*[1980]\* \*1985\***; provided, that wherever in any section or provi-  
3 sion of this act a proceeding, remedy, privilege, stay, limitation,  
4 accounting or other transaction has been authorized or provided  
5 with respect to military service performed prior to the date herein  
6 fixed for the termination of this act, such section or provision shall  
7 be deemed to continue in full force and effect so long as may be  
8 necessary for the exercise or enjoyment of such proceeding, remedy,  
9 privilege, stay, limitation, accounting or other transaction.

1 27. This act shall be known and may be cited and referred to as  
2 the "New Jersey Soldiers' and Sailors' Civil Relief Act of  
3 **\*\*[1978]\*\* \*\*1979\*\*."**

1 28. This act shall take effect immediately.

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STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

November 19, 1979

SENATE BILL NO. 172 (2d OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 172 (2d OCR), with my objections, for reconsideration.

The purpose of the bill is to protect the civil rights of persons serving in the active military service of the United States or of the State, provide for the deferment of certain tax and contractual obligations of such persons, provide for stays of proceedings to evict such persons and their families from the homes, accord reemployment rights to persons returning from military service, and provide penalties for persons violating this act. This act would remain in effect until December 31, 1985.

The prior "New Jersey Soldiers' and Sailors' Civil Relief Act" was enacted in 1962 and by its terms expired in 1964. The law was then enacted again in 1968 and by its terms was to expire in July, 1972. In 1972, the Act was amended to extend its expiration date until July, 1974.

Although almost identical federal legislation has been in effect since World War I, this bill is needed to encompass "members of the organized militia (New Jersey National Guard) or members of a reserve component..." There are also a number of technical variations between the federal and state versions.

The problem is that this bill sets an expiration date. In the past this law has lapsed twice - 1964-1968 and 1974 to date. These lapses have been due to inadvertence and would be avoided by deleting any expiration date.

Accordingly, I herewith return Senate Bill No. 172 (2d OCR) for reconsideration and with the recommendation that it be amended as follows:

Page 13, Section 26: Delete in its entirety.

Page 13: Renumber Sections 27 and 28 to 26 and 27.

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

SENATE AMENDMENTS TO  
**SENATE, No. 172**  
[SECOND OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

ADOPTED NOVEMBER 29, 1979

Amend page 13, section 26, delete in its entirety.

Amend page 13, renumber sections 27 and 28 to 26 and 27.

[THIRD OFFICIAL COPY REPRINT]

SENATE, No. 172

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators DUMONT and DODD

AN ACT to protect the civil rights of persons serving in the armed forces, providing for the deferment of certain tax and contractual obligations of such persons, providing for stays of proceedings to evict such persons and their families from their homes, according reemployment rights to persons returning from military service and providing penalties for persons violating this act.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. It is hereby declared to be the public policy of the State to  
2 maintain, secure and protect the civil and property rights of  
3 persons in the military service, as hereinafter defined, and of em-  
4 ployees who are members of the organized militia or members of  
5 a reserve component of the Armed Forces of the United States.

6 All the provisions of this act shall be liberally construed for  
7 the accomplishment of this purpose.

8 This act shall be deemed an exercise of the police power of the  
9 shall include individuals, partnerships, corporations, and any other  
10 and peace of the people of the State.

1 2. As used in this act:

2 a. The term "military service" means duty by any person, male  
3 or female, in the active military service of the United States and  
4 active duty in the military service of the State pursuant to an order  
5 of the Governor issued pursuant to law.

6 b. The term "person" when used herein with reference to the  
7 holder of any right alleged to exist against a person in military  
8 service, or against a person secondarily liable under such right,  
9 State, for the protection of the public welfare, prosperity, health  
10 forms of business association.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

11 c. The term "court" as used herein, shall include any State court  
12 of competent jurisdiction, whether or not a court of record.

1 3. a. Whenever, pursuant to any of the provisions of this act,  
2 the enforcement of any obligation or liability, the prosecution of  
3 any suit or proceeding, the entry or enforcement of any order,  
4 writ, judgment or decree, or the performance of any act, may be  
5 stayed, postponed or suspended, such stay, postponement or sus-  
6 pension may, in the discretion of the court, likewise be granted  
7 to sureties, guarantors, endorsers and others subject to the obliga-  
8 tion or liability, the performance or enforcement of which is stayed,  
9 postponed or suspended.

