

LEGISLATIVE BILL 682

Approved by the Governor April 11, 2018

Introduced by Blood, 3; Brewer, 43; Crawford, 45.

A BILL FOR AN ACT relating to servicemembers; to define terms; to provide consumer protection and civil relief as prescribed; and to provide a duty for the National Guard.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 1 to 4 of this act:

(1) Military service means:

(a) In the case of a servicemember who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

(i) Full-time training duty;

(ii) Annual training duty; and

(iii) Attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(b) In the case of a member or reserve member of the Nebraska National Guard, service under a call to active service or duty authorized by:

(i) The President of the United States or the Secretary of Defense for a period of more than thirty days in response to a national emergency declared by the President of the United States; or

(ii) The Governor for a period of more than thirty consecutive days;

(c) In the case of a servicemember who is a commissioned officer of the United States Public Health Service or the National Oceanic and Atmospheric Administration, active service; or

(d) Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause; and

(2) Servicemember means an individual engaged in military service.

Sec. 2. (1) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included under the federal Servicemembers Civil Relief Act, a servicemember may terminate a contract described in subsection (2) of this section at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety days to a location that is not included in or covered under the contract.

(2) This section applies to any contract to provide:

(a) Telecommunications services;

(b) Internet services;

(c) Television services;

(d) Athletic club or gym memberships;

(e) Satellite radio services; or

(f) A lease of residential rental property, notwithstanding any provision to the contrary in the Uniform Residential Landlord and Tenant Act or any other provision of law, if the servicemember is required to move into government-owned or leased housing. This subdivision does not apply to a lease of residential rental property in which a spouse of a servicemember is a tenant in such residential rental property and government-owned or leased housing is not available to such spouse.

(3) Termination of a contract must be made by delivery of a written or electronic notice of the termination and a copy of the servicemember's military orders to the service provider or lessor.

(4) For any contract terminated under this section, the service provider or lessor under the contract shall not impose an early termination charge.

(5) Any tax or any other obligation or liability of the servicemember that, in accordance with the terms of the contract, is due and unpaid at the time of termination of the contract shall be paid by the servicemember.

(6) If after termination provided under this section the servicemember resubscribes to a service provided under a contract described in subdivisions (2)(a) through (e) of this section or reenters into a lease under a contract described in subdivision (2)(f) of this section during the ninety-day period immediately following the servicemember's return from service, the service provider or lessor may not impose any service fees or charges other than the usual and customary fees and charges imposed on any other subscriber for the installation or acquisition of customer equipment or imposed on any other lessee for the rental of residential real property. A servicemember may not be charged a penalty, fee, loss of deposit, or any other additional cost because of such termination, resubscription, or rental.

(7) Not later than sixty days after the effective date of the termination of a contract described in subsection (2) of this section, the service provider or lessor under the contract shall refund to the servicemember all fees or charges paid for services or rental that extend past the termination date of the contract. Upon the termination of a rental agreement described in subdivision (2)(f) of this section, the servicemember is entitled to the return of any deposit or prepaid rent subject to section 76-1416.

(8) In the case of a rental agreement described in subdivision (2)(f) of

this section that provides for monthly payment of rent, termination of the rental agreement is effective thirty days after the first date on which the next rental payment is due and payable after the date on which the notice of termination under subsection (3) of this section is delivered. In the case of any other rental agreement described in subdivision (2)(f) of this section, termination of the rental agreement is effective on the last day of the month following the month in which the notice of termination is delivered.

(9) This section shall not be construed so as to impair or affect the obligation of any lawful contract in existence prior to the effective date of this act.

Sec. 3. (1) A civil action may be brought in any court with jurisdiction by the Attorney General against any person that knowingly or intentionally violates any provision of section 2 of this act. The court may:

(a) Issue an injunction;

(b) Order the person to make a payment of money unlawfully received from, or required to be refunded to, one or more servicemembers;

(c) Order the person to pay to the state the reasonable costs of the Attorney General's investigation and prosecution related to the action; and

(d) Order the person to pay a civil penalty not greater than five thousand dollars per violation.

(2) Relief may not be granted under subsection (1) of this section if relief for the violation has already been granted under the federal Servicemembers Civil Relief Act.

Sec. 4. The Nebraska National Guard shall provide to its members a list of their rights under sections 2 and 3 of this act and under the federal Servicemembers Civil Relief Act.