

ASSEMBLY BILL

No. 2476

Introduced by Committee on Veterans Affairs (Assembly Members Cook (Chair), Pan (Vice Chair), Atkins, Block, Beth Gaines, Nielsen, V. Manuel Pérez, and Yamada)

February 24, 2012

An act to amend Section 405 of the Military and Veterans Code, relating to military service.

LEGISLATIVE COUNSEL'S DIGEST

AB 2476, as introduced, Committee on Veterans Affairs. Service member obligations or liabilities: rate of interest.

Existing law provides certain legal rights for service members, including with regard to credit agreements, interest liabilities, and mortgages and trusts. Existing law prohibits an obligation or liability bearing interest at a rate in excess of 6% per year incurred by a service member before that person's entry into service from bearing interest at a rate in excess of 6% per year during any part of the period of military service, except as prescribed. Existing law provides that a person who violates this rate of interest provision is liable for actual damages, reasonable attorney's fees, and costs incurred by an injured party.

This bill would, in addition, recast these provisions to prohibit an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage, that is bearing interest at a rate in excess of 6% per year and incurred by a service member before that person's entry into service from bearing interest in excess of 6% per year for one year after any part of the period of military service.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 405 of the Military and Veterans Code
 2 is amended to read:
 3 405. (a) No obligation or liability bearing interest at a rate in
 4 excess of 6 percent per year incurred by a service member before
 5 that person’s entry into service shall, ~~during any part of the period~~
 6 ~~of military service~~, *except as provided in subdivision (b)*, bear
 7 interest at a rate in excess of 6 percent per year ~~unless~~, *as follows:*
 8 (1) *For an obligation or liability consisting of a mortgage, trust*
 9 *deed, or other security in the nature of a mortgage, during any*
 10 *part of the period of military service and one year thereafter.*
 11 (2) *For any other obligation or liability, during any part of the*
 12 *period of military service.*
 13 (b) *Notwithstanding subdivision (a), if in the opinion of the a*
 14 *court, upon application thereto by the obligee, the ability of the*
 15 *service member to pay interest upon that an obligation or liability*
 16 *at a rate in excess of 6 percent per year is not materially affected*
 17 *by reason of that service, in which case the court may make that*
 18 *order as in its opinion may be just. As*
 19 (c) *As used in this section, “interest” includes service charges,*
 20 *renewal charges, fees, or any other charges, except bona fide*
 21 *insurance, in respect of any obligation or liability.*
 22 ~~(b)~~
 23 (d) *Any person violating this section shall be liable for actual*
 24 *damages, reasonable attorney’s fees, and costs incurred by the*
 25 *injured party.*