

SUBCHAPTER VI—ADMINISTRATIVE  
REMEDIES

**§ 4011. Inappropriate use of chapter**

If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this chapter, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

(Oct. 17, 1940, ch. 888, title VI, §601, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2859.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 581 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 601 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1190; Jan. 20, 1942, ch. 10, §§1, 2, 56 Stat. 10; Pub. L. 102-12, §9(26), Mar. 18, 1991, 105 Stat. 41, related to certificates of service and persons reported missing, prior to the general amendment of this Act by Pub. L. 108-189. See section 4012 of this title.

Provisions similar to this section were contained in section 600 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1190; Pub. L. 102-12, §9(25), Mar. 18, 1991, 105 Stat. 41, prior to the general amendment of this Act by Pub. L. 108-189.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

**§ 4012. Certificates of service; persons reported missing**

**(a) Prima facie evidence**

In any proceeding under this chapter, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

- (1) That a person named is, is not, has been, or has not been in military service.
- (2) The time and the place the person entered military service.
- (3) The person's residence at the time the person entered military service.
- (4) The rank, branch, and unit of military service of the person upon entry.
- (5) The inclusive dates of the person's military service.
- (6) The monthly pay received by the person at the date of the certificate's issuance.
- (7) The time and place of the person's termination of or release from military service, or the person's death during military service.

**(b) Certificates**

The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

**(c) Treatment of servicemembers in missing status**

A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this chapter that begins or ends with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

(Oct. 17, 1940, ch. 888, title VI, §602, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2859.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 582 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 602 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191, related to revocation of interlocutory orders, prior to the general amendment of this Act by Pub. L. 108-189. See section 4013 of this title.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

**§ 4013. Interlocutory orders**

An interlocutory order issued by a court under this chapter may be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

(Oct. 17, 1940, ch. 888, title VI, §603, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2860.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 583 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 603 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191, related to separability, prior to the general amendment of this Act by Pub. L. 108-189.

Prior sections 604 and 605 of act Oct. 17, 1940, ch. 888, were omitted in the general amendment of this Act by Pub. L. 108-189.

Section 604 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191; Pub. L. 102-12, §9(27), Mar. 18, 1991, 105 Stat. 41, related to termination date.

Section 605 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1191, related to the inapplicability of act Mar. 8, 1918, ch. 20, 40 Stat. 440, to military service performed after Oct. 17, 1940.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

## SUBCHAPTER VII—FURTHER RELIEF

**§ 4021. Anticipatory relief****(a) Application for relief**

A servicemember may, during military service or within 180 days of termination of or release from military service, apply to a court for relief—

- (1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or
- (2) from a tax or assessment falling due before or during the servicemember's military service.

**(b) Tax liability or assessment**

In a case covered by subsection (a), the court may, if the ability of the servicemember to comply with the terms of such obligation or liability or pay such tax or assessment has been materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

**(1) Stay of enforcement of real estate contracts**

(A) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, the court may grant a stay of the enforcement of the obligation—

- (i) during the servicemember's period of military service; and
- (ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

(B) Any stay under this paragraph shall be—

- (i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and
- (ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument evidencing the obligation, and subject to other terms as may be equitable.

**(2) Stay of enforcement of other contracts**

(A) In the case of any other obligation, liability, tax, or assessment, the court may grant a stay of enforcement—

- (i) during the servicemember's military service; and
- (ii) from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

(B) Any stay under this paragraph shall be—

- (i) for a period of time equal to the period of the servicemember's military service or any part of such period; and
- (ii) subject to payment of the balance of principal and accumulated interest due and

unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

**(c) Affect<sup>1</sup> of stay on fine or penalty**

When a court grants a stay under this section, a fine or penalty shall not accrue on the obligation, liability, tax, or assessment for the period of compliance with the terms and conditions of the stay.

(Oct. 17, 1940, ch. 888, title VII, §701, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2860.)

**Editorial Notes****CODIFICATION**

Section was formerly classified to section 591 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

**PRIOR PROVISIONS**

A prior section 701 of act Oct. 17, 1940, ch. 888, art. VII, as added Pub. L. 92-540, title V, §504(2), Oct. 24, 1972, 86 Stat. 1098; amended Pub. L. 102-12, §3, Mar. 18, 1991, 105 Stat. 34, related to power of attorney, prior to the general amendment of this Act by Pub. L. 108-189. See section 4022 of this title.

Provisions similar to this section were contained in section 700 of act Oct. 17, 1940, ch. 888, art. VII, as added Oct. 6, 1942, ch. 581, §18, 56 Stat. 777, prior to the general amendment of this Act by Pub. L. 108-189.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

**§ 4022. Power of attorney****(a) Automatic extension**

A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in section 551(2) of title 37) if the power of attorney—

- (1) was duly executed by the servicemember—

(A) while in military service; or

(B) before entry into military service but after the servicemember—

(i) received a call or order to report for military service; or

(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

(2) designates the servicemember's spouse, parent, or other named relative as the servicemember's attorney in fact for certain, specified, or all purposes; and

(3) expires by its terms after the servicemember entered a missing status.

**(b) Limitation on power of attorney extension**

A power of attorney executed by a servicemember may not be extended under sub-

<sup>1</sup> So in original. Probably should be "Effect".