

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

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

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

7 Section 5. Definition. In this Act:

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

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

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

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

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

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

25 (1) thirty days after the service member who is
26 deployed on active duty or the service member's spouse
27 gives notice by certified mail, return receipt requested,
28 of the intention to terminate the cellular phone contract
29 together with a copy of the military or gubernatorial
30 orders calling the service member to active duty and of any

1 orders further extending the service member's period of
2 active duty; and

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

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

13 (20 ILCS 405/405-272 new)

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

16 (a) In this Section:

17 "Active duty" means active duty pursuant to an executive
18 order of the President of the United States, an act of the
19 Congress of the United States, or an order of the Governor.

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

24 "Service member" means a member of the armed services or
25 reserve forces of the United States or a member of the Illinois
26 National Guard.

27 (b) The Department may enter into a contract to purchase
28 bulk long distance telephone services and make them available
29 at cost, or may make bulk long distance telephone services
30 available at cost under any existing contract the Department
31 has entered into, to persons in the immediate family of service
32 members deployed on active duty so that those persons in the
33 service members' families can communicate with the service
34 members so deployed. If the Department enters into a contract

1 under this Section, it shall do so in accordance with the
2 Illinois Procurement Code and in a nondiscriminatory manner
3 that does not place any potential vendor at a competitive
4 disadvantage.

5 (c) In order to be eligible to use bulk long distance
6 telephone services purchased by the Department under this
7 Section, a service member or person in the service member's
8 immediate family must provide the Department with a copy of the
9 military or gubernatorial orders calling the service member to
10 active duty and of any orders further extending the service
11 member's period of active duty.

12 (d) If the Department enters into a contract under this
13 Section, the Department shall adopt rules as necessary to
14 implement this Section.

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

17 (65 ILCS 5/11-117-12.2 new)

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

20 (a) In this Section:

21 "Active duty" means active duty pursuant to an executive
22 order of the President of the United States, an act of the
23 Congress of the United States, or an order of the Governor.

24 "Service member" means a member of the armed services or
25 reserve forces of the United States or a member of the Illinois
26 National Guard.

27 (b) No municipality owning a public utility shall stop gas
28 or electricity from entering the residential premises of which
29 a service member was a primary occupant immediately before the
30 service member was deployed on active duty for nonpayment for
31 gas or electricity supplied to the residential premises.

32 (c) Upon the return from active duty of a residential
33 consumer who is a service member, the municipality shall offer
34 the residential consumer a period equal to at least the period

1 of the residential consumer's deployment on active duty to pay
2 any arrearages incurred during the period of the residential
3 consumer's deployment. The municipality shall inform the
4 residential consumer that, if the period the municipality
5 offers presents a hardship to the consumer, the consumer may
6 request a longer period to pay the arrearages.

7 (d) In order to be eligible for the benefits granted to
8 service members under this Section, a service member must
9 provide the municipality with a copy of the military or
10 gubernatorial orders calling the service member to active duty
11 and of any orders further extending the service member's period
12 of active duty.

13 Section 905. The Illinois Insurance Code is amended by
14 adding Section 224.05 as follows:

15 (215 ILCS 5/224.05 new)

16 Sec. 224.05. Military personnel on active duty; no lapse of
17 life insurance policy.

18 (a) Except as provided in subsection (b), this Section
19 shall apply to any individual life insurance policy insuring
20 the life of a member of the armed services or reserve forces of
21 the United States or a member of the Illinois National Guard
22 who is on active duty pursuant to an executive order of the
23 President of the United States, an act of the Congress of the
24 United States, or an order of the Governor, if the life
25 insurance policy meets both of the following conditions:

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

27 (2) The policy has been brought within the
28 "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003),
29 50 U.S.C. App. 541 and following.

30 (b) This Section does not apply to any policy that was
31 cancelled or that had lapsed for the nonpayment of premiums
32 prior to the commencement of the insured's period of military
33 service.

34 (c) An individual life insurance policy described in this

1 Section shall not lapse or be forfeited for the nonpayment of
2 premiums during the military service of a member of the armed
3 services or reserve forces of the United States or a member of
4 the Illinois National Guard or during the 2-year period
5 subsequent to the end of the member's period of military
6 service.

7 (d) In order to be eligible for the benefits granted to
8 service members under this Section, a service member must
9 provide the life insurance company with a copy of the military
10 or gubernatorial orders calling the service member to active
11 duty and of any orders further extending the service member's
12 period of active duty.