10 b. When a judgment or decree is vacated or set aside, in whole  
11 or in part, as provided in this act, the same may, in the discretion  
12 of the court, likewise be set aside and vacated as to any surety,  
13 guarantor, endorsers, accommodation maker or other person  
14 whether primarily or secondarily liable upon the contract or lia-  
15 bility for the enforcement of which the judgment or decree was  
16 entered.

17 c. Nothing contained in this act shall prevent a waiver in writing  
18 of the benefits afforded by paragraphs a. and b. of this section by  
19 any surety, guarantor, endorser, accommodation maker, or other  
20 persons whether primarily or secondarily liable upon the obliga-  
21 tion or liability except that after the date of enactment of this act  
22 no such waiver shall be valid unless it is executed as an instrument  
23 separate from the obligation or liability in respect of which it  
24 applies, and no such waiver shall be valid after the beginning of  
25 the period of military service if executed by an individual who,  
26 subsequent to the execution of such waiver becomes a person in  
27 military service.

1 4. In any civil action or proceeding commenced in any court, if  
2 there shall be a default of an appearance by the defendant, the  
3 plaintiff, within 20 days before the entry of judgment or final order,  
4 shall file in the court an affidavit setting forth facts showing that  
5 the defendant is not in military service. If unable to file such  
6 affidavit, plaintiff shall in lieu thereof file an affidavit setting forth  
7 either that the defendant is in the military service or that plaintiff  
8 is not able to determine whether or not defendant is in such service.  
9 If an affidavit is not filed showing that the defendant is not in the  
10 military service, no judgment or final order shall be entered with-  
11 out first securing an order of court directing such entry, and no  
12 such order shall be made if the defendant is in such service until  
13 after the court shall have appointed an attorney to represent  
14 defendant and protect his interest, and the court shall on applica-

15 tion make such appointment. Unless it appears that the defendant  
16 is not in such service the court may require, as a condition before  
17 judgment or final order is entered, that the plaintiff file a bond.  
18 approved by the court, conditioned to indemnify the defendant,  
19 if in military service, against any loss or damage that he may suffer  
20 by reason of any judgment or final order should the judgment or  
21 final order be thereafter set aside in whole or in part. And the  
22 court may make such other and further order or enter such judg-  
23 ment as in its opinion may be necessary to protect the rights of  
24 the defendant under this act.

1 5. Any person who shall make or use an affidavit required under  
2 section 4, above, knowing it to be false, shall be guilty of perjury\*,  
3 and shall be punishable by imprisonment not to exceed 1 year or  
4 by fine not to exceed \$1,000.00, or both\*.

1 6. In any action or proceeding in which a person in military  
2 service is a party, if such party does not personally appear therein  
3 or is not represented by an authorized attorney, the court may  
4 appoint an attorney to represent him; and in such case a like bond  
5 may be required and an order made to protect the rights of such  
6 person. But no attorney appointed under this act to protect a per-  
7 son in military service shall have power to waive any right of the  
8 person for whom he is appointed or bind him by his acts.

1 7. If any judgment or final order shall be rendered in any action  
2 or proceeding governed by sections 4, 5 and 6, above against any  
3 person in military service during the period of such service, or  
4 within 30 days thereafter, and it appears that such person was  
5 prejudiced by reason of his military service in making his defense  
6 thereto, such judgment or order may, upon application, made by  
7 such person or his legal representative, not later than 90 days after  
8 the termination of such service, be opened by the court rendering  
9 the same and such defendant or his legal representative let in to  
10 defend; provided it is made to appear that the defendant has a  
11 meritorious or legal defense to the action or proceeding, or to some  
12 part thereof. Vacating, setting aside, or reversing any judgment  
13 or final order because of any of the provisions of this act shall not  
14 impair any right or title acquired by any bona fide purchaser for  
15 value under such judgment or order.

