



OFFICE OF THE STAFF JUDGE ADVOCATE 501st COMBAT SUPPORT WING RAF ALCONBURY / RAF CROUGHTON, UK



SERVICEMEMBERS CIVIL RELIEF ACT

Introduction

The Servicemembers Civil Relief Act (SCRA) (50 USC §3901), formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940, provides important safeguards to members on active duty status in the area of financial management, including rental agreements, security deposits, evictions, installment contracts, credit card interest rates, mortgages, civil judicial proceedings, income tax payments, etc. The purpose is to provide temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service. §3902 **These protections do NOT apply to U.K. civil proceedings.**

Protections – Here is a brief and non-exhaustive list of a few of the protections. The entire list of protections afforded under SCRA can be reviewed at 50 U.S.C. §§3931-4043.

Default Judgments: If a default judgment is entered against a servicemember during his or her active duty service, or within 60 days thereafter, then the servicemember may petition to reopen that default judgment and defend it. In order to set aside a default judgment, the servicemember must show that he or she was prejudiced by not being able to appear in person, and that there is good and legal defenses to the claims. The servicemember must apply to the court for relief within 90 days of the termination or release from military service. §3931

Stay of Proceedings: While on active duty or within 90 days of completing an active duty assignment, you may request a delay of an administrative or civil court proceeding if your military service materially affects your ability to participate in the proceeding. You must submit a letter from your commander stating that duty prevents you from appearing in court and that the mission prevents release to attend the proceedings. The stay lasts for a minimum of 90 days and additional delays may be requested. §3932

Statute of Limitations: While on active duty, the statute of limitations in some actions will toll, with exceptions of torts and IRS collections. This means you will have a longer period of time to file a cause of action and will not be negatively impacted because of your military service. §3936

6% Interest Rate: This may give you a 6% maximum interest rate on certain pre-active duty debts if you follow strict statutory steps. Interest in excess of 6% is forgiven, not postponed. §3937

Eviction Protection: A court may grant relief from eviction, including a stay of eviction for three months if the ability to pay rent is materially affected by military service. Criminal sanctions may be imposed on a landlord for violating this section. §3951

Foreclosures: If, because of active duty military service, you breach the terms of the purchase contract for real property or an automobile, the property may not be foreclosed or repossessed without a court order. §3953, 3958.

Terminating Residential Leases: You may be able to terminate a lease for your home that was entered into before being called to active duty, after receiving orders (PCS, separation, or deployment). You may terminate a housing lease with written notice; this is effective 30 days after the first date of the next rental payment. This relief applies to joint leases with dependents as well. §3955

Terminating Auto Leases: You may terminate an auto lease that was entered before being called to active duty for a period of 180 or more days, upon receiving orders for a permanent change of duty station outside the U.S. or from a duty station outside the U.S., or when deploying with a military unit for 180 days or more. You must provide written notice of termination to the lessee and return the vehicle within 15 days of the notice. This relief applies to joint leases with dependents as well. §3955

Cell Phones: You may terminate cell phone contracts (individual or family plans) if: relocated for more than 90 days, the new location does not support the contracted service, and the member provides written notice. Early termination fees are prohibited. §3956

Life Insurance: Life insurance companies cannot terminate coverage or require payment of additional premiums if you are in military service. Increases in premiums based on age in individual term insurance is not covered by SCRA. An insurer also may not limit or restrict coverage for any activity required by military service. §§3957, 3971, 3972.

Taxes: Ask about SCRA state tax benefits, new rules for combat zones, hazardous duty pay, and the Earned Income Credit (EIC). If your family income has changed, consider adjusting your income tax withholding with a new W-2 or paying estimated income tax. Tax forms and a new W-2 calculator may be accessed at www.irs.gov. Military members may defer taxes for 180 days if their ability to pay is materially affected by military service and no interest accrues during deferment. §§3991, 4000.

Health Insurance: If a health insurance policy is in effect before active duty and terminated while on active duty, then coverage is immediately reinstated as long as there is no US Department of Veterans Affairs determination of disability. §4024

Small-Business Owners: If you own a small business, your nonbusiness assets and military pay are protected from creditors to satisfy business obligations or liabilities while you are on active duty. §4026

Resources

www.aflegalassistance.law.af.mil

<https://www.statesidelegal.org/interactive-forms-directory>

www.irs.gov

RAF Alconbury and RAF Croughton Legal Office Hours

All Services by Appointment Only (email 501cswja@us.af.mil)

Tuesdays and Thursdays 1000-1200 & 1300-1400

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