



Sen. Dave Sullivan

Filed: 4/11/2005

09400SB2060sam002

SRS094 00022 SDF 30023 a

1 AMENDMENT TO SENATE BILL 2060

2 AMENDMENT NO. _____. Amend Senate Bill 2060 by replacing
3 everything after the enacting clause with the following:

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

6 Section 5. Definition. In this Act:

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

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

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

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

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

22 Section 15. Effective date of termination. Termination of

1 the cellular phone contract shall not be effective until:

2 (1) thirty days after the service member who is
3 deployed on active duty or the service member's spouse
4 gives notice by certified mail, return receipt requested,
5 of the intention to terminate the cellular phone contract
6 together with a copy of the military or gubernatorial
7 orders calling the service member to active duty and of any
8 orders further extending the service member's period of
9 active duty; and

10 (2) unless the service member who is deployed on active
11 duty owns the cellular phone, the cellular phone is
12 returned to the custody or control of the cellular
13 telephone company, or the service member who is deployed on
14 active duty or the service member's spouse agrees in
15 writing to return the cellular phone as soon as practical
16 after the deployment is completed.

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

20 (20 ILCS 405/405-272 new)

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

23 (a) In this Section:

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

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

1 National Guard.

2 (b) The Department may enter into a contract to purchase
3 bulk long distance telephone services and make them available
4 at cost, or may make bulk long distance telephone services
5 available at cost under any existing contract the Department
6 has entered into, to persons in the immediate family of service
7 members deployed on active duty so that those persons in the
8 service members' families can communicate with the service
9 members so deployed. If the Department enters into a contract
10 under this Section, it shall do so in accordance with the
11 Illinois Procurement Code and in a nondiscriminatory manner
12 that does not place any potential vendor at a competitive
13 disadvantage.

14 (c) In order to be eligible to use bulk long distance
15 telephone services purchased by the Department under this
16 Section, a service member or person in the service member's
17 immediate family must provide the Department with a copy of the
18 military or gubernatorial orders calling the service member to
19 active duty and of any orders further extending the service
20 member's period of active duty.

21 (d) If the Department enters into a contract under this
22 Section, the Department shall adopt rules as necessary to
23 implement this Section.

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

26 (65 ILCS 5/11-117-12.2 new)

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

29 (a) In this Section:

30 "Active duty" means active duty pursuant to an executive
31 order of the President of the United States, an act of the
32 Congress of the United States, or an order of the Governor.

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

4 (b) No municipality owning a public utility shall stop gas
5 or electricity from entering the residential premises of which
6 a service member was a primary occupant immediately before the
7 service member was deployed on active duty for nonpayment for
8 gas or electricity supplied to the residential premises.

9 (c) Upon the return from active duty of a residential
10 consumer who is a service member, the municipality shall offer
11 the residential consumer a period equal to at least the period
12 of the residential consumer's deployment on active duty to pay
13 any arrearages incurred during the period of the residential
14 consumer's deployment. The municipality shall inform the
15 residential consumer that, if the period the municipality
16 offers presents a hardship to the consumer, the consumer may
17 request a longer period to pay the arrearages.

18 (d) In order to be eligible for the benefits granted to
19 service members under this Section, a service member must
20 provide the municipality with a copy of the military or
21 gubernatorial orders calling the service member to active duty
22 and of any orders further extending the service member's period
23 of active duty.

24 Section 905. The Illinois Insurance Code is amended by
25 adding Section 224.05 as follows:

26 (215 ILCS 5/224.05 new)

27 Sec. 224.05. Military personnel on active duty; no lapse of
28 life insurance policy.

29 (a) Except as provided in subsection (b), this Section
30 shall apply to any individual life insurance policy insuring
31 the life of a member of the armed services or reserve forces of
32 the United States or a member of the Illinois National Guard

1 who is on active duty pursuant to an executive order of the
2 President of the United States, an act of the Congress of the
3 United States, or an order of the Governor, if the life
4 insurance policy meets both of the following conditions:

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

6 (2) The policy has been brought within the
7 "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003),
8 50 U.S.C. App. 541 and following.

9 (b) This Section does not apply to any policy that was
10 cancelled or that had lapsed for the nonpayment of premiums
11 prior to the commencement of the insured's period of military
12 service.

