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## Servicemembers Civil Relief Act

The Servicemembers Civil Relief Act (SCRA) was originally enacted in 1940, known as the Soldiers' and Sailors' Civil Relief Act. The SCRA has been amended by a variety of acts over several years. The law protects members of the Army, Navy, Air Force, Marine Corps and Coast Guard, including other servicemembers. The purpose of this Alert is to outline the major protections of the SCRA

Updated Alert Date: December 13, 2019

Status: Effective

Links: [CFPB - Servicemember Information](#)  
[FDIC - SCRA Materials](#)  
[FRB - SCRA Materials](#)  
[NCUA - SCRA Materials](#)  
[OCC - SCRA Materials](#)  
[SCRA Notice – see HUD-92070](#)

The SCRA has an extensive background, including but not limited to the following actions:

- Soldiers' and Sailors' Civil Relief Act of 1940
- The Veterans Benefits Improvement Act of 2004
- The Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012
- The Foreclosure Relief and Extension for Servicemembers Act of 2014
- The Foreclosure Relief and Extension for Servicemembers Act of 2015

As there is no "catch-all" implementing regulation, institutions can sometimes struggle with locating information on the current legal requirements and restrictions. Institutions should refer to their supervisory agency for information on SCRA and its requirements and prohibitions and obtain legal support as needed. *See information linked above.*

### ***What is the 6% Interest Rate Limitation?***

An important servicemember protection included in the SCRA is the establishment of an interest rate limitation on loans, including mortgages. The maximum interest rate limit of **6%** is to be applied to debts incurred by the servicemember, or jointly by a servicemember and spouse, before entry into military service; upon receipt of a written notice and military orders. Written notice to the creditor is to be provided no later than 180 days after the date of the servicemembers termination or release from military service.

When that written notice is received, creditors must retroactively ensure that the interest rate on the servicemember's debts as of the date called to military service is no more than 6%. Interest at the rate in excess of 6% that would otherwise be incurred is forgiven. The 6% maximum rate must be maintained for:

- the duration of military service; or
- with regard to mortgages, for the duration of military service and one year thereafter.

This interest rate provision will apply unless a court order grants a creditor relief from the limitations.

### ***What Protections Apply to Residential and Motor Vehicle Purchases and Leases?***

Contracts for the purchase of real or personal property, for which the servicemember has paid a deposit or made a payment before the servicemember enters military service, may not be rescinded or terminated after the servicemember's entry into military service for a breach of the terms of the contract occurring before or during their military service, or the property repossessed because of the breach without a court order.

The SCRA also permits the lessee servicemember to terminate certain residential or motor vehicle leases, if the servicemember provides a written notice of the request for termination, along with a copy of the military orders. With regard to automobile leases (for personal or business use), the lease may be terminated if after the lease was executed, the servicemember enters military service for a period of 180 days or more. There are additional provisions that permit the termination of a lease entered into while on active duty, if the servicemember receives military order for a permanent change of station outside of the continental United States or deployment for a period of 180 days or more.

### **What Foreclosure Protections are Provided?**

The SCRA provides certain protections against foreclosure. More specifically, real or personal property owned by a servicemember before the servicemember's military service that secures a mortgage, trust deed, or similar security interest cannot be sold, foreclosed upon, or seized based on a breach of such a secured obligation during the period of military service or one year thereafter\* without a court order.

*\*Over the past several years, the one year timeframe of extended foreclosure protection is one that has been re-established via temporary amendments. For example, prior to the passage of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), the one year extended timeframe was scheduled to sunset on December 31, 2019. However, with the passage of the EGRRCPA, that one year extended timeframe was made **permanent**.*

### **What Protections Apply to Life Insurance Securing a Debt?**

If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during the period of the servicemember's military service or within one year thereafter, any right or option obtained under the assignment, absent compliance with a court order or other specified requirement.

### **When is a Servicemembers Civil Relief Act Notice Disclosure required?**

The Housing and Urban Development Act of 1968 requires that creditors servicing a home loan provide a homeownership counseling notification to eligible homeowners. In connection with this requirement, servicemembers must be notified of their mortgage and foreclosure rights within 45 days of the date a missed payment was due on a mortgage secured by the borrower's principal residence, unless the borrower pays the past-due amount before the expiration of the 45-day period. HUD provides their Servicemembers Civil Relief Act Notice (form HUD-92070) on their website. Institutions should be aware that HUD updates this form periodically. It may be accessed via the link provided above.

## **Recommendations for Next Steps**

As these provisions are already effective, consider a review of the following:

1. Ensure lending policy, procedures or processes accurately reflect and support the protections provided by the SCRA, including but not limited to the 6% interest rate limitation and the extended foreclosure protection.
2. Ensure proper use of the HUD Servicemembers Civil Relief Act Notice.
3. Provide training to staff as needed.