

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

H

2

HOUSE BILL 484\*  
Committee Substitute Favorable 4/6/17

Short Title: Servicemembers Civil Relief Act.

(Public)

Sponsors:

Referred to:

March 28, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE NORTH CAROLINA SERVICEMEMBERS CIVIL RELIEF  
3 ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 127B of the General Statutes is amended by adding a new  
6 Article to read:

7 "Article 4.

8 "Servicemembers Civil Relief Act.

9 **"§ 127B-25. Title.**

10 This Article may be cited as the North Carolina Servicemembers Civil Relief Act.

11 **"§ 127B-26. Purpose.**

12 This Article is intended to expand and supplement the rights, benefits, and protections of  
13 the federal Servicemembers Civil Relief Act, 50 U.S.C. § 3901, et seq. Nothing in this Article  
14 shall be construed as a restriction or limitation on any of the rights, benefits, and protections  
15 granted to a servicemember under federal law.

16 **"§ 127B-27. Definitions.**

17 The following definitions apply in this Article:

18 (1) Dependent. – Any of the following:

19 a. The servicemember's spouse.

20 b. The servicemember's child as defined in 50 U.S.C. § 3911(4).

21 c. An individual for whom the servicemember provided more than  
22 one-half of the individual's support for 180 days immediately  
23 preceding an application for relief under this Article.

24 (2) Military order. – Official military orders, or any notification, certification, or  
25 verification from the servicemember's commanding officer, with respect to  
26 the servicemember's current or future military duty status. In the case of a  
27 member of the North Carolina National Guard, the term order shall include  
28 an order from the Governor pursuant to Chapter 127A of the General  
29 Statutes and, in the case of a member of the National Guard of another state,  
30 shall include an order from the governor of that state.

31 (3) Military service. – Any of the following:

32 a. As defined in 50 U.S.C. § 3911(2).

33 b. In the case of a member of the North Carolina National Guard, State  
34 active duty under an order of the Governor pursuant to Chapter 127A  
35 of the General Statutes, for a period of more than 30 consecutive  
36 days.



\* H 4 8 4 - V - 2 \*

1           c.     In the case of a member of the National Guard of another state,  
2                 service under an order of the governor of that state, which is similar  
3                 to State active duty, for a period of more than 30 consecutive days.

4           (4)   Servicemember. – A member in military service as defined in subdivision  
5                 (3) of this section.

6    **"§ 127B-28. Expansion of federal Servicemembers Civil Relief Act.**

7           The rights, benefits, and protections of the federal Servicemembers Civil Relief Act, 50  
8    U.S.C. § 3901, et seq., apply to a servicemember engaged in military service. However, in the  
9    case of a servicemember engaged in military service under G.S. 127B-27(3)b. or c., a person is  
10   not subject to the remedies or penalties of this Article unless the servicemember gives to the  
11   person a written or electronic copy of the order to military service. A violation of the federal  
12   Servicemembers Civil Relief Act, as expanded by this section, is a violation of this Article.

13   **"§ 127B-29. Termination of contract upon receipt of military order; requirements.**

14           (a)   Termination of Contract. – In addition to the rights and protections regarding  
15   consumer transactions, contracts, and service providers provided to a servicemember under  
16   Subchapter III of Chapter 50 of Title 50 of the United States Code, a servicemember may  
17   terminate a contract described in subsection (b) of this section at any time after the date the  
18   servicemember receives an order to relocate for a period of military service of at least 90 days  
19   to a location that does not support the contract.

20           (b)   Applicability. – This section applies to a prepaid entertainment contract as defined  
21   in G.S. 66-118(3). This section also applies to a contract to provide any of the following  
22   services:

23                 (1)   Telecommunication service.

24                 (2)   Internet service.

25                 (3)   Television service.

26                 (4)   Satellite radio service.

27           (c)   Notices. – A servicemember shall give to the service provider under the contract  
28   written or electronic notice of the termination and a written or electronic copy of the order to  
29   relocate. If a servicemember terminates a contract, the service provider shall give to the  
30   servicemember written or electronic notice of the servicemember's rights posted on the North  
31   Carolina National Guard's Web site pursuant to G.S. 127A-65.

32           (d)   No Early Termination Charge. – For any contract terminated under this section, the  
33   service provider shall not impose an early termination charge.

34           (e)   Refund. – Not later than 60 days after the termination date of the contract, the  
35   service provider shall refund to the servicemember any fee paid for a service that extends  
36   beyond the termination date of the contract.

37           (f)   Unpaid Obligation. – Any tax, liability, or other obligation due and unpaid at the  
38   time of the termination remains the obligation of the servicemember.

39           (g)   Resubscription. – If the servicemember resubscribes to the service provided under  
40   the contract, the service provider shall not impose any charge or fee, other than the usual and  
41   customary charges and fees for the installation or acquisition of customer equipment imposed  
42   on any other subscriber.

43   **"§ 127B-30. Action by Attorney General.**

44           (a)   Civil Action. – The Attorney General may commence a civil action, including  
45   actions under Chapter 75 of the General Statutes, against any person that violates any provision  
46   of this Article.

47           (b)   Remedies. – The court may order any of the following remedies:

48                 (1)   Injunction.

49                 (2)   Payment of restitution to a servicemember in the amount of money  
50                 unlawfully received from, or required to be refunded to, the servicemember.

51                 (3)   Any other remedy provided under Chapter 75 of the General Statutes.

1       (c) Civil Penalty. – The court may assess a civil penalty not to exceed five thousand  
2 dollars (\$5,000) per violation. The clear proceeds of civil penalties imposed pursuant to this  
3 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with  
4 G.S. 115C-457.2.

5 **"§ 127B-31. Private right of action.**

6       (a) Civil Action. – A servicemember aggrieved by a person's violation of any provision  
7 of this Article may commence a civil action against that person.

8       (b) Remedies. – The court may order any of the following remedies:

9           (1) Injunction.

10          (2) Payment of restitution to a servicemember in the amount of money  
11 unlawfully received from, or required to be refunded to, the servicemember.

12          (3) Damages.

13          (4) Any other remedy provided under Chapter 75 of the General Statutes.

14       (c) Costs. – A servicemember who prevails in an action under this section may recover  
15 attorneys' fees and court costs.

16 **"§ 127B-32. No waiver.**

17       This Article supersedes any agreement that reduces, limits, or eliminates any right or  
18 benefit provided by this Article.

19 **"§ 127B-33. Violations are unfair or deceptive trade practice.**

20       A violation of this Article is an unfair or deceptive trade practice for purposes of Chapter 75  
21 of the General Statutes."

22       **SECTION 2.** Article 3 of Chapter 127A of the General Statutes is amended by  
23 adding a new section to read:

24 **"§ 127A-65. List of rights; posting.**

25       The North Carolina National Guard shall post on its Web site a list of the rights a  
26 servicemember or a dependent of a servicemember has under the North Carolina  
27 Servicemembers Civil Relief Act and under the federal Servicemembers Civil Relief Act, 50  
28 U.S.C. § 3901, et seq."

29       **SECTION 3.** If any section or provision of this act is declared unconstitutional or  
30 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
31 the part declared unconstitutional or invalid.

32       **SECTION 4.** This act becomes effective October 1, 2017, and applies to contracts  
33 entered into, renewed, or modified on or after that date.