1 8. At any stage thereof, any action or proceeding in any court  
2 in which a person in military service is involved, either as plaintiff  
3 or defendant, during the period of such service or within 60 days  
4 thereafter may, in the discretion of the court in which it is pending,  
5 on its own motion, and shall, on application to it by such person  
6 or some person on his behalf, be stayed as provided in this act,

7 unless, in the opinion of the court, the ability of plaintiff to prose-  
8 cute the action, or the defendant to conduct his defense, is not  
9 materially affected by reason of his military service.

1 9. When an action for compliance with the terms of any contract  
2 is stayed pursuant to this act no fine or penalty shall accrue by  
3 reason of failure to comply with the terms of such contract during  
4 the period of such stay, and in any case where a person fails to  
5 perform any obligation and a fine or penalty for such nonperform-  
6 ance is incurred a court may, on such terms as may be just, relieve  
7 against the enforcement of such fine or penalty if it shall appear  
8 that the person who would suffer by such fine or penalty was in  
9 the military service when the penalty was incurred, and that by  
10 reason of such service the ability of such person to pay or perform  
11 was thereby materially impaired.

1 10. In any action or proceeding commenced in any court against  
2 a person in military service, before or during the period of such  
3 service, or within 60 days thereafter, the court may, in its discre-  
4 tion, on its own motion, or on application to it by such person or  
5 some person on his behalf shall, unless in the opinion of the court  
6 the ability of the defendant to comply with the judgment or order  
7 entered or sought is not materially affected by reason of his mili-  
8 tary service:

9 a. Stay the execution of any judgment or order entered against  
10 such person, as provided in this act; and

11 b. Vacate or stay any attachment or garnishment of property,  
12 money, or debts in the hands of another, whether before or after  
13 judgment as provided in this act.

1 11. Any stay of any action, proceeding, attachment, or execution  
2 ordered by any court under the provisions of this act may, except  
3 as otherwise provided, be ordered for the period of military service  
4 and 3 months thereafter or any part of such period, and subject  
5 to such terms as may be just, whether as to payment in install-  
6 ments of such amounts and at such times as the court may fix or  
7 otherwise. Where the person in military service is a codefendant  
8 with others the plaintiff may nevertheless, by leave of court, pro-  
9 ceed against the others.

1 12. The period of military service shall not be included in com-  
2 puting any period now or hereafter to be limited by any law,  
3 regulation or order for the bringing of any action or proceeding  
4 in any court, board, bureau, commission, department or other  
5 agency of government of this State or any of its governmental  
6 subdivisions by or against any person in military service, or by or

7 against his heirs, executors, administrators, or assigns, whether  
8 such cause of action or the right or privilege to institute such an  
9 action or proceeding shall have accrued prior to or during the  
10 period of such service, nor shall any part of such period which  
11 occurs after the date of enactment of this act be included in com-  
12 puting any period now or hereafter provided by any law for the  
13 redemption of real property sold or forfeited to enforce any obliga-  
14 tion, tax or assessment.

1 13. a. No eviction or distress shall be made during the period of  
2 military service in respect of any premises for which the agreed  
3 rent does not exceed \*~~[\$80.00]~~\* \*\$150.00\* per month, occupied  
4 chiefly for dwelling purposes by the \*~~[wife]~~\* \*spouse\*, children,  
5 or other dependents of a person in military service, except upon  
6 leave of court granted upon application therefor or granted in any  
7 action or proceeding affecting the right of possession.

8 b. On any such application or in any such action the court may,  
9 in its discretion, on its own motion, and shall, on application, unless  
10 in the opinion of the court the ability of the tenant to pay the agreed  
11 rent is not materially affected by reason of military service, stay  
12 the proceedings for not longer than 3 months, as provided in this  
13 act, or it may make such other order as may be just.

14 c. Any person who shall knowingly take part in any eviction or  
15 distress otherwise than as provided in paragraph a. of this section,  
16 or attempts so to do, shall be adjudged a disorderly person, and  
17 shall be punishable by imprisonment not to exceed \*~~[1 year]~~\* \*6  
18 months\* or by fine not to exceed \$1,000.00, or both.

