



SERVICEMEMBERS' CIVIL RELIEF ACT (SCRA) FACT SHEET



General:

The Servicemembers' Civil Relief Act (SCRA) is a federal law that gives all military members some important rights as they enter active duty. It covers such issues as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, automobile leases, mortgage interest rates, mortgage foreclosure, student loan interest rates, civil judicial proceedings, and income tax payments. It also provides many important protections to military members while on active duty. Consult with a Legal Assistance Attorney to ensure that you are protected in any circumstance.

Eligibility:

Active duty Soldiers are eligible for the SCRA starting on the date active duty orders are received and, in some situations, a Soldier's Family members may also be eligible. Mobilized Reserve Soldiers and National Guard Soldiers under Title 10 orders are also entitled to protection. Protection generally terminates within 30 – 180 days after the date of discharge of active duty.

Benefit Highlights:

The Six Percent Rule: A Soldier has the ability to reduce consumer debt and mortgage interest rates to 6% under certain circumstances. This applies only to debts and mortgages that were entered into prior to entry on active duty. The length of the mortgage term does not affect the 6% interest cap. Interest on adjustable rate mortgages (ARMS) is also capped. In the case of mortgages, this reduction in interest extends for one year from release from active duty.

Delay of Court and Administrative Proceedings: The SCRA permits active duty Soldiers who are unable to appear in a CIVIL court or administrative proceeding due to their military duties to postpone the proceeding for a mandatory minimum of ninety days upon the Soldier's request. The Soldier's command must provide a statement to the court confirming that the Soldier is unable to attend. However, no delay is available for criminal proceedings. Soldiers should consult with an attorney prior to submitting a request for a delay to determine if a delay is in the Soldier's best interest.

Termination of Real Property Leases: The SCRA allows termination of leases by active duty Soldiers or their spouses who subsequently receive orders for a permanent change of station (PCS) or a deployment for a period of 90 days or more. However, if a Soldier is ordered by the command to move on post, this does not allow the termination of the lease under the SCRA.

Automobile leases: This benefit allows termination of automobile leases leased for personal or business use by Soldiers and their dependents if the Soldier subsequently receives orders for a PCS outside the continental United States or from Alaska or Hawaii to the continental United States or a deployment for a period of 90 days or more.

Eviction for Nonpayment of Rent: Although the SCRA does not excuse Soldiers from paying rent, it requires a landlord to obtain a court order if they wish to evict a Soldier from their residence.

Default Judgment Protection: If a default judgment is entered against a Soldier during his or her active duty service or within 60 days thereafter, the SCRA allows the Soldier to reopen that default judgment and set it aside if certain conditions are met.

Life Insurance Protection: The SCRA permits the Soldier to request deferment of certain commercial life insurance premiums and other payments for the period of military service and two years thereafter.

State Taxation Clarification: The SCRA provides that a nonresident Soldier's military income and personal property are not subject to state taxation if the Soldier is present in the state only due to military orders. The state is also prohibited from using the military pay of these nonresident Soldiers to increase the state income tax of the spouse.

New provisions to the SCRA (called the Military Spouses Residency Relief Act) have been added that may extend similar tax protections to some military spouses. The extension of this protection is contingent upon meeting certain qualifying factors. Consult with a JAG Legal Assistance attorney to determine whether the spouse meets these qualifications.

Health Insurance Reinstatement: The SCRA provides for the reinstatement of any health insurance upon termination or release from service, if the insurance was in effect before such service commenced and terminated during the period of military service.

Foreclosures: The SCRA requires a court order before the foreclosure of a mortgage entered into prior to active duty. This protection extends for a period of 9 months from release from active duty.

Seizure of Property: The SCRA requires a court order before a creditor can seize property secured by a purchase contract (specifically including automobiles) or a storage lien entered into prior to active duty.

Additional Information:

Soldiers and Family members with SCRA questions should contact the Legal Assistance Office at the Office of the Staff Judge Advocate, 9475 Kershaw Road, Fort Jackson. For more information, or to schedule an appointment to speak with an attorney, call 803-751-4287. Office hours are Monday through Friday, 0900 to 1600. Appointments are required except for 0900-1100 on Thursdays, when walk-ins are accepted.