

The Service Member Civil Relief Act (SCRA)

The Service Member Civil Relief Act (SCRA) was passed by Congress to provide protection to persons entering or called to active duty in the U.S. Armed Forces. The protection begins on the date the Service Member entered active duty service and terminates upon release from active duty. However, some protections under the act extend for a limited time beyond discharge but are tied to the discharge date. Additionally, some of the Acts protections extend to the Service Member's dependent family members.

Termination of Pre-Service Lease Agreements

- A Service Member who is leasing/renting property, to include vehicles, used for dwelling, professional, business, agricultural or similar purposes may terminate a lease that was 1) signed before the Service Member entered active duty and 2) the lease/rented premises have been occupied for the above purposes by the Service Member or his/her dependents.
- The Service Member must deliver written notice of termination to the lease holder after entry on active duty or receipt of orders for active duty. The termination date for a month-to-month lease/rental is 30 days after the first date on which the next rental payment is due after the termination notice is delivered. For example, if rent is due on the 1st of the month and notice is delivered to the landlord on August 5th, the next rent due is September 1st. Therefore, the lease/rental agreement will terminate on October 1st.
- For all other lease/rental agreements, the termination date will be the last day of the month after the month in which the notice was given. For example, if the term of the lease/rental agreement is yearly and notice was given August 5th, then the termination date will be September 30th.
- If the rent has been paid in advance, then the landlord must return any unearned portion. The landlord may not withhold the refund of a Service Member's security deposit for early termination of the lease/rental agreement. However, the landlord may withhold return of the security deposit for damages, repairs, and other lawful provisions of the lease/ rental agreement.

Evictions from Leased Housing

A Service Member may seek protection from eviction under SCRA. The rented/leased property must be occupied by the Service Member or his/her dependents for the purpose of housing and the rent cannot exceed \$2,400. The Service Member or dependent who has received notice of an eviction must submit a request to the court for protection under the SCRA. If the court finds that the Service Member's military duties have materially affected his ability to pay his rent timely, the judge may order a stay, postponement, of the eviction proceeding for up to 3 months or make any other "just" order.

Reduction of Interest Rate on Pre-Service Debt

- If a Service Member's military obligation has affected his/her ability to pay on financial obligations such as credit cards, loans, mortgages, etc., the Service Member can have his/her interest rate capped at 6% for the duration of the Service Member's military obligation.
- Qualifying debts
 - Debts that were incurred prior to the Service Member coming on active duty.
 - The Service Member must be on active duty at the time of the request.
 - The Service Member's military career must have materially affected the Service Member's ability to pay on the debt.
 - This provision does not apply to federally guaranteed student loans.

Family Deployment Handbook

- How to Implement the 6% Cap. The Service Member should contact his/her creditor and request that his/her interest rate be reduced to 6% according to the provisions of the SCRA; a sample letter can be found at www.125fa.com/formletters.htm. The creditor may request a copy of the Service Member's orders. The burden is on the creditor to seek relief in court if the creditor believes that the Service Member's military career does not materially affect his/her ability to pay.

Court Proceedings

- A Service Member who is either the plaintiff or the defendant in a civil legal action may request a stay, postponement, of a court proceeding in which he/she is a party. A Service Member may request a stay at any point in the proceedings. However, courts are reluctant to grant stays at the pre-trial phase of a lawsuit, such as discovery, depositions, etc. If a judgment is entered against a Service Member who is unavailable due to military orders, the Service Member may be able to have that judgment voided.
- Criteria
 - The Service Member must actually be a party to the suit.
 - The provision only applies to civil lawsuits, suits for paternity, child custody suits, and bankruptcy debtor/ creditor meetings.
 - The provision may not apply to:
 - administrative hearings,
 - criminal proceedings,
 - child support determination,
 - proceedings in which the Service Member is merely a material witness to the lawsuit, but not an actual party, or
 - Service Member has leave available and has made no attempt to use his/her leave to attend the proceedings.
- How to invoke a stay.

A Service Member should have the commander write a letter to the court and the opposing party's attorney stating that the Service Member is unable to attend the proceedings. The Service Member will need to write a letter requesting the stay of proceedings to go along with the letter from the commander. These letters need to state the conditions of service prevent an appearance and a date the Service Member will be able to appear. Both the Service Member and Commander should request assistance from a Staff Judge Advocate (JAG attorney). The stay of proceedings is for 90 days, and an extension can be filed for an additional 90 days.

Installment Contracts and Auto Leases

A Service Member or spouse can request protection under the SCRA for pre-service debts incurred under installment contracts and auto leases. Also, at least one deposit or installment payment must have been made on the contract before entry on active duty. If the contract falls under the protection of the SCRA, the creditor is thereafter prohibited from exercising any right or option under the contract, such as to rescind or terminate the contract or to repossess the property, unless authorized by a court order. The creditor must prove that the Service Member's military obligations have materially affected his/her ability to pay on the debts, and not the Service Member.

Family Deployment Handbook

Enforcement of Obligations, Liabilities, Taxes

A Service Member or dependent may, at any time during his/her military service, or within 6 months thereafter, apply to a court for relief of any obligation or liability incurred by the Service Member or dependent prior to active duty or in respect to any tax or assessment whether falling during or prior to the Service Member's active military service. The court may grant stays of enforcement during which time no fine or penalty can accrue.

There are sample letters located on the internet at www.125fa.com/formletters.htm that you can send to your Creditors to invoke the 6% Interest Rate protection of the SCRA. Fill in your specific information (those areas that are bold and italicized) and mail to your creditor as soon as you receive your Service Members active duty order. If you have any questions contact your FAC.

FORM LETTERS TO CREDITORS

Below is a listing of form letters that you may use for various circumstances in conjunction with deployment. They are located at www.125fa.com/formletters.htm. You may download each of them and modify them to fit your situation. If you do not have Microsoft Word (MS Works is different) you can cut and paste the text and place it in your word processing program. If you have any questions concerning SCRA (Service Members Civil Relief Act) please contact your local Military Family Assistance Center.

- Auto Lease Termination Form
- Letter to College – Refund for Dropped Courses
- Letter to Creditor – Student Loan Relief
- Letter to Creditor – Reducing Interest Rates
- Letter to Employer – Request for LOA
- Letter to Employer – Reinstatement
- Letter to Landlord – Termination of Lease
- Letter to Cellular Communications Provider – Termination/Disruption of Contract

If you experience any difficulties with creditors concerning the SCRA please contact your local Military Family Assistance Center.