1 14. a. The provisions of this section shall apply to any lease  
2 covering premises occupied for dwelling, professional, business,  
3 agricultural, or similar purposes in any case in which such lease  
4 was executed by or on the behalf of a person who, after the execu-  
5 tion of such lease, entered military service, and the premises so  
6 leased have been occupied for such purposes, or for a combination  
7 of such purposes by such person or by him and his dependents.

8 b. Any such lease may be terminated by notice in writing de-  
9 livered to the lessor (or his grantee) or to the lessor's (or his  
10 grantee's) agent by the lessee at any time following the date of  
11 the beginning of his period of military service. Delivery of such  
12 notice may be accomplished by placing it in an envelope properly  
13 stamped and duly addressed to the lessor (or his grantee) or to  
14 the lessor's (or his grantee's) agent and depositing the notice in  
15 the United States mails. Termination of any such lease providing  
16 for monthly payment of rent shall not be effective until 30 days  
17 after the first date on which the next rental payment is due and

18 payable subsequent to the date when such notice is delivered or  
19 mailed. In the case of all other leases, termination shall be effected  
20 on the last day of the month following the month in which such  
21 notice is delivered or mailed and in such case any unpaid rental  
22 for a period preceding termination shall be proratably computed  
23 and any rental paid in advance for a period succeeding termination  
24 shall be refunded by the lessor (or his assignee). Upon application  
25 by the lessor to the appropriate court prior to the termination  
26 period provided for in the notice, any relief granted in this para-  
27 graph shall be subject to such modifications or restrictions as in  
28 the opinion of the court justice and equity may in the circumstances  
29 require.

30 c. Any person who shall knowingly seize, hold or detain the  
31 personal effects, clothing, furniture or other property of any person  
32 who has lawfully terminated a lease covered by this section, or in  
33 any manner interfere with the removal of such property from the  
34 premises covered by such lease, for the purpose of subjecting or  
35 attempting to subject any of such property to a claim for rent ac-  
36 cruing subsequent to the date of termination of such lease, or at-  
37 tempts so to do, shall be adjudged a disorderly person and shall  
38 be punished by imprisonment not to exceed ~~\*[1 year]\*~~ \*6 months\*  
39 or by fine not to exceed \$1,000.00, or both.

1 15. a. No person who has received, or whose assignor has re-  
2 ceived, under a contract for the purchase of real or personal prop-  
3 erty, or of lease or bailment with a view to purchase of such  
4 property, a deposit or installment of the purchase price or a deposit  
5 or installment under the contract, lease or bailment from a person  
6 or from the assignor of a person who, after the date of payment  
7 of such deposit or installment, has entered military service, shall  
8 exercise any right or option under such contract to rescind or termi-  
9 nate the contract or resume possession of the property for non-  
10 payment of any installment thereunder due or for any other breach  
11 of the terms thereof occurring prior to or during the period of  
12 such military service, except by action in a court of competent  
13 jurisdiction; provided, that nothing contained in this section shall  
14 prevent the modification, termination, or cancellation of any such  
15 contract, or prevent the repossession, retention, foreclosure, sale  
16 or taking possession of property purchased or received or which  
17 is security for any obligation under such contract, pursuant to a  
18 mutual agreement of the parties thereto, or their assignees, if  
19 such agreement is executed in writing subsequent to the making  
20 of such contract and during or after the period of military service  
21 of the person concerned.

22 b. Any person who shall knowingly resume possession of prop-  
23 erty which is the subject of this section otherwise than as provided  
24 in paragraph a. of this section or attempt so to do, shall be adjudged  
25 a disorderly person and shall be punished by imprisonment not to  
26 exceed ~~\*[1 year]\*~~ *\*6 months\**, or by fine not to exceed \$1,000.00,  
26A or both.

27 c. Upon the hearing of such action the court may order the re-  
28 payment of prior installments or deposits or any part thereof, as  
29 a condition of terminating the contract and resuming possession  
30 of the property, or may, in its discretion, on its own motion, and  
31 shall, except as provided in section 17 of this act, on application  
32 to it by such person in military service or some person on his behalf,  
33 order a stay of proceedings as provided in this act except that such  
34 stay under this section may be ordered for the period of military  
35 service and 6 months thereafter or any part of such period, unless,  
36 in the opinion of the court, the ability of the defendant to comply  
37 with the terms of the contract is not materially affected by reason  
38 of such service; or it may make such other disposition of the case  
39 as may be equitable to conserve the interests of all parties.

