



Legal Assistance Office  
Office of the Staff Judge Advocate

Lewis Main Post  
Building 2027  
Liggett Avenue and North 8<sup>th</sup> Street  
253-477-1875

McChord Airfield  
Suite 1096  
100 Col Joe Jackson Blvd  
253-982-5513

## **Servicemembers Civil Relief Act (SCRA)**

### **What is the SCRA?**

The Servicemembers Civil Relief Act (SCRA) is a federal statute passed by Congress to allow military members to suspend or postpone some civil obligations so that the military member can devote his or her full attention to military duties.

### **Who does the SCRA protect?**

The SCRA is designed to protect active duty military members, reservists who are in active federal service and National Guardsmen who are in active federal service. Some of the benefits under the SCRA extend to dependents of active duty military members as well.

### **What are the benefits of the SCRA?**

**6% CAP ON INTEREST RATES:** Under the SCRA, a military member can cap the interest rate at 6% for all obligations entered into before beginning active duty if the military service materially affects his or her ability to meet the obligations. This can include interest rates on credit cards, mortgages, and even some student loans, to name a few. To qualify for the interest rate cap the military member has to show that he or she is now on active duty, that the obligation or debt was incurred prior to entry on active duty, and that military service materially affects the members' ability to pay. To begin the process, the military member needs to send a letter along with a copy of current military orders to the lender requesting relief under the SCRA. The interest rate cap lasts for the duration of active duty service. The interest rate cap will apply retroactively from the first date of active-duty service. The military member must provide written notice to the creditor and a copy of military orders not later than 180 days after the servicemember's termination or release from military service.

**STAY OF CIVIL PROCEEDINGS:** A military member is may obtain a "stay" or postponement of civil proceedings if military service materially affects his or her



ability to proceed in the case. A stay can be used to stop the action altogether, or to hold up some phase of it. A stay may be requested during any stage of the proceedings. However, the burden is on the military member to show that military service has materially affected his or her ability to appear in court. In general, one may request a stay of the proceedings for a reasonable period of time (up to 90 days). If military service continues to affect the servicemember's ability to appear after 90 days, the court is required to either continue to stay the case or appoint an attorney to represent the servicemember's interests until military service ceases to materially affect his or her ability to appear.

**DEFAULT JUDGMENTS:** A default judgment is entered against a party who has failed to defend against a claim that has been brought by another party. To obtain a default judgment, a plaintiff must file an affidavit (written declaration of fact) stating that the defendant is not in the military service and has not requested a stay. If a servicemember is sued while on active duty, fails to respond, and as a result a default judgment is obtained against him or her, the servicemember may reopen the default judgment by taking several steps. First, the servicemember must show that the judgment was entered during his or her military service or within 30 days after leaving the service. Second, the servicemember must write to the court requesting that the default judgment be reopened while he or she is still on active duty or within 90 days of leaving the service. Third, the servicemember must not have made any kind of appearance in court—by filing an answer or otherwise—prior to the default judgment being entered. Finally, the servicemember must indicate that military service prejudiced his or her ability to defend the case and must show that he or she had a valid defense to the action.

**PROTECTION FROM EVICTION:** For servicemembers leasing a house or apartment whose rent is below a certain amount, the SCRA can protect you from being evicted for a period of time, usually three months. The dwelling place must be occupied by an active duty member and/or a dependent and the rent cannot exceed \$3217.81 in 2014. This ceiling is adjusted annually based on consumer price index changes. Additionally, the military member must show that military service materially affects his or her ability to pay rent. If a landlord continues to try to evict the military member or does actually evict the member, he or she is subject to criminal sanctions such as fines or even imprisonment. However, if you feel that you are in this situation, don't just stop paying rent and wait three months. Come in and talk to a legal assistance attorney.

**TERMINATION OF PRE-SERVICE RESIDENTIAL LEASES:** The SCRA also allows military members who are just entering active duty service to lawfully terminate a lease without repercussions. To do this, the service member needs to show that the



lease was entered into prior to the commencement of active duty service that the lease was signed by or on behalf of the service member, and that the service member is currently in military service or was called to active-duty service for a period of 180 days or more. Proper written notice with a copy of orders must be provided to the landlord. It is suggested that this written notice is sent by certified mail so the servicemember has proof that the landlord received written notice.

**TERMINATION OF RESIDENTIAL LEASES DURING MILITARY SERVICE:** The SCRA allows military members who receive permanent change of station (PCS) orders or are deployed for a period of 90 days or more to terminate a lease by providing written notice to the landlord along with a copy of the military orders. The termination of a lease that provides for monthly payment of rent will occur 30 days after the first date on which the next rental payment is due and payable after the landlord receives proper written notice.

**MORTGAGES:** The SCRA can also provide temporary relief from mortgage payments. To obtain relief, a military member must show that their mortgage was entered into prior to beginning active duty, that the property was owned prior to entry into military service, that the property is still owned by the military member, and that military service materially affects the member's ability to pay the mortgage.

**TERMINATION OF AUTOMOBILE LEASES DURING MILITARY SERVICE:** The SCRA allows military members to terminate pre-service automobile leases if they are called up for military service of 180 days or longer. Members who sign automobile leases while on active-duty may be able to terminate an automobile lease if they are given orders for a permanent change of station outside the continental United States or to deploy with a military unit for a period of 180 days or longer.