



U.S. DEPARTMENT OF JUSTICE
**SERVICEMEMBERS &
VETERANS INITIATIVE**



GUIDE TO THE SERVICEMEMBERS CIVIL RELIEF ACT

OVERVIEW

- The Servicemembers Civil Relief Act, also referred to as the "SCRA," is a federal law that provides financial and housing protections and benefits to servicemembers as they enter military service.
- The SCRA revised and expanded the Soldiers' and Sailors' Civil Relief Act of 1940, a law designed to ease financial burdens on servicemembers.
- The legal citation for the SCRA is 50 U.S.C. §§ 3901-4043.
- This guide summarizes some of the most common protections and benefits under the SCRA and how to contact the Department of Justice to file a complaint.

WHO IS COVERED?

- Those in military service. This includes the following: (1) full-time active duty members of the five military branches; (2) reservists on federal active duty; (3) members of the National Guard on federal orders for more than 30 days; (4) servicemembers absent from duty for a lawful cause or because of sickness, wounds, or leave; and (5) commissioned officers in active service of the Public Health Service or the National Oceanic and Atmospheric Administration. 50 U.S.C. § 3911(2).
- Dependents of servicemembers are eligible for some of the benefits as well. Some dependent benefits, like terminating a lease, are available upon application to a court. 50 U.S.C. § 3959.
- The term "dependent" includes a servicemember's spouse, children, and any other person for whom the servicemember has provided more than half of their financial support for the past 180 days. 50 U.S.C. § 3911(4).
- For most, SCRA protections begin on the date they enter active duty military service. For Reservists, protections begin upon the receipt orders. 50 U.S.C. § 3917.

A CAUTIONARY NOTE ON WAIVERS: SECTION 3918

- Any of the rights and protections provided for in the SCRA may be waived, 50 U.S.C. § 3918(a), but written waivers must be in at least 12 point font. 50 U.S.C. § 3918(c).
- For contracts, leases (including apartment leases), and mortgages, all modifications, terminations, and cancellations require a written waiver of rights. 50 U.S.C. § 3918(b).
- Written waivers are effective only if executed during or after the relevant period of military service. 50 U.S.C. § 3918(a).
- In order to be effective, the written waiver must be its own document. 50 U.S.C. § 3918(a).

To learn more, visit our website:
Servicemembers.gov

FIVE KEY PROVISIONS OF THE SCRA



SEC. 3937: THE 6% INTEREST RATE CAP

- The SCRA limits the amount of interest that may be charged on certain financial obligations, such as credit cards, vehicle loans, and mortgages, that were incurred prior to military service to no more than six percent per year, including most fees. 50 U.S.C. §§ 3937(a)(1) & (d)(1).
- In order to receive this interest rate cap, a servicemember shall provide the creditor with a written notice and either a copy of his or her military orders, or "any other appropriate indicator of military service, including a certified letter from a commanding officer." 50 U.S.C. § 3937(b)(1)(A).
- These documents must be provided to the creditor within 180 days of the end of the servicemember's military service, 50 U.S.C. § 3937(b)(1)(A), and once a creditor receives them, that creditor must forgive, not defer, interest at a rate greater than six percent per year. Id. at § 3937(a)(2).
- The creditor must forgive this interest retroactively and is prohibited from accelerating the payment of principal. 50 U.S.C. §§ 3937(a)(1) & (b)(2).
- For mortgages, interest is capped at six percent during the entire period of military service and for one year after the period of military service. 50 U.S.C. § 3937(a)(1)(A). For all other obligations, interest is capped at six percent only for the duration of the period of military service. Id. at § 3937(a)(1)(B).
- A creditor may independently verify the active duty military status of borrowers with the Defense Manpower Data Center and rely on that information if the servicemember has not provided contradictory proof of military service. 50 U.S.C. § 3937(b)(1)(B).

FORECLOSURES: SECS. 3953 & 3931

- Foreclosures can proceed in one of two ways, either judicially (through a court process), or non-judicially (without a court's involvement).
- The SCRA treats the two types of foreclosure proceedings very differently, and states typically dictate which way foreclosures will proceed within their borders. 50 U.S.C. §§ 3931, 32 & 53.

SEC. 3953: NON-JUDICIAL FORECLOSURES

- During a period of military service, and for one year after a period of military service, a creditor must get a court order prior to foreclosing on a servicemember's mortgage. 50 U.S.C. §§ 3953(a) & (c).
- The mortgage at issue must have been taken out by a servicemember prior to entering military service in order for this protection to be applicable. 50 U.S.C. § 3953(a)(1).
- Courts have the ability, and a duty in certain instances, to postpone a non-judicial foreclosure proceeding. 50 U.S.C. § 3953(b).

SEC. 3931: DEFAULT JUDGMENTS

- In any civil court proceeding, including a judicial foreclosure proceeding, in which the defendant servicemember does not make an appearance, a plaintiff creditor must file an affidavit with the court stating one of three things: (1) that the defendant is in military service; (2) that the defendant is not in military service; or (3) that the creditor is unable to determine whether or not the defendant is in military service after making a good faith effort to determine the defendant's military service status. 50 U.S.C. § 3931(b)(1).
- Where a defendant has not made an appearance and it seems that he or she is in military service, a court may not enter a default judgment until after it appoints an attorney to represent the interests of that defendant. 50 U.S.C. § 3931(b)(2).
- The court must postpone a civil court proceeding for at least 90 days if that appointed attorney has been unable to contact the defendant servicemember, or if there may be a defense to the action that requires that the defendant be present. 50 U.S.C. § 3931(d).

SEC. 3952: REPOSSESSIONS

- A creditor may not repossess a vehicle during a borrower's period of military service without a court order, as long as, before entering military service, the servicemember borrower either: (1) placed a deposit for the vehicle; or (2) made at least one installment payment on the contract. 50 U.S.C. § 3952.

SEC. 3955: RESIDENTIAL AND VEHICLE LEASES

- Servicemembers may terminate residential or vehicle leases acquired prior to military service at any time after the servicemember's entry into military service; or if the leases are acquired while in military service, after the date of the servicemember's military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 90 days. 50 U.S.C. §§ 3955(a) & (b).
- To terminate a lease, a servicemember must submit a written notice and a copy of his or her military orders – or a letter from a commanding officer – to the lessor or lessor's agent. 50 U.S.C. § 3955(c).
- If a servicemember pays rent on a monthly basis, once he or she gives proper notice and a copy of his or her military orders, then the lease will terminate 30 days after the next rent payment is due. 50 U.S.C. § 3955(d)(1).
- In the case of a lease of a motor vehicle, the servicemember must return the motor vehicle to the lessor or the lessor's agent, not later than 15 days after the date of the delivery of written notice 50 U.S.C. § 3955(c).

CONTACT INFORMATION:

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