

SOLDIERS AND SAILORS RELIEF ACT
Summary of Provisions
by
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To assist people who are citizen soldiers and who are currently in or are being called to active service and whose military obligations, due to this active service status, has affected his or her ability to pay their financial obligations.

To advise lenders that they are prohibited from taking certain foreclosure and seizure actions during and for six months following their active service. This act advises lenders to reduce interest rates on mortgages, taxes, and loans to no more than 6% annually. Military renters cannot be evicted from their property or have any type of repercussion for terminating a lease. The monthly rent has to be under \$1,200 per month.

When must the debt have occurred to qualify under the Act?

*The debt must have occurred **prior** to “active service.”*

Define “active service”?

A person (i.e., career serviceman and service women) in the military is in active service. A person in the Reserves is not in active service until mobilized for active service. It does not have to be wartime.

Can a serviceman or servicewoman still be sued to collect a debt while in active service?

Yes. If the debt occurred after active service began it is not protected under this Act.

If the debt occurred prior to active service and the creditor believes that the fact that the obligations of the person is in active military service does not affect the service person=s ability to pay the debt. The burden to prove that fact is on the creditor. If there were a dispute of fact on the ability to pay the debt, the court would decide. If a military person in active service faces this situation, they should seek legal counsel.

What ownership criteria must be met for a person in active military service to qualify for the cap of 6% annual interest rate and prohibition of seizure and foreclosure of their real or personal property?

A. Owned by the serviceman or servicewoman

B. Occupied for dwelling, professional, business or agricultural purposes, by the person in military service or his or her dependents at the commencement of that person=s period of military service and still so occupied.

Does this cap at 6% annum interest continue after the date the active service ended?

No. The cap of 6% interest, in a majority of instances, ends the day active service is ended. However, military personnel have six months after active service has ended to pay the debt before certain foreclosure and seizure actions are initiated to collect the debt. The military person can also request relief from the proper court of jurisdiction.

If a person in active military service refinances their mortgage during active service are mortgage interest rates still capped at 6% per annum?

No. Refinance of a mortgage is new debt made while on active duty. Remember, the debt had to have been incurred prior to active service to qualify under the Act.

If a military person owns property and the local government, where the property is located, charges a 1% admin fee on taxes, must they lower the admin fee to comply with the 6% per annum calculation?

No. A local unit=s 1% administration fee and the county treasurer=s 4% administration fee on delinquent taxes remain the same.

A local government unit charges a 3% penalty for payments made after February 14. If a person in active military service pays their taxes after February 14, can they be charged that penalty?

No. The Act specifies that no other penalty or interest can be charged beyond the 6% annual rate.

Does the 6% per annum interest become retroactive once the person is called up for active duty?

No.

Example: The local unit issues a July tax bill on July 1 (summer taxes) and a winter tax bill on December 1. For payments made on and after September 15, the unit assesses 1% per interest month for each month the tax remains unpaid. For taxes remaining due on February 15, the local unit assesses a 3% interest penalty.

The military person owes their 2002 property taxes. He/she was called up for active service on December 15 of 2002. His active service ended on July 3, 2003. As of the date his active service ended the 2001 taxes remain unpaid.

The local unit can charge 1% interest on the unpaid summer tax bill in September, October, November & December. On January 1, the interest would be reduced to 1/2% and would continue to be charged at 1/2% in February. The local unit would be prohibited from charging the 3% winter penalty interest.

Local Unit Charges = base tax

2002 Base tax

1% admin fee on base tax

1% interest per month for September through December = 4% of base tax

January & February 2 % interest = 1% of base tax

The military person still has not paid his/her 2002 property taxes by March 1, 2003. The base tax is turned over delinquent to the County Treasurer.

The County Treasurer will add to the local unit "base tax":

March 1, 2003 4% administration fee

March 1 to July 31, 2003(active serviced ended July 3) 2 % interest per month

August 1, 2003 until paid 1% interest per month.

(Interest is only charged on the sum of the base tax turned over from the local unit to the County Treasurer on March 1.)

If a military person on active duty owns a business and he/she cannot pay personal property tax, can the local unit treasurer seize the property or take any other action to collect the debt?

No. If the local unit has approved adding interest to delinquent personal property taxes, that interest is capped at the 6% annual rate. No other collection action can commence until six months after the active service has ended.

How does a person in active military service sign up for property tax protection under the Act?

The person on active military duty should request form L-4169, fill it out and return it to the lending institution and/or to the local unit treasurer for real and personal property taxes. If the military person currently owes delinquent tax years, a form must be transmitted to the County Treasurer. Forms are available at the Office of the Midland County Treasurer or Midland County Veteran Services.

A military person called to active service was unable to pay his/her 2002 property taxes. Is there any other help available to waive interest besides the 6% annual interest cap?

Yes. Per policy of the Board of Commissioners, the County Treasurer will waive all interest and administration fee (4%) for six months for anyone who owns property in Midland County and is called up to active service. For this interest waiver, the person in the military does not have to occupy the property, they only have to be an owner of the property and the property must be located in Midland County. To qualify please request a form from the Office of the County Treasurer.

A military person called to active service currently has delinquent property taxes that are subject to forfeiture and foreclosure by the County Treasurer. What should he/she do?

Immediately contact the County Treasurer. The law prohibits forfeiture and foreclosure action if the debt was created prior to a military person being called to active service. County Treasurers have no sure way to locate those persons in the military unless we are notified by the individual or a member of their family. We can get a list of those persons called up to active service but the list does not indicate if the person owns property in Midland County or if they own property where that property is located.

All property owners, beginning in 2003, will have a summer tax bill. A military person believes he/she will still be on active duty on July 1, 2003 when the tax will be levied. What should the military person do?

If the property is owned and occupied by the person in the military or his/her dependents on July 1, 2003 and due to his/her active service status he/she is unable to meet their financial obligations due, the military person needs to notify the local unit treasurer, where the property is located, of their active service status. If the local unit treasurer is not notified, they will have no way to know that the military person would qualify under this act.

I still have more questions. Where can I go to get the answers?

The best way to get correct answers to your questions is to contact your military support personnel. They will be able to get you in contact with the right person to answer your questions.