



OFFICE OF THE STAFF JUDGE ADVOCATE  
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL  
CLIENT SERVICES OFFICE  
2765 TENNESSEE AVENUE  
FORT CAMPBELL, KENTUCKY

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

The Servicemembers Civil Relief Act (SCRA) is a federal law that provides financial protections to military members. It covers such issues as early termination of rental agreements, eviction, interest rates on loans, mortgage foreclosure, civil judicial proceedings, and other matters. The SCRA protects active-duty military members, reservists, and members of the National Guard called to active duty and, in limited situations, dependents of military members. In many situations, the SCRA protections are not automatic and require some action by the military member. The source of the SCRA is federal law located at Chapter 50 United States Code sections 3901-4043.

**Termination of Leases.** The SCRA allows termination of leases by servicemembers who subsequently receive orders for a permanent change of station (PCS) or a deployment for a period of 90 days or more. Upon receipt of orders for deployment or PCS the servicemember should provide a copy of the orders along with written notice to vacate the premises to the landlord. No future rent will be owed nor any penalty assessed for ending the lease earlier than its stated term. The dependent spouse is also allowed this protection and entitled to terminate a joint lease with the military member. Lease termination may also be possible under certain other conditions to include death, severe illness, or Department of Defense stop movement orders.

The SCRA also includes automobiles leased by servicemembers and their dependents. The pre-service automobile lease may be cancelled if the servicemember receives orders for a period of 180 days or more. The automobile lease entered into while the servicemember is on active duty may be terminated if the servicemember receives PCS orders to a (1) location outside the continental United States or (2) deployment orders for a period of 180 days or more.

**6% Rule.** One benefit under the SCRA is the ability to reduce pre-service consumer debt and mortgage interest rates to 6%. A creditor should be notified in writing that an interest rate reduction is required under federal law, effective on the date of entry into military service. Further, a copy of the orders should be provided to that creditor. This 6% interest rate reduction rule normally applies when someone first joins the U.S. military or for reserve/National Guard personnel who enter a period of active duty. For debts that a servicemember has after entry on active duty, there is no protection under the SCRA regarding interest rates.

**Delay of Court Proceedings.** The SCRA permits active duty servicemembers who are unable to appear in a court for a civil action or administrative proceeding due to their military duties to postpone the proceeding. The request must be in writing and (1) explain why the current military duty materially effects the servicemember's ability to appear; (2) provide a date when the servicemember can appear; and (3) include a written statement from the commander stating that the servicemember's duties preclude appearance and no authorized leave is now available on the date of the hearing. A court is initially required to postpone the case and further delays may be granted at the discretion of the court. This ability to postpone court hearings does not include any criminal proceeding, a court action which could result in fine and/or imprisonment. This delay protection does apply to administrative proceedings which may also be delayed until a servicemember is available to appear.



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**Default Judgment Protection.** If a civil lawsuit is filed and the person sued fails to appear in court, then a default judgment may be entered by the court allowing the party filing the lawsuit to win the case. Should a default judgment be entered against a servicemember during active-duty service, or within 60 days thereafter, the SCRA allows the servicemember to reopen that default judgment and set it aside. To set aside a default judgment, the servicemember must show that they were prejudiced by not being able to appear in person and have a good defense to the claim. The servicemember must apply to the court for relief within 90 days of the termination or release from military service.

**Eviction Protection.** Military members and their dependents have some protection from eviction under the SCRA. The landlord must obtain a court order to evict a military member or his dependents. State courts have a process to notify a tenant of an eviction action, provide them an opportunity to appear and defend the case, and ultimately issue a court order noting which party is entitled to possession of the real property. Like the eviction protection, a company operating a self-storage facility must also obtain a court order to discard or sell off the stored personal property of a servicemember.

**Contract termination.** The SCRA permits a servicemember to terminate certain consumer contracts in the event of PCS or deployment. Cellphone contracts may be terminated or suspended, at the option of the servicemember, while a military member is assigned to a different location. Gym memberships and home security contracts may be terminated under certain conditions. In any situation involving termination of a service contract the company involved must be provided written notice of termination along with military orders.

**Waiver of SCRA Rights.** The SCRA allows a servicemember to waive any of the protections afforded by the SCRA. To be legally effective, the waiver must (1) be contained in a separate document; (2) clearly note what rights are being waived; and (3) must be in larger print size and be signed by the servicemember.

If you have any questions concerning these matters, please come to the Client Services Office (Building 2765) 2765 Tennessee Avenue, Fort Campbell, KY 42223. Office hours are Monday, Tuesday, Wednesday from 0900 to 1600 hours, on Thursday from 1300-1600, or on Friday 0900 to 1500 (we close for lunch every day from 1145-1300).