

R.S. 38:23A-50

LEGISLATIVE FACT SHEET

N.J.R.S. 38:23A-50
(1968 Amendment)

ON *Obligations secured by mortgage, trust deed or other security; enforcement proceedings; punishment.*

LAWS OF 1968
SENATE 455
INTRODUCED Feb. 8

CHAPTER 78 § 16 6/21/68
ASSEMBLY
BY *White and 7 others*

STATEMENT
AMENDED DURING PASSAGE
HEARING *no*
VETO *no*

YES NO
YES NO

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Chapter 78
March 21, 1968

SENATE, No. 455

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1968

By Senators WHITE, MILLER, KAY, DUMONT, H. A. KELLY,
ITALIANO, SEARS and MARAZITI

Referred to Committee on Law, Public Safety and Defense

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 re-employment 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 has been nationally recognized that because of the emer-
2 gent conditions which are threatening the peace and imperiling the
3 security of the nation, there is imperative need to augment and
4 strengthen the national defense. It is further recognized that the
5 emergent conditions which endanger the national well-being like-
6 wise constitute an imminent threat and hazard to the peace and
7 security of the people of the State. Moreover, it is acknowledged
8 that the exigencies of national defense require that the people of
9 the State, in large numbers, be called into military service, and
10 as a consequence, the health, prosperity and welfare of all of the
11 people of the State is inevitably affected.

12 In these circumstances, and in order to promote and to assist
13 the national defense, and thereby to protect the peace, prosperity
14 and health of the people of the State, it is necessary that citizens
15 and residents of the State in the military service as well as those
16 who are members of the organized militia or of a reserve component
17 of the Armed Forces of the United States should be free to devote
18 their entire energy and effort to the defense needs of the nation
19 and of the State. To assist in this end, it is essential to provide
20 in certain cases for the temporary suspension of legal proceedings
21 and transactions which may prejudice the civil rights of persons

22 in the military service. It is further essential in the interests of
 23 the prosperity and well-being of the people of the State, that such
 24 persons, upon completion of military service, be restored to their
 25 former employment.

26 In the interpretation and application of this act, it is hereby
 27 declared to be the public policy of the State to maintain, secure
 28 and protect the civil and property rights of persons in the military
 29 service, as hereinafter defined, and of employees who are members
 30 of the organized militia or members of a reserve component of the
 31 Armed Forces of the United States.

32 The Legislature hereby declares the existence of a public emer-
 33 gency affecting the health, safety and comfort of the people, re-
 34 quiring the enactment of the provisions of this act to protect the
 35 vital interests of the State.

36 All the provisions of this act shall be liberally construed for
 37 the accomplishment of this purpose.

38 This act shall be deemed an exercise of the police power of the
 39 State, for the protection of the public welfare, prosperity, health
 40 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
8 military 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 therefore 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 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
25 period of military service, or within 3 months thereafter, unless
26 upon an order of sale previously granted by the court and a re-
27 turn thereto made and approved by the court.

28 d. Any person shall knowingly cause to be made any sale, fore-
29 closure 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 3 disinterested parties to appraise the property and, based
7 upon the report of the appraisers, order such sum, if any, as may
8 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
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
10 include any contract of life insurance on the level premium or
11 legal reserve plan. It shall also include any benefit in the nature
12 of life insurance arising out of membership in any fraternal or
13 beneficial association. In no case, however, shall the term "policy"
14 include insurance exceeding a total face value of \$5,000.00 whether
15 in one or more companies. The term "premium" shall include
16 membership dues or assessments in such association, and the date
17 of 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 re-employment 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 re-employment within 10 days after
24 completion of such temporary period of service; provided that no
25 such person shall be intitled 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 provisions 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
50 after 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

60 shall advance it on the calendar. Any person claiming to be en-
61 titled to the benefits of the provisions of this section may appear
62 and be represented by counsel, or, upon application to the Attor-
63 ney 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 United States or by an officer of the applicable force of the
4 organized militia shall, when produced, be prima facie evidence
5 of the facts therein certified and of the authority of the signer
6 to issue the same.

7 b. When a person in military service has been reported missing
8 he shall be presumed to continue in such service until accounted
9 for, and no period herein limited which begins or ends with the
10 death of such person shall begin or end until the death of such
11 person is in fact reported to or proved by the applicable force of
12 the Armed Forces of the United States or of the organized militia,
13 or until such death is proved by a court of competent jurisdiction;
14 provided, that no period herein limited which begins or ends with
15 the death of such person shall be extended beyond a period of 6
16 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 obliga-
14A tion during the applicant's period of military service and,
15 from the date of termination of such period of military serv-
16 ice or from the date of application if made after such service,
17 for a period equal to the period of the remaining life of the in-
18 stallment contract or other instrument plus a period of time equal
19 to the period of military service of the applicant, or any part of
20 such combined period, subject to payment of the balance of princi-
21 pal and accumulated interest due and unpaid at the date of term-
22 ination of the period of military service or from the date of
23 application, as the case may be, in equal installments during such
24 combined period at such rate of interest on the unpaid balance as
25 is prescribed in such contract, or other instrument evidencing
26 the obligation, for installments paid when due, and subject to such
27 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 effect, 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
7 operation to the clause, sentence, paragraph, section or part there-
8 of 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 July 1, 1970;
2 provided, that wherever in any section or provision of this act a
3 proceeding, remedy, privilege, stay, limitation, accounting or other
3A transaction has been authorized or provided with respect to mili-
4 tary service performed prior to the date herein fixed for the
5 termination of this act, such section or provision shall be deemed
6 to continue in full force and effect so long as may be necessary
7 for the exercise or enjoyment of such proceeding, remedy, priv-
8 ilege, stay, limitation, accounting or other transaction.

1 27. This act shall be known and may be cited and referred to
2 as the "New Jersey Soldiers' and Sailors' Civil Relief Act of
3 1968."

1 28. This act shall take effect immediately.