

American Forces Information Service

If you're a reserve component service member called to active duty, you're protected by a law that can save you some legal problems and possibly some money as well.

Under the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, you may qualify for any or all of the following:

- Reduced interest rate on mortgage payments.
- Reduced interest rate on credit card debt.
- Protection from eviction if your rent is \$1,200 or less.
- Delay of all civil court actions, such as bankruptcy, foreclosure or divorce proceedings.

"Although all service members receive some protections under the SSCRA, additional protections are available to reserve components called to active duty," said Lt. Col. Patrick Lindemann, deputy director for legal policy in the Office of the Undersecretary of Defense for Personnel and Readiness. Most active duty service members are familiar with the provisions of the SSCRA that guarantee service members the right to vote in the state of their home of record and protect them from paying taxes in two different states.

One of the most significant provisions under the act limits the amount of interest that may be collected on debts of persons in military service to 6

percent per year during the period of military service. This provision applies to all debts incurred prior to the commencement of active duty and includes interest on credit card debt, mortgages, car loans and other debts. The provision, Lindemann emphasized, applies to pre-service debts, and the interest rate reduction doesn't occur automatically — service members must request it.

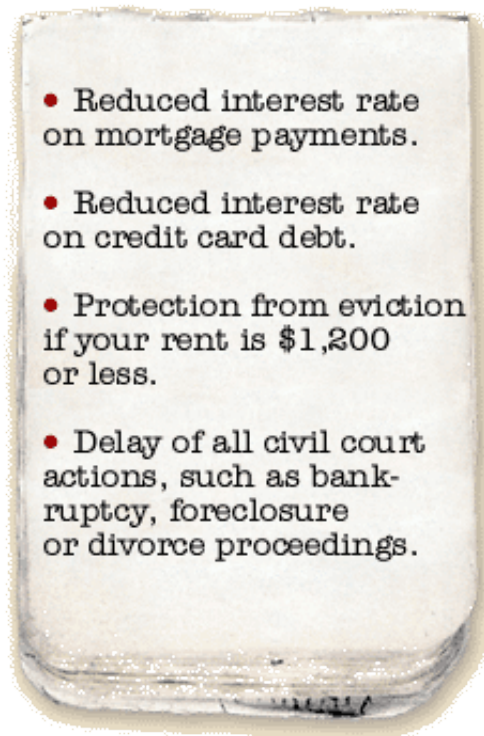
"Material Effect"

Once a service member requests the rate reduction, the creditor must either comply or apply for court relief. The SSCRA puts the burden on the creditor to show that military service has not "materially affected" a member's ability to repay the debt. The court generally grants relief if the creditor can make his case.

Lindemann advised that service members notify lenders of their intent to invoke the 6 percent cap in writing, along with proof of mobilization/activation to active duty and evidence of the difference in the member's military and civilian pay. This could prevent creditors from attempting to challenge interest rate reduction requests in court.

The interest rate cap does not apply to federal guaranteed student loans. However, according to Lindemann, the Department of Education has in the past deferred or suspended payments on student loans for reserve component military members called to active duty. Service members should contact their lenders or schools to determine if such a program has been implemented and its eligibility requirements.

Another key provision under the SSCRA protects your dependents from being evicted while you are serving your country. If you rent a



A Brief History

house or apartment that is occupied for dwelling purposes and the rent does not exceed \$1,200 per month, the landlord must obtain a court order authorizing eviction. This provision applies regardless of whether quarters were rented before or after entry into military service.

[View a brief history of the Soldiers' and Sailors' Relief Act of 1940](#)

In cases of eviction from dwelling quarters, courts may grant a stay of up to three months or enter any other "order as may be just" if military service materially affects the service member's ability to pay the rent. This provision is not intended to allow military members to avoid paying rent, said Lindemann, but rather to protect families when they cannot pay the rent because military service has affected their ability to do so.

Civil Proceedings

Another significant protection under the act relates to civil proceedings. Service members involved in civil litigation can request a delay in proceedings if they can show their military responsibilities preclude their proper representation in court. This provision is most often invoked by service members who are on an extended deployment or stationed overseas. "I would recommend a service