13 (c) An individual life insurance policy described in this
14 Section shall not lapse or be forfeited for the nonpayment of
15 premiums during the military service of a member of the armed
16 services or reserve forces of the United States or a member of
17 the Illinois National Guard or during the 2-year period
18 subsequent to the end of the member's period of military
19 service.

20 (d) In order to be eligible for the benefits granted to
21 service members under this Section, a service member must
22 provide the life insurance company with a copy of the military
23 or gubernatorial orders calling the service member to active
24 duty and of any orders further extending the service member's
25 period of active duty.

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

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

31 (220 ILCS 5/8-201.5 new)

32 Sec. 8-201.5. Military personnel on active duty; no

1 stoppage of gas or electricity; arrearage.

2 (a) In this Section:

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

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

9 (b) No company or electric cooperative shall stop gas or
10 electricity from entering the residential premises of which a
11 service member was a primary occupant immediately before the
12 service member was deployed on active duty for nonpayment for
13 gas or electricity supplied to the residential premises.

14 (c) In order to be eligible for the benefits granted to
15 service members under this Section, a service member must
16 provide the company or electric cooperative with a copy of the
17 military or gubernatorial orders calling the service member to
18 active duty and of any orders further extending the service
19 member's period of active duty.

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

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

3 (735 ILCS 5/9-107.10 new)

4 Sec. 9-107.10. Military personnel on active duty; action
5 for possession.

6 (a) In this Section:

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

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

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

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

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

28 (c) In order to be eligible for the benefits granted to
29 service members under this Section, a service member or a
30 member of the service member's family who resides with the
31 service member must provide the landlord or mobile home park
32 operator with a copy of the military or gubernatorial orders
33 calling the service member to active duty and of any orders

1 further extending the service member's period of active duty.

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

5 (e) This Section does not apply to landlords or mobile home
6 park operators operating less than 4 residential premises.

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

9 (815 ILCS 205/4) (from Ch. 17, par. 6404)

10 Sec. 4. General interest rate.

11 (1) Except as otherwise provided in this Act, in ~~in~~ all
12 written contracts it shall be lawful for the parties to
13 stipulate or agree that 9% per annum, or any less sum of
14 interest, shall be taken and paid upon every \$100 of money
15 loaned or in any manner due and owing from any person to any
16 other person or corporation in this state, and after that rate
17 for a greater or less sum, or for a longer or shorter time,
18 except as herein provided.

19 The maximum rate of interest that may lawfully be
20 contracted for is determined by the law applicable thereto at
21 the time the contract is made. Any provision in any contract,
22 whether made before or after July 1, 1969, which provides for
23 or purports to authorize, contingent upon a change in the
24 Illinois law after the contract is made, any rate of interest
25 greater than the maximum lawful rate at the time the contract
26 is made, is void.

27 It is lawful for a state bank or a branch of an
28 out-of-state bank, as those terms are defined in Section 2 of
29 the Illinois Banking Act, to receive or to contract to receive
30 and collect interest and charges at any rate or rates agreed
31 upon by the bank or branch and the borrower. It is lawful for a
32 savings bank chartered under the Savings Bank Act or a savings

1 association chartered under the Illinois Savings and Loan Act
2 of 1985 to receive or contract to receive and collect interest
3 and charges at any rate agreed upon by the savings bank or
4 savings association and the borrower.

5 It is lawful to receive or to contract to receive and
6 collect interest and charges as authorized by this Act and as
7 authorized by the Consumer Installment Loan Act and by the
8 "Consumer Finance Act", approved July 10, 1935, as now or
9 hereafter amended. It is lawful to charge, contract for, and
10 receive any rate or amount of interest or compensation with
11 respect to the following transactions:

12 (a) Any loan made to a corporation;

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

19 (c) Any credit transaction between a merchandise
20 wholesaler and retailer; any business loan to a business
21 association or copartnership or to a person owning and
22 operating a business as sole proprietor or to any persons
23 owning and operating a business as joint venturers, joint
24 tenants or tenants in common, or to any limited
25 partnership, or to any trustee owning and operating a
26 business or whose beneficiaries own and operate a business,
27 except that any loan which is secured (1) by an assignment
28 of an individual obligor's salary, wages, commissions or
29 other compensation for services, or (2) by his household
30 furniture or other goods used for his personal, family or
31 household purposes shall be deemed not to be a loan within
32 the meaning of this subsection; and provided further that a
33 loan which otherwise qualifies as a business loan within
34 the meaning of this subsection shall not be deemed as not

