

## Introduction

President Bush signed the Servicemembers' Civil Relief Act (SCRA) into law on 19 December 2003. The new statute supersedes the Soldiers' and Sailors' Civil Relief Act (SSCRA).

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:

- Protection from default judgments
- Suspension of civil suits against members
- Limitations on civil liabilities concerning leases, installment contracts, mortgages, and liens
- Rights with regard to suspension of life insurance, taxes and business obligations.

One of the most significant changes in the SCRA is the creation of an entire class of judges—administrative law judges—that will deal with protections for servicemembers in the administration of civil proceedings.

This brochure will go into more detail on some of the other significant changes, including:

- 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
- State of Legal Residence for Tax Purposes
- SCRA Notice Requirements

## OTHER WEBSITES:

- Guide to SCRA:  
[http://www.americanbar.org/content/dam/aba/un categorized/family/2011\\_scra\\_jdg\\_guide.pdf](http://www.americanbar.org/content/dam/aba/un categorized/family/2011_scra_jdg_guide.pdf)
- <http://www.military.com/benefits/military-legal-matters/scra>
- [http://www.americanbar.org/portals/public\\_resources/aba\\_home\\_front/information\\_center/servicemembers\\_civil\\_relief\\_act.html](http://www.americanbar.org/portals/public_resources/aba_home_front/information_center/servicemembers_civil_relief_act.html)

### Legal Assistance Hours:

By Appointment Only

### Notary Hours:

Monday-Thursday 0900-1500



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# SERVICEMEMBERS' CIVIL RELIEF ACT (SCRA)

## This Brochure Includes:

- Automatic Stay of Proceedings
- 6% Interest Cap
- Protection Against Eviction
- Right to Terminate Leases
- Installment Contracts
- Life Insurance
- State of Residence
- Income Tax Protection
- Notice Requirements
- Other Resources



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

The SCRA provides for an automatic, non-discretionary 90-day stay of civil proceedings upon application of the servicemember. The application does not constitute an appearance. To obtain the automatic stay, a servicemember must demonstrate there is a material affect and provide the court a date when he or she will be available. The servicemember must also submit a letter from his or her commander stating that duty prevents the member from appearing in court and that military leave is not authorized. Additional stays are permitted if the above requirements are met; however, these additional stays are at the court's discretion. Previously, all stays were discretionary with the courts.

## 6% Interest Cap

The 6% interest rate cap for obligations and liabilities of servicemembers incurred before military service results in a reduction of monthly payments for interest in excess of the 6%.

## Protection Against Eviction

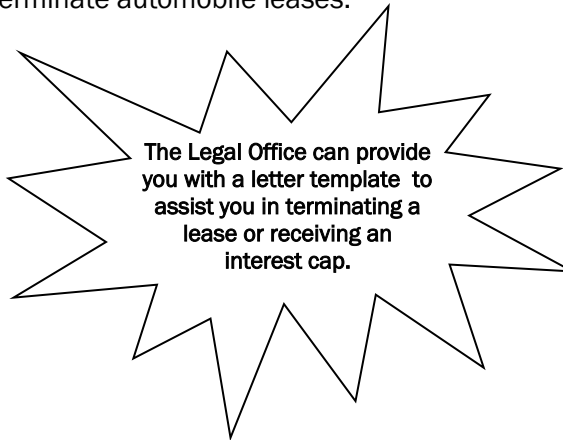
A service member who enters a lease for \$3,584.99 or less a month cannot be evicted without court order. Upon application by a landlord for an eviction order, the court shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service, stay the proceedings for 90 days unless, in the opinion of the court, justice and equity require a longer or shorter period of time. Previously, the maximum rent for eviction protection was \$1,200 a month.

## Right to Terminate Residential Leases

An active duty servicemember who has received permanent change of station orders or who is being deployed for not less than 90 days may terminate a housing lease with 30 days written notice. Previously, a servicemember could be obligated to pay rent for housing he or she is unable to occupy because of a government-required move. This also protects members from landlords trying to do self-help evictions.

## Right to Terminate Automobile Leases

Any active duty servicemember who has received a 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. Previously, there was no right to terminate automobile leases.



## Installment Contract Protection

A contract by the servicemember for the purchase of real or personal property (include a vehicle) may not be terminated for a breach of terms of the contract occurring before or during that person's military service, not be repossess without a court order. However, this section only applies to contracts for which a deposit or installment was paid before entering military service.

## Life Insurance

Level of coverage of life insurance for protection against the lapse of life insurance policies when an individual enters military service or deploys is increased from \$10,000 to \$250,000 or the Servicemembers' Group Life Insurance (SGLI) maximum, whichever is greater.

## Residence for Tax Purposes

A tax jurisdiction may not use the military compensation of a non-resident servicemember to increase the tax liability imposed on other income earned by the non-resident servicemember or spouse subject to tax by the jurisdiction. Previously, multiple jurisdictions attempted to tax military pay.

## Income Tax Protection

The collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service if a servicemember's ability to pay such income tax is materially affected by military service. No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of deferred tax. The servicemember must notify the IRS and/or the tax authority of the State that he or she is unable to pay the income tax as a result of military service.

## Notification Requirements

The Secretary concerned shall ensure that notice of the benefits accorded by this Act is provided in writing to persons in military service and to persons entering military service.