1 16. a. The provisions of this section shall apply only to obli-  
2 gations secured by mortgage, trust deed, or other security in the  
3 nature of a mortgage upon real or personal property owned by  
4 a person in military service at the commencement of the period  
5 of his military service and still so owned by him which obligations  
6 originated prior to such person's period of military service.

7 b. In any proceeding commenced in any court during the period  
8 of military service to enforce such obligation arising out of non-  
9 payment of any sum thereunder due or out of any other breach of  
10 the terms thereof occurring prior to or during the period of such  
11 service the court may, after hearing, in its discretion, on its own  
12 motion, and shall, except as hereinafter provided in this act, on  
13 application to it by such person in military service or some person  
14 on his behalf, unless in the opinion of the court the ability of the  
15 defendant to comply with the terms of the obligation is not ma-  
16 terially affected by reason of his military service.

17 (1) Stay the proceedings as provided in this act; or

18 (2) Make such other disposition of the case as may be equitable  
19 to conserve the interests of all parties.

20 c. No sale, foreclosure, or seizure of property for nonpayment  
21 of any sum due under any such obligation, or for any other breach  
22 of the terms thereof, whether under a power of sale, under a judg-  
23 ment entered upon warrant of attorney to confess judgment con-  
24 tained therein, or otherwise, shall be valid if made during the period

25 of military service, or within 3 months thereafter, unless upon an  
26 order of sale previously granted by the court and a return thereto  
27 made and approved by the court.

28 d. Any person who shall knowingly cause to be made any sale,  
29 foreclosure or seizure of property defined as invalid by paragraph  
30 c. hereof, or attempts so to do, shall be adjudged a disorderly per-  
31 son and shall be punished by imprisonment not to exceed \*~~1~~  
32 year]\* \*6 months\*, or by fine not to exceed \$1,000.00, or both.

1 17. Where a proceeding to foreclose a mortgage upon or to  
2 resume possession of personal property, or to rescind or terminate  
3 a contract for the purchase thereof, has been stayed as provided  
4 in this act, the court may, unless in its opinion an undue hardship  
5 would result to the dependents of the person in military service,  
6 appoint three disinterested parties to appraise the property and,  
7 based upon the report of the appraisers, order such sum, if any, as  
8 may be just, paid to the person in military service or his dependent,  
9 as the case may be, as a condition of foreclosing the mortgage,  
10 resuming possession of the property, or rescinding or terminating  
11 the contract.

1 18. a. The provisions of this section shall apply when any taxes  
2 or assessments, whether general or special, other than taxes on  
3 income, whether falling due prior or during the period of military  
4 service in respect of personal property, money or credits or real  
5 property owned and occupied for dwelling, agricultural, or busi-  
6 ness purposes by a person in military service, or his dependents,  
7 at the commencement of his period of military service and still so  
8 occupied by his dependents or employees, are not paid.

9 b. No sale of such property shall be made to enforce the col-  
10 lection of such tax or assessment, or any proceeding or action for  
11 such purpose commenced, except upon leave of court granted upon  
12 application made therefor by the collector of taxes or other officer  
13 whose duty it is to enforce the collection of taxes or assessments.  
14 The court thereupon, unless in its opinion the ability of the per-  
15 son in military service to pay such taxes or assessments is not  
16 materially affected by reason of such service, may stay such pro-  
17 ceedings or such sale, as provided in this act, for a period extend-  
18 ing not more than 6 months after the termination of the period of  
19 military service of such person.

20 c. When by law such property may be sold or forfeited to en-  
21 force the collection of such tax or assessment, such person in  
22 military service shall have the right to redeem or commence an  
23 action to redeem such property, at any time not later than 6 months

24 after the termination of such service, but in no case later than 6  
25 months after the date when this act ceases to be in force; but this  
26 shall not be taken to shorten any period, now or hereafter pro-  
27 vided by the laws of the State, or any political subdivision thereof,  
28 for such redemption.