1 so qualifying because of the inclusion, with other security
2 consisting of business assets of any such obligor, of real
3 estate occupied by an individual obligor solely as his
4 residence. The term "business" shall be deemed to mean a
5 commercial, agricultural or industrial enterprise which is
6 carried on for the purpose of investment or profit, but
7 shall not be deemed to mean the ownership or maintenance of
8 real estate occupied by an individual obligor solely as his
9 residence;

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

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

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

22 (g) Interest charged by a broker or dealer registered
23 under the Securities Exchange Act of 1934, as amended, or
24 registered under the Illinois Securities Law of 1953,
25 approved July 13, 1953, as now or hereafter amended, on a
26 debit balance in an account for a customer if such debit
27 balance is payable at will without penalty and is secured
28 by securities as defined in Uniform Commercial
29 Code-Investment Securities;

30 (h) Any loan made by a participating bank as part of
31 any loan guarantee program which provides for loans and for
32 the refinancing of such loans to medical students, interns
33 and residents and which are guaranteed by the American
34 Medical Association Education and Research Foundation;

1 (i) Any loan made, guaranteed, or insured in accordance
2 with the provisions of the Housing Act of 1949, Subchapter
3 III of Chapter 8A of Title 42 of the United States Code and
4 the Consolidated Farm and Rural Development Act,
5 Subchapters I, II, and III of Chapter 50 of Title 7 of the
6 United States Code;

7 (j) Any loan by an employee pension benefit plan, as
8 defined in Section 3 (2) of the Employee Retirement Income
9 Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an
10 individual participating in such plan, provided that such
11 loan satisfies the prohibited transaction exemption
12 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108
13 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d)
14 (1)) of the Employee Retirement Income Security Act of
15 1974;

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

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

19 (m) Loans made by a sole proprietorship, partnership,
20 or corporation to an employee or to a person who has been
21 offered employment by such sole proprietorship,
22 partnership, or corporation made for the sole purpose of
23 transferring an employee or person who has been offered
24 employment to another office maintained and operated by the
25 same sole proprietorship, partnership, or corporation;

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

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

33 (a) Whenever the rate of interest exceeds 8% per annum
34 on any written contract, agreement or bond for deed

1 providing for the installment purchase of residential real
2 estate, or on any loan secured by a mortgage on residential
3 real estate, it shall be unlawful to provide for a
4 prepayment penalty or other charge for prepayment.

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

22 (3) In any contract or loan which is secured by a mortgage,
23 deed of trust, or conveyance in the nature of a mortgage, on
24 residential real estate, the interest which is computed,
25 calculated, charged, or collected pursuant to such contract or
26 loan, or pursuant to any regulation or rule promulgated
27 pursuant to this Act, may not be computed, calculated, charged
28 or collected for any period of time occurring after the date on
29 which the total indebtedness, with the exception of late
30 payment penalties, is paid in full.

31 For purposes of this Section, a prepayment shall mean the
32 payment of the total indebtedness, with the exception of late
33 payment penalties if incurred or charged, on any date before
34 the date specified in the contract or loan agreement on which

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

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

27 (815 ILCS 205/4.05 new)

28 Sec. 4.05. Military personnel on active duty; limitation on
29 interest rate.

30 (a) In this Section:

31 "Active duty" means active duty pursuant to an executive
32 order of the President of the United States, an act of the
33 Congress of the United States, or an order of the Governor.

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

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

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

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

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

28 (e) In order for an obligation to be subject to the
29 interest and finance charges limitation of this Section, the
30 service member deployed on active duty, or the spouse of that
31 service member, shall provide the creditor with written notice
32 of and a copy of the military or gubernatorial orders calling
33 the service member to active duty and of any orders further
34 extending the service member's period of active duty, not later

1 than 180 days after the date of the service member's
2 termination of or release from active duty.

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

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

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

18 (815 ILCS 636/37 new)

19 Sec. 37. Military personnel on active duty; termination of
20 lease.

21 (a) In this Act:

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

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

32 (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

1 this Section may be modified as justice and equity require.

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