

The Servicemembers Civil Relief Act (SCRA)

The Servicemembers Civil Relief Act (SCRA) provides legal and financial protections to those who have answered the Nation's call to serve.

Introduction

The SCRA is a law created to provide extra protections for servicemembers in the event that legal or financial transactions adversely affect their rights during military or uniformed service. These protections enable servicemembers to devote their entire energy to the defense needs of the Nation.

The SCRA applies to the following servicemembers:

- Active duty members of the Army, Marine Corps, Navy, Air Force, and Coast Guard;
- Members of the Reserve component when serving on active duty;
- Members of the National Guard component mobilized under federal orders for more than 30 consecutive days; or
- Active duty commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration.

SCRA rights may be exercised by anyone holding a valid power of attorney for the servicemember. Some SCRA protections also apply to dependents. According to the U.S. Department of Justice, these are five protections that servicemembers often ask about.

Protection #1

Servicemembers can reduce the interest rate on any pre-service loans to a maximum of 6 percent

If you took out an automobile, home, or student loan or incurred credit card debt prior to becoming a servicemember (also known as a "pre-service obligation"), or if you took out such a loan jointly with your spouse, then you are entitled to have your interest rate reduced to a maximum of 6 percent per year. To receive this benefit you must notify your lender in writing and include a copy of your orders to active duty service or a letter from your commanding officer that shows the date you began active duty service.

The rate reduction for pre-service obligations applies during the period of active duty service for most loans and, for mortgages, for an additional year after the end of active duty service. When you make a proper request for an interest rate reduction under the SCRA, your lender must reduce your interest rate on pre-service obligations to 6 percent for the entire time you are serving on active duty. Your lender can't add the amount of interest above 6 percent back into the loan later on after you leave active duty. You can request an interest rate reduction from your lender at any time while you are serving on active duty and up to 180 days after release from active duty.

A lender can't revoke your loan or credit account, change the terms of your credit, or refuse to grant you credit just because you exercised your SCRA rights. In addition, a lender can't furnish negative information to a credit reporting company just for invoking your SCRA rights. Remember, the SCRA requires your lender to reduce your interest rate in certain circumstances – but you still have to pay back your debts.

Protection #2

Servicemembers have some protections against default judgments in civil cases

If you are sued while a servicemember on active duty, you have certain legal protections under the SCRA. These include some protections from a default judgment in a civil action. A default judgment is a court order in favor of the party or "plaintiff" suing you when you did not appear or defend yourself against the lawsuit.

Some of your rights under the SCRA include:

- Before the court can enter a default judgment, the party suing you must file an affidavit with the court stating whether or not you are in active duty service, and provide facts in support of that statement. If the party suing you is unable to determine whether you are in active duty service, the affidavit must state that fact.
- If you are in active duty service and have not appeared in a case against you, the court may not enter a default judgment until after it appoints an attorney to represent you.
- The court also has to permit a delay of proceedings for at least 90 days if certain conditions are met.

Protection #3

Servicemembers have special protections against foreclosure on their home

If you took out a mortgage before entering active duty service, you can't be foreclosed on without a court order, unless you have waived your rights. This protection applies while you are on active duty and for an additional one year after leaving active duty. This protection also applies in states that do not require a court order to foreclose and whether or not you told your lender or servicer about your servicemember status.

Under this SCRA protection, a court may also on its own – and must upon request by a servicemember – pause or stay a foreclosure proceeding or adjust the loan, provided that the servicemember's ability to pay the loan is materially affected by his or her active duty service.

As noted in protection #2, the SCRA also provides servicemembers with protections against default judgments, which are rulings against a party to a lawsuit because he or she didn't appear in court. This protection applies to foreclosure cases before a judge.

Protection #4

Servicemembers have special protections against repossession of their property

In some circumstances, the SCRA prohibits creditors from repossessing your personal property, including your vehicle, without a court order. That means that even if you violate a contract by, for example, failing to make your monthly payments, the creditor must first file a lawsuit and get an

order from a judge before your vehicle or personal property can be repossessed. This protection applies only if you:

- purchased or leased a vehicle, or other personal property, before entering active duty service; and
- made a deposit or installment payment on a vehicle, or other personal property, before entering active duty service.

These federal protections under the SCRA are in addition to any other protections you might have under your state law.

Even if you're protected by the SCRA from repossession without a court order, failing to pay your bills could result in violating your contract. As a result, you may be charged fees associated with your failure to pay, such as a late fee. Your missed payments can also be reported to credit reporting companies, and the creditor can try to collect the debt, including by filing a lawsuit against you.

Protection #5

Servicemembers may be able to terminate residential housing and automobile leases without penalty

The SCRA provides servicemembers with the right to terminate residential leases of property that is occupied or intended to be occupied by a servicemember or his or her dependents. If you signed a lease for housing prior to active duty service, or if you're already serving on active duty and receive Permanent Change of Station (PCS) or deployment orders for a period of at least 90 days, then you should be able to terminate your housing lease without penalty.

To terminate your housing lease, you or someone exercising a power of attorney on your behalf

must submit to your landlord a written notice of termination and a copy of your orders - or a letter from your commanding officer - by hand delivery, or by private carrier, or by regular postal mail with return receipt requested.

If your lease requires monthly rent payments, termination of a housing lease is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the termination notice is delivered.

In addition to this right for residential leases, under certain circumstances, the SCRA also allows servicemembers to cancel or terminate an auto lease without paying early termination charges or penalties. In order to terminate an auto lease without penalty under the SCRA, you must have entered into the lease:

- Prior to entering active duty, and then been called onto active duty for 180 days or longer; or
- During active duty, and then received orders for:
 - a PCS from a location inside the continental United States (CONUS) to a location outside the continental United States (OCONUS), or a PCS from a location OCONUS to any new location, or
 - deployment with a military or uniformed unit or in support of a military or uniformed operation for 180 days or longer.

Carefully read your lease terms and consider your situation before signing a contract. The SCRA does not allow you to terminate your contract if you receive PCS orders from one CONUS location to another CONUS location, so if you know you may receive those type of PCS orders, make sure your lessor will allow the vehicle you intend to lease to be taken out of state.

Conclusion

The SCRA provides many legal and financial protections to enable servicemembers to focus on their mission with less worry about what is happening back home.

If you have any questions about your rights under the SCRA, contact your closest military legal office for more information. You can find the closest military legal office at: legalassistance.law.af.mil.

If you have financial challenges or questions before, during and after military or uniformed service, please visit our web site at: consumerfinance.gov/military-financial-lifecycle.

About the CFPB

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4 of 4

3/2018