

The material in this handout provides educational and general information only – this is not legal advice. Speak with a licensed attorney before relying on any information contained within this handout. It is always best to consult with an attorney regarding your legal rights and responsibilities specific to your particular situation before making a decision or taking action.

THE SERVICEMEMBERS' CIVIL RELIEF ACT (SCRA)

Overview

The Servicemembers' Civil Relief Act (SCRA) is a federal statute which protects those who serve on active duty. It seeks to protect servicemembers from negative consequences as a result of being on active duty, and allows servicemembers to devote their full attention and energy to their mission. The purpose of the SCRA is to "protect those who have been obliged to drop their own affairs to take up the burdens of the nation."¹

Persons Entitled to Benefits

The SCRA applies to active-duty members of the Marine Corps, Navy, Army, Air Force, and Coast Guard. Servicemembers of a reserve component of the Armed Forces in an active-duty status may claim protections afforded under the SCRA. Servicemembers' dependents may also seek safeguards under the SCRA in limited circumstances, such as evictions or joint leases.

Persons Not Entitled to Benefits

Reservists or National Guard personnel not in an active-duty status are not covered under the SCRA. Also, the statute does not protect retired personnel. Servicemembers who may fall under the SCRA's protections, may lose those shields due to the servicemember's own misconduct.

Types of Protections

The SCRA provides a variety of protections to servicemembers, including:

Stay of Administrative or Civil Proceedings – A servicemember may request a stay of proceedings to allow the servicemember to appear in and defend a civil cause of action. However, such a stay does not provide immunity from lawsuits or shield servicemembers from civil actions. A judge, magistrate, or hearing officer must issue a stay of at least 90 days upon receiving proper notification from the servicemember. The servicemember must demonstrate to the court or administrative agency that such military service materially affects his or her ability to appear for such proceedings. This right does not apply to criminal proceedings.

¹ *Boone v. Lightner*, 319 U.S. 561, 575 (1943), *reh'g denied*, 320 U.S. 809 (1943) (referring to the SCRA).

Reduced Interest Rate – A servicemember may reduce a financial obligation entered into before active-duty service to six percent, if such active duty materially affects the servicemember's ability to repay the obligation. The reduced rate applies retroactively to the time the servicemember entered into service, and lasts only while the servicemember is on active duty. The reduced rate does not apply to obligations, such as refinancing or credit card balance increases, entered into or accrued while on active duty.

Termination of Vehicle Lease – A servicemember may terminate a lease agreement of a motor vehicle used by the servicemember or dependents. The servicemember must demonstrate either: (1) the servicemember entered into the lease pre-service; (2) the servicemember received PCS orders OCONUS, or from an OCONUS state to a CONUS location; or (3) the servicemember received orders to deploy for not less than 180 days. The SCRA allows a motor-vehicle lease to be terminated without the servicemember being subjected to a termination fee.

Termination of Residential Lease – A servicemember may also terminate a lease agreement of an apartment or home. The servicemember must demonstrate either: (1) the servicemember entered into the lease pre-service; (2) the servicemember received PCS orders, or (3) the servicemember received orders to deploy for 90 days or more. The SCRA protects the servicemember from termination or cancellation fees.

Termination of Cellular Contracts – A servicemember who receives orders to deploy OCONUS for not less than 90 days, or PCS orders within CONUS to an unsupported location, may request a termination or suspension of a cellular service contract. The service provider may not subject the servicemember to additional penalties or extra fees for exercising such a right under the SCRA.

Invoking Protections

Most protections require the servicemember to request the coverage in a timely manner, and that such request be in writing. Also, some benefits require the servicemember to demonstrate he or she is materially affected by their status as an active-duty servicemember.

Conclusion

This handout merely outlines some of the provisions and protections of the SCRA, and is not meant to be a conclusive summary of all rights and protections. An attorney is better able to identify additional protections under the SCRA which may apply to the servicemember's situation. Servicemembers are encouraged to seek the legal advice provided by an armed-service legal assistance office for more clarification and guidance regarding their rights under the SCRA.