29 d. Whenever any tax or assessment shall not be paid when due,  
30 such tax or assessment due and unpaid shall bear interest until  
31 paid at the rate of 6% per annum from the date when such tax  
32 first became a lien, and no other penalty or interest shall be in-  
33 curred by reason of such nonpayment, whether such penalty or  
34 interest shall have accrued prior or shall accrue subsequent to  
35 the commencement of the period of military service of such per-  
36 son. Any lien for such unpaid taxes or assessment shall also in-  
37 clude such interest thereon.

1 19. a. No policy which has not lapsed for the nonpayment of  
2 premium before the commencement of the period of military  
3 service of the insured, and which has been brought within the  
4 benefits of the Federal "soldiers' and sailors' civil relief act"  
5 shall lapse or be forfeited for the nonpayment of premium during  
6 the period of such service, or during 1 year after the expiration  
7 of such period, provided that in no case shall this prohibition  
8 extend for more than 1 year after this act ceases to be in force.

9 b. For the purposes of this section, the term "policy" shall in-  
10 clude any contract of life insurance on the level premium or legal  
11 reserve plan. It shall also include any benefit in the nature of life  
12 insurance arising out of membership in any fraternal or beneficial  
13 association. In no case, however, shall the term "policy" include  
14 insurance exceeding a total face value of \$5,000.00 whether in one  
15 or more companies. The term "premium" shall include member-  
16 ship dues or assessments in such association, and the date of  
17 issuance of policy as herein limited shall refer to the date of  
18 admission to membership in such association; the term "insured"  
19 shall include any person who is the holder of a policy as defined in  
20 this section; the term "insurer" shall include any corporation,  
21 partnership, or other form of association which secures or pro-  
22 vides insurance under any policy as defined herein.

1 20. a. In the case of any person who, in order to perform mili-  
2 tary service, has left or leaves a position, other than a temporary  
3 position, in the employ of any employer, and who

4 (1) Receives a certificate of completion of military service duly  
5 executed by an officer of the applicable force of the Armed Forces  
6 of the United States or by an officer of the applicable force of the  
7 organized militia;

8 (2) Is still qualified to perform the duties of such position; and

9 (3) Makes application for reemployment within 90 days after  
10 he is relieved from such service, if such position was in the employ  
11 of a private employer, such employer shall restore such person to  
12 such position, or to a position of like seniority, status and pay,  
13 unless the employer's circumstances have so changed as to make  
14 it impossible or unreasonable to do so.

15 b. The benefits, rights and privileges granted to persons in the  
16 military service by this section shall be extended to and be ap-  
17 plicable to any person who, in order to participate in assemblies  
18 or annual training or in order to attend service schools conducted  
19 by the Armed Forces of the United States for a period or periods  
20 up to and including 3 months, temporarily leaves or has left his  
21 position, other than a temporary position, in the employ of any  
22 employer and who, being qualified to perform the duties of such  
23 position, makes application for reemployment within 10 days after  
24 completion of such temporary period of service; provided that no  
25 such person shall be entitled to the said benefits, rights and privi-  
26 leges for such attendance at any service school or schools exceed-  
27 ing a total of 3 months during any 4-year period.

28 c. The benefits, rights and privileges granted to persons in the  
29 military service by this section shall be extended to and be ap-  
30 plicable to any person who is or becomes a member of the organized  
31 militia or of a reserve component of the Armed Forces of the  
32 United States and who, because of such membership is discharged  
33 by his employer or whose employment is suspended by his em-  
34 ployer because of such membership and who, being qualified to  
35 perform the duties of such position, makes application for re-  
36 employment or termination of the period of his suspension within  
37 10 days after such discharge or suspension.

38 d. Any person who is restored to a position in accordance with  
39 the provision of this section shall be considered as having been  
40 on furlough or leave of absence during his period of military  
41 service, temporary service under paragraph b. hereof, or of dis-  
42 charge or suspension under paragraph c. hereof, shall be so  
43 restored without loss of seniority, shall be entitled to participate  
44 in insurance or other benefits offered by the employer pursuant  
45 to established rules and practices relating to employees on fur-  
46 lough or leave of absence in effect with the employer at the time  
47 such person entered the military service or commenced such tem-  
48 porary service or was so discharged or suspended and shall not  
49 be discharged from such position without cause, within 1 year after  
50 such restoration.

