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HOUSE BILL 1056

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Kilduff, Muri, Appleton, Shea, Lovick, MacEwen, Stanford, and Reeves; by request of Attorney General

Prefiled 01/04/17.

1 AN ACT Relating to consumer protections for military service  
2 members on active duty; amending RCW 38.42.010, 38.42.130, and  
3 38.42.140; and adding a new section to chapter 38.42 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 38.42.010 and 2014 c 65 s 1 are each amended to read  
6 as follows:

7 The definitions in this section apply throughout this chapter,  
8 unless the context clearly requires otherwise.

9 (1) "Attorney general" means the attorney general of the state of  
10 Washington or any person designated by the attorney general to carry  
11 out a responsibility of the attorney general under this chapter.

12 (2) "Business loan" means a loan or extension of credit granted  
13 to a business entity that: (a) Is owned and operated by a service  
14 member, in which the service member is either (i) a sole proprietor,  
15 or (ii) the owner of at least fifty percent of the entity; and (b)  
16 experiences a material reduction in revenue due to the service  
17 member's military service.

18 (3) "Dependent" means:

19 (a) The service member's spouse;

20 (b) The service member's minor child; or

1 (c) An individual for whom the service member provided more than  
2 one-half of the individual's support for one hundred eighty days  
3 immediately preceding an application for relief under this chapter.

4 (4) "Financial institution" means an institution as defined in  
5 RCW ((30.22.041)) 30A.22.041.

6 (5) "Judgment" does not include temporary orders as issued by a  
7 judicial court or administrative tribunal in domestic relations cases  
8 under Title 26 RCW, including but not limited to establishment of a  
9 temporary child support obligation, creation of a temporary parenting  
10 plan, or entry of a temporary protective or restraining order.

11 (6) "Military service" means a service member:

12 (a) Under a call to active service authorized by the president of  
13 the United States or the secretary of defense for a period of more  
14 than thirty consecutive days; or

15 (b) Under a call to active service authorized by the governor  
16 under RCW 38.08.040 for a period of more than thirty consecutive  
17 days.

18 (7) "National guard" has the meaning in RCW 38.04.010.

19 (8) "Service member" means ((~~any resident of Washington state who~~  
20 ~~is a member of the national guard or member of a military reserve~~  
21 ~~component~~)) an active member of the United States armed forces, a  
22 member of a military reserve component, or a member of the national  
23 guard who is either stationed in or a resident of Washington state.

24 **Sec. 2.** RCW 38.42.130 and 2014 c 65 s 4 are each amended to read  
25 as follows:

26 (1) Any person aggrieved by a violation of this chapter may in a  
27 civil action:

28 (a) Obtain any appropriate equitable or declaratory relief with  
29 respect to the violation; and

30 (b) Recover all other appropriate relief, including monetary  
31 damages.

32 (2) The court may award to a person aggrieved by a violation of  
33 this chapter who prevails in an action brought under ((~~subsection~~  
34 ~~(1)(a) of~~)) this section the costs of the action, including  
35 reasonable attorneys' fees.

36 **Sec. 3.** RCW 38.42.140 and 2014 c 65 s 5 are each amended to read  
37 as follows:

1 (1) Civil proceedings to enforce this chapter may be brought by  
2 the attorney general against any person that:

3 (a) Engages in a pattern or practice of violating this chapter;  
4 or

5 (b) Engages in a violation of this chapter that raises an issue  
6 of significant public importance.

7 (2) In a civil action commenced under (~~subsection (1)(a) of~~)  
8 this section, the court may:

9 (a) Grant any appropriate equitable or declaratory relief,  
10 including costs and reasonable attorneys' fees, with respect to the  
11 violation of this chapter;

12 (b) Award all other appropriate relief, including monetary  
13 damages, to any person aggrieved by the violation; and

14 (c) (~~May~~) To vindicate the public interest, assess a civil  
15 penalty:

16 (i) In an amount not exceeding fifty-five thousand dollars for a  
17 first violation; and

18 (ii) In an amount not exceeding one hundred ten thousand dollars  
19 for any subsequent violation.

20 (3) Upon timely application, a person aggrieved by a violation of  
21 this chapter with respect to which the civil action is commenced may  
22 intervene in such an action and may obtain appropriate relief as the  
23 person could obtain in a civil action under RCW (~~38.42.120~~)  
24 38.42.130 with respect to that violation, along with costs and  
25 reasonable attorneys' fees.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 38.42  
27 RCW to read as follows:

28 (1) A service member may, upon written notice, including  
29 electronic mail, terminate or suspend a contract described in  
30 subsection (2) of this section at any time after the date the service  
31 member receives military service orders:

32 (a) For a permanent change of station; or

33 (b) To deploy with a military unit, or as an individual in  
34 support of a military operation, for a period of not less than thirty  
35 days.

36 (2) For the purposes of this section, a contract includes the  
37 provision of any of the following:

1 (a) Telecommunication services from a telecommunications company,  
2 as defined in RCW 80.04.010, except as provided in subsection (7) of  
3 this section;

4 (b) Internet services provided from an internet service provider;

5 (c) Health studio services from a health studio, as defined in  
6 RCW 19.142.010; and

7 (d) Subscription television services, as defined in RCW  
8 9A.56.010, from a television service provider.

9 (3) The service member must provide written proof to the service  
10 provider of the official orders showing that the service member has  
11 been called into military service:

12 (a) At the time written notice is given; or

13 (b) If precluded by military necessity or circumstances that make  
14 the provision of proof at the time of giving written notice  
15 unreasonable or impossible, within ninety days after written notice  
16 has been given.

17 (4) A termination or suspension of services under this section is  
18 effective on the day written notice is given under subsection (2) of  
19 this section. The termination or suspension of services does not  
20 eliminate or alter any contractual obligation to pay for services  
21 rendered before the effective date of the written notice, unless  
22 otherwise provided for by law.

23 (5)(a) A service member who terminates or suspends the provision  
24 of services under this section may upon giving written notice,  
25 including electronic mail, to the provider within ninety days after  
26 termination of the service member's military service, reinstate the  
27 provision of services:

28 (i) On the same terms and conditions as originally agreed upon  
29 with the service provider before the termination or suspension, if  
30 the service member was in military service no longer than twelve  
31 consecutive months; or

32 (ii) On the same terms and conditions that have been offered by  
33 the provider to any new consumer at the lowest discounted or  
34 promotional rate within the previous twelve-month period immediately  
35 before termination of the service member's military service, if the  
36 service member was in military service longer than twelve consecutive  
37 months.

38 (b) Upon receipt of the written notice of reinstatement, the  
39 service provider must resume the provision of services or, if the  
40 services are no longer available, provide substantially similar

1 services within a reasonable period of time not to exceed thirty days  
2 from the date of receipt of the written notice of reinstatement.

3 (6) A service member who terminates, suspends, or reinstates the  
4 provision of services under this section:

5 (a) May not be charged a penalty, fee, loss of deposit, or any  
6 other additional cost because of the termination, suspension, or  
7 reinstatement; and

8 (b) Is not liable for payment for any services after the  
9 effective date of the termination or suspension, or until the  
10 effective date of a reinstatement of services as described in  
11 subsection (4) of this section.

12 (7) A service member may terminate a contract for any service  
13 provided by a commercial mobile radio services provider in accordance  
14 with 50 U.S.C. Sec. 3956.

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