

SERVICEMEMBERS CIVIL RELIEF ACT – HOW CAN IT PROTECT YOU?

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The Servicemembers Civil Relief Act (SCRA) provides a wide range of protections for individuals who enter the active duty military or are called to active duty from a Reserve or National Guard status. The SCRA addresses such matters as early termination of residential leases, security deposits, evictions, credit card and mortgage interest rates, mortgage foreclosures, civil judicial proceedings, motor vehicle leases, and income tax liability. Protections offered by the SCRA generally end when the servicemember is released from active duty or dies while on active duty. Below you will find an overview of the three most widely utilized SCRA provisions.

6% Interest Rate Limit – The SCRA places a 6% limit on interest rates for debts incurred by servicemembers prior to entering active duty. This provision applies to all financial obligations, including home mortgages, credit card debts, and motor vehicle loans. As an example, Mr. Smith may purchase a flat screen television set using his credit card and carry a balance forward at an interest rate of 14% which was established when he applied for the credit card. If Mr. Smith then enters the active duty military, he may request that his interest rate be reduced from 14% to 6% for the pre-service debt. Note that any charges that he places on his credit card after entering the military will still bear interest at the 14% rate. If Private Smith leaves the active duty military, he would no longer be entitled to the 6% interest rate cap for the pre-service debt.

Stay of Civil Proceedings – The SCRA provides that a court may temporarily stay or postpone a civil action or proceeding against a defendant for the period of the defendant's active duty service plus 90 days after the date of release from active duty. The defendant servicemember must provide a letter that states how his/her current military duty requirements materially affect the servicemember's ability to appear in court. However, the servicemember must be extremely careful to avoid any impression that his/her letter is a submission to the court's jurisdiction. In the alternative, a better option may be for the defendant servicemember's commanding officer to provide a letter stating that the servicemember's current military duty prevents appearance and that military leave is not authorized at this time. Be mindful that this SCRA provision provides a temporary, not permanent, stay of a civil court proceeding. Note that there is no SCRA protection to stay criminal court proceedings.

Residential Lease Termination – The SCRA allows a servicemember who is the tenant on a residential lease to terminate the lease if the contract was executed after he/she entered active duty or if the lease was executed while the servicemember was already on active duty and subsequently received orders to PCS or deploy for more than 90 days. The servicemember must provide the landlord with written notice and a copy of his/her military orders. Generally, the servicemember is then free from the lease 30 days after the first date on which the next rental payment is due.

Should you have questions regarding federal laws that protect the civil rights of servicemembers, visit the U.S. Department of Justice online at www.servicemembers.gov. You

may also make an appointment to meet with a Fort Meade Legal Assistance Attorney by calling (301) 677-9504/9536.