51 e. In case any private employer fails or refuses to comply with  
52 the provisions of this section the County Court of the county in  
53 which such private employer maintains a place of business, shall  
54 have the power, upon the filing of a complaint, by the person en-  
55 titled to the benefits of such provisions, to specifically require  
56 such employer to comply with such provisions, and may, as an  
57 incident thereto, compensate such person for any loss of wages or  
58 benefits suffered by reason of such employer's unlawful action.  
59 The court shall order a speedy hearing in any such case, and shall  
60 advance it on the calendar. Any person claiming to be entitled to  
61 the benefits of the provisions of this section may appear and be  
62 represented by counsel, or, upon application to the Attorney  
63 General of the State, may request that the Attorney General  
64 appear and act on his behalf. If the Attorney General is reason-  
65 ably satisfied that the person so applying is entitled to such bene-  
66 fits, he shall appear and act as attorney for such person in the  
67 amicable adjustment of the claim, or in the filing of any complaint  
68 and the prosecution thereof. In the hearing and determination of  
69 such applications under this section no fees or court costs shall  
70 be assessed against a person so applying for such benefits.

1 21. Where in any proceeding to enforce a civil right in any  
2 court it is made to appear to the satisfaction of the court that  
3 any interest, property, or contract has since the date of the ap-  
4 proval of this act been transferred or acquired with intent to delay  
5 the just enforcement of such right by taking advantage of this  
6 act, the court shall enter such judgment or make such order as  
7 might lawfully be entered or made, the provisions of this act to  
8 the contrary notwithstanding.

1 22. a. In any proceeding under this act a certificate executed  
2 by an officer of the applicable force of the Armed Forces of the  
3-4 United States or by an officer of the applicable force of the  
5 organized militia shall, when produced, be prima facie evidence  
6 of the facts therein certified and of the authority of the signer  
7 to issue the same.

8 b. When a person in military service has been reported missing,  
9 he shall be presumed to continue in such service until accounted  
10 for, and no period herein limited which begins or ends with the  
11 death of such person shall begin or end until the death of such  
12 person is in fact reported to or proved by the applicable force of  
13 the Armed Forces of the United States or of the organized militia,  
14 or until such death is proved by a court of competent jurisdiction;  
15 provided, that no period herein limited which begins or ends with  
16 the death of such person shall be extended beyond a period of 6  
17 months after the time when this act ceases to be in force.

1 23. a. A person may, at any time during his period of military  
2 service or within 6 months thereafter, apply to a court for relief  
3 in respect of any obligation or liability incurred by such person  
4 prior to his period of military service or in respect of any tax  
5 or assessment whether falling due prior to or during his period  
6 of military service. The court, after appropriate notice and hear-  
7 ing, unless in its opinion the ability of the applicant to comply with  
8 the terms of such obligation or liability or to pay such tax or  
9 assessment has not been materially affected by reason of his mili-  
10 tary service, may grant the following relief:

11 In the case of an obligation payable under its terms in install-  
12 ments under a contract for the purchase of real estate, or secured  
13 by a mortgage or other instrument in the nature of a mortgage  
14 upon real estate, a stay of the enforcement of such obligation during  
15 the applicant's period of military service and, from the date of  
16 termination of such period of military service or from the date of  
17 application if made after such service, for a period equal to the  
18 period of the remaining life of the installment contract or other  
19 instrument plus a period of time equal to the period of military  
20 service of the applicant, or any part of such combined period,  
21 subject to payment of the balance of principal and accumulated  
22 interest due and unpaid at the date of termination of the period of  
23 military service or from the date of application, as the case may be,  
24 in equal installments during such combined period at such rate of  
25 interest on the unpaid balance as is prescribed in such contract, or  
26 other instrument evidencing the obligation, for installments paid  
27 when due, and subject to such other terms as may be just.

