

WHAT IS THE SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)?

The Servicemembers Civil Relief Act (SCRA) was signed into law on 19 December 2003 and supersedes the Soldiers' and Sailors' Civil Relief Act (SSCRA). It provides a wide range of protections for individuals entering or called to active duty in the military.

The SCRA provides relief from certain civil obligations and temporary suspension of judicial and administrative proceedings and transactions involving civil liabilities when military service materially affects the ability of a servicemember to meet or attend to civil matters.

Specific subjects include:

- Automatic Stay of Proceedings
- 6% interest cap on liabilities incurred before service
- Protection against Eviction
- Right to Terminate Residential Leases
- Right to Terminate Automobile Leases
- Installment Contract Protection
- Life Insurance
- Taxation and Voting
- Adverse Actions
- SCRA Waiver Requirements

The act does not apply to criminal matters. Reservists and members of the National Guard are also protected under the SCRA while on active duty. The protections generally begin on the date of entering active duty and terminate within 30 to 90 days after the date of discharge from active duty.

Members who face problems in the areas below should visit the Legal Office without delay.

HELPFUL RESOURCES

- **Servicemembers Civil Relief Act**
<http://uscode.house.gov/view.xhtml?path=/prelim@title50/chapter50&edition=prelim>
- **Department of Justice: Servicemembers and Veterans Initiative**
<https://www.justice.gov/servicemembers>
- **Military One Source**
<https://www.militaryonesource.mil/>



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SERVICEMEMBERS CIVIL RELIEF ACT

THIS BROCHURE INCLUDES:

- STAY OF PROCEEDINGS
- REDUCTION OF INTEREST TO 6%
- RIGHT TO TERMINATE RESIDENTIAL AND AUTOMOBILE LEASES
- PROTECTION AGAINST EVICTION
- INSTALLMENT CONTRACT PROTECTION
- LIFE INSURANCE
- TAXATION AND VOTING
- ADVERSE ACTIONS
- WAIVER OF SCRA RIGHTS



The information in this brochure is of a general nature and is not intended as a substitute for legal counsel.

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AUTOMATIC STAY OF PROCEEDINGS

Under the SCRA, courts must stay (delay) a **civil court proceeding** when the requirements of military service prevent the member from either asserting or protecting a legal right. In order to request a stay, a servicemember must give written notice to the court. 50 U.S.C. §3932. In 2008, child custody proceedings were added to the applicable proceedings under this section.

The application to stay the proceedings must include:

- Statement why the current military duty requirements materially affect the member's ability to appear at the proceedings; and
- Date when the member will be available to appear; and
- Statement from the member's commanding officer indicating that:
 1. Member's current military duty prevents his/her appearance; and
 2. Member is not authorized for leave.

Upon receipt of the application with the two statements, the court or administrative body must stay the action for a period of 90 days or more.

REDUCTION OF INTEREST TO 6%

If a member incurs a loan or obligation with an interest rate in excess of 6% prior to entering active duty service, the member will, upon application to the lender, not be obligated to pay interest in excess of 6% per year.

The request must be in writing and include the servicemember's orders to active duty. This relief applies during the period of active duty service unless a court finds the member's ability to pay has not been materially affected by military service.

Loans include credit card debt, mortgages, and car loans. In 2008, "intentional failure to grant the 6% interest rate cap" was named a federal misdemeanor. 50 U.S.C. §3937.

RIGHT TO TERMINATE RESIDENTIAL LEASES

An active duty servicemember who has received permanent change of station orders or is being deployed for not less than 90 days may terminate a housing lease with 30 days written notice.

RIGHT TO TERMINATE AUTOMOBILE LEASES

Any active duty servicemember who has received an overseas permanent change of station orders or who is being deployed for not less than 180 days may terminate an automobile lease. The member must provide written notice of termination to the lessee and return the vehicle within 15 days of the written notice.

PROTECTION AGAINST EVICTION

If a servicemember rents a house or apartment and the rent does not exceed \$3,716.73 per month (for 2018), the landlord must obtain a court order before evicting that member or their family. This provision applies even if the servicemember rented the place before they joined the military. Please note that this amount is subject to annual change, see 50 U.S.C. §3951.

A court can block the eviction action for 90 days or longer they feel that the member's military service affects their ability to pay the rent. This provision is not intended to allow servicemembers to avoid paying rent, but rather to protect families when they cannot pay the rent because military service has affected their ability to do so. These provisions apply equally to dependents. 50 U.S.C. §3955 and §3959.

INSTALLMENT CONTRACT PROTECTION

A servicemember who enters into an installment contract prior to entering active duty is protected if the member's ability to make payments is materially affected by military service. Installment contracts are any contracts that require an individual to make monthly payments. The courts will compare the servicemember's pre-service income and military income to determine the member's financial condition.

The SCRA states that a creditor may not repossess a vehicle during a borrower's period of military service without a court order as long as the servicemember borrower either placed a deposit for the vehicle, or made at least one installment payment on the contract before entering military service. 50 U.S.C. § 3952.

LIFE INSURANCE

The SCRA protects members from losing life or health insurance coverage if they are called to active duty, deployed or PCS overseas. A member's private life insurance policy is protected against lapse, termination or forfeiture for nonpayment of premiums for a period of military service plus one year. The insured or beneficiary must apply to the Veteran's Administration for protection. Also, any health insurance in effect on the day before active military service commenced is reinstated without waiting periods or physical condition restrictions. 50 U.S.C. §3957.

TAXATION AND VOTING

A Servicemember's state of legal residence may tax military income and personal property. Also, Servicemembers are entitled to vote in federal, state, and local elections in their state of legal residence. A member does not lose legal residence solely because of a transfer pursuant to military orders. For example, if a member is a Virginia resident and moved to a base in California, the member will not lose Virginia residency nor be subject to California state income tax on military pay. These provisions apply equally to a spouse who is moving from the same state of legal residence as the member. 50 U.S.C. §4001.

ADVERSE ACTIONS

Creditors and insurers are prohibited from pursuing adverse actions (i.e. notifying credit agencies, denying credit, changing terms) against Servicemembers who exercise their rights under the SCRA.

WAIVER OF SCRA RIGHTS

Any of the rights and protections provided for in the SCRA may be waived. For contracts, leases (including apartment leases) and mortgages, all modifications, terminations and cancellations require a written waiver of rights. Such written waivers are effective only if executed during or after the relevant period of military service. Written waivers must be in at least 12 point font. In order to be effective, the written waiver must be its own document. 50 U.S.C. § 3918.