

AN OVERVIEW OF THE SERVICEMEMBERS CIVIL RELIEF ACT

The Servicemembers Civil Relief Act (SCRA) provides a wide range of protections for individuals entering the military, individuals called to active duty, and deployed servicemembers. The SCRA is intended to postpone or suspend certain civil obligations to enable servicemembers to devote full attention to duty and to relieve stress on family members. This document summarizes some of the key provisions of the SCRA and how servicemembers may exercise their rights under the law.

Who and what is covered by the SCRA?

The SCRA affords protection to individuals who are: **1) entering the military; 2) called for active duty; or 3) deployed for more than 180 days.** The protections relate to: *outstanding credit card debt, mortgages, pending trials, taxes, telephone service contracts, motor vehicle leases, and real estate leases.*

Interest Rate Protection

Lenders must drop the interest rate of servicemember's loans to 6% during deployment. Any amount over 6% is automatically forgiven and may not be added to fees, or sought after the servicemember returns from service. This provision applies to loans that were incurred by the servicemember individually, or jointly with his or her spouse, prior to the commencement of service. To exercise his or her right, the servicemember must provide written notice to the lender along with a copy of his or her orders.

Eviction Protection

When deployed, a servicemember's family may not be evicted for failure to pay rent. This protection does not forgive the debt leading to the attempted eviction; it just prevents eviction while the servicemember is deployed.

Termination of Lease of Premises

A servicemember and his or her dependents may terminate a lease for a **residential, professional, business, agricultural, or similar use**, if: **1) the lease was executed by the individual entering service; or 2) during service, the servicemember executes the lease and receives orders of permanent change of station, or 3) deployment, for at least 90 days.** While the servicemember may terminate the lease, he or she remains liable for all unpaid rent accrued prior to termination, charges that accrued prior to the termination, and damages to the premises.

The servicemember must provide **written notice** to the landlord. Verbal termination is not sufficient. The servicemember must also provide a copy of the military orders that summon him or her to active duty, permanently change his or her station, or require deployment. Notice may be given by hand delivery, use of a private business carrier, or US mail with sufficient postage and return receipt requested.

Termination of auto leases

A servicemember who is ordered to deploy or enter active duty may break a pre-existing auto lease if he or she is entering active duty for a period of **at least 180 days**. The servicemember may also terminate the lease if he or she has received orders to move outside of (or back to) the Continental United States. To effectively terminate the lease, the servicemember must provide notice, in writing, with a copy of the orders. The servicemember must **return the vehicle within 15 days of terminating the lease**. The servicemember is still responsible for damages to the vehicle.

Termination of cell phone leases

A servicemember may be entitled to the termination of a cell phone lease. If the servicemember receives orders to deploy or to change station to a location where his or her current phone provider does not have service, he or she may break the lease. The servicemember must provide written notice along with a copy of the orders. When a cell phone contract is broken, the servicemember is responsible for the difference between the discount cost of the phone he or she received and the actual cost of the phone.

Stay of Judicial Proceedings (putting lawsuits on hold for 90 days)

A qualified servicemember may request a stay of any judicial proceedings for at least 90 days while on active duty. To request a stay, a servicemember must send “a letter or other communication” to the court explaining how military duty impacts the ability to appear and when he will be able to appear. The servicemember must also include a letter from his commanding officer stating that the servicemember’s military obligations prevent him from appearing, and that military leave is not authorized. A stay may be requested for up to 90 days after the termination of his tour of duty.

Deferral of Income Tax Payments

Upon notice to the IRS or state tax authority, a servicemember can defer the collection of his or her state, federal or state political subdivision income tax falling due before or during military service for up to 180 after he finishes service if his ability to pay the tax is materially affected by military service. A servicemember will not accrue interest or penalties on taxes deferred under the SCRA. The collecting of tax deferred under the SCRA is suspended for the period of military service plus an additional 270 days.

Where can I find out more?

50 U.S.C. App. § 501 *et seq.*

Military.com provides basic information on the SCRA at <http://www.military.com/benefits/legal-matters/scra/overview>.

The American Bar Association’s checklist for judges to follow when applying the SCRA at <http://apps.americanbar.org/family/military/scrajudgesguidecklist.pdf>