28 In the case of any other obligation, liability, tax, or assessment,  
29 a stay of the enforcement thereof during the applicant's period of  
30 military service and, from the date of termination of such period  
31 of military service or from the date of application if made after  
32 such service, for a period of time equal to the period of military  
33 service of the applicant or any part of such period, subject to  
34 payment of the balance of principal and accumulated interest due  
35 and unpaid at the date of the termination of such period of mili-  
36 tary service or the date of application as the case may be, in equal  
37 periodic installments during such extended period at such rate  
38 of interest as may be prescribed for such obligation, liability, tax,  
39 or assessment, if paid when due, and subject to such other terms  
40 as may be just.

41 b. When any court has granted a stay as provided in this section,  
42 no fine or penalty shall accrue during the period the terms and

43 conditions of such stay are complied with by reason of failure to  
 44 comply with the terms or conditions of the obligation, liability,  
 45 tax, or assessment in respect of which such stay was granted.

1 24. If any clause, sentence, paragraph, section or part of this  
 2 act or the application thereof to any person or circumstances,  
 3 shall, for any reason, be adjudged by a court of competent juris-  
 4 diction to be invalid, such judgment shall not affect, impair, or  
 5 invalidate the remainder of this act, and the application thereof  
 6 to other persons or circumstances, but shall be confined in its oper-  
 7 ation to the clause, sentence, paragraph, section or part thereof  
 8 directly involved in the controversy in which such judgment shall  
 9 have been rendered and to the person or circumstances involved.  
 10 It is hereby declared to be the legislative intent that this act would  
 11 have been adopted had such invalid provisions not been included.

1 25. Insofar as the provisions of this act are inconsistent with  
 2 the provisions of any other act, the provisions of this act shall be  
 3 controlling.

1 \*\*\*[26. This act shall remain in force and effect until December  
 2 31, \*[1980]\* \*1985\* ; provided, that wherever in any section or pro-  
 3 vision of this act a proceeding, remedy, privilege, stay, limitation,  
 4 accounting or other transaction has been authorized or provided  
 5 with respect to military service performed prior to the date herein  
 6 fixed for the termination of this act, such section or provision shall  
 7 be deemed to continue in full force and effect so long as may be  
 8 necessary for the exercise or enjoyment of such proceeding, remedy,  
 9 privilege, stay, limitation, accounting or other transaction.]\*\*\*

1 \*\*\*[27.]\*\*\* \*\*\*26.\*\*\* This act shall be known and may be cited  
 2 and referred to as the "New Jersey Soldiers' and Sailors' Civil  
 3 Relief Act of \*\*[1978]\*\* \*\*1979\*\*."

1 \*\*\*[28.]\*\*\* \*\*\*27.\*\*\* This act shall take effect immediately.

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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 18, 1980

PAT SWEENEY

Governor Brendan Byrne today signed the following bills into law:

S-19, sponsored by Senator John E. Russo (D-Ocean), which authorizes the issuance of permits for identification lights on authorized vehicles of licensed private detective agencies under contractual agreement to provide security services to a community.

S-60, also sponsored by Senator Russo, which requires local units of government which do not invest their idle funds in the New Jersey Cash Management Fund to invest such funds in interest earning accounts in banks and savings and loan associations.

S-139, sponsored by Senator James C. Cafiero (R-Cape May), which increases the amount of an estate which may be dispersed without formal administration. The amount is increased from \$5,000 to \$10,000, to keep pace with inflation and to simplify the disposition of small estates.

S-172, sponsored by Senator Wayne Dumont, Jr. (R-Warren), which is designated the Soldier's and Sailor's Civil Relief Act of 1979. The bill protects the civil rights of persons serving in the Armed Forces. It is effective until December 31, 1985.

S-650, also sponsored by Senator Russo, which increases from \$250 to \$2,000 the liability of a parent, guardian or other person having custody of a minor who destroys property.

S-1057, sponsored by Senator Matthew Feldman (D-Bergen), which updates the Small Business Loan Act to allow such loans to be granted with interest computed by either the actuarial method or the precomputed method. It also provides for such loans to be granted for a period of up to seven years and three months instead of the current five year and one month limitation.

The bill also provides for a standard rate of 12 percent per anum rather than the current graduated rate which projects yields of between ten and twelve percent. A further provision allows the Commissioner of Banking, with the advice of special advisory board, to increase the rate up to 15 percent, if they deem economic conditions warrant such a change.