13 (e) This Section does not limit a life insurance company's
14 enforcement of provisions in the insured's policy relating to
15 naval or military service in time of war.

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

18 (220 ILCS 5/8-201.5 new)

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

21 (a) In this Section:

22 "Active duty" means active duty pursuant to an executive
23 order of the President of the United States, an act of the
24 Congress of the United States, or an order of the Governor.

25 "Service member" means a member of the armed services or
26 reserve forces of the United States or a member of the Illinois
27 National Guard.

28 (b) No company or electric cooperative shall stop gas or
29 electricity from entering the residential premises of which a
30 service member was a primary occupant immediately before the
31 service member was deployed on active duty for nonpayment for
32 gas or electricity supplied to the residential premises.

33 (c) In order to be eligible for the benefits granted to
34 service members under this Section, a service member must

1 provide the company or electric cooperative with a copy of the
2 military or gubernatorial orders calling the service member to
3 active duty and of any orders further extending the service
4 member's period of active duty.

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

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

21 (735 ILCS 5/9-107.10 new)

22 Sec. 9-107.10. Military personnel on active duty; action
23 for possession.

24 (a) In this Section:

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

28 "Service member" means a member of the armed services or
29 reserve forces of the United States or a member of the Illinois
30 National Guard.

31 (b) In an action for possession of residential premises of
32 a tenant, including a tenant who is a resident of a mobile home
33 park, who is a service member deployed on active duty, or of
34 any member of the tenant's family who resides with the tenant,

1 if the tenant entered into the rental agreement on or after the
2 effective date of this amendatory Act of the 94th General
3 Assembly, the court may, on its own motion, and shall, upon
4 motion made by or on behalf of the tenant, do either of the
5 following if the tenant's ability to pay the agreed rent is
6 materially affected by the tenant's deployment on active duty:

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

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

12 (c) In order to be eligible for the benefits granted to
13 service members under this Section, a service member or a
14 member of the service member's family who resides with the
15 service member must provide the landlord or mobile home park
16 operator with a copy of the military or gubernatorial orders
17 calling the service member to active duty and of any orders
18 further extending the service member's period of active duty.

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

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

24 (815 ILCS 205/4) (from Ch. 17, par. 6404)

25 Sec. 4. General interest rate.

26 (1) Except as otherwise provided in this Section 4.05, in
27 ~~In~~ all written contracts it shall be lawful for the parties to
28 stipulate or agree that 9% per annum, or any less sum of
29 interest, shall be taken and paid upon every \$100 of money
30 loaned or in any manner due and owing from any person to any
31 other person or corporation in this state, and after that rate
32 for a greater or less sum, or for a longer or shorter time,
33 except as herein provided.

34 The maximum rate of interest that may lawfully be

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

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

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

25 (a) Any loan made to a corporation;

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

32 (c) Any credit transaction between a merchandise
33 wholesaler and retailer; any business loan to a business
34 association or copartnership or to a person owning and
35 operating a business as sole proprietor or to any persons
36 owning and operating a business as joint venturers, joint

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

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

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

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

33 (g) Interest charged by a broker or dealer registered
34 under the Securities Exchange Act of 1934, as amended, or
35 registered under the Illinois Securities Law of 1953,
36 approved July 13, 1953, as now or hereafter amended, on a

1 debit balance in an account for a customer if such debit
2 balance is payable at will without penalty and is secured
3 by securities as defined in Uniform Commercial
4 Code-Investment Securities;

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

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

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

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

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

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

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

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

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

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

29 (3) In any contract or loan which is secured by a mortgage,
30 deed of trust, or conveyance in the nature of a mortgage, on
31 residential real estate, the interest which is computed,
32 calculated, charged, or collected pursuant to such contract or
33 loan, or pursuant to any regulation or rule promulgated
34 pursuant to this Act, may not be computed, calculated, charged
35 or collected for any period of time occurring after the date on
36 which the total indebtedness, with the exception of late

1 payment penalties, is paid in full.

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

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

32 (815 ILCS 205/4.05 new)

33 Sec. 4.05. Military personnel on active duty; limitation on
34 interest rate.

35 (a) In this Section:

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

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

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

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

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

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

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

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

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

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

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

20 (815 ILCS 636/37 new)

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

23 (a) In this Act:

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

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

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

34 (b) Any service member who is deployed on active duty for a

1 period of not less than 180 days, or the spouse of that service
2 member, may terminate any motor vehicle lease that meets both
3 of the following requirements:

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

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

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

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

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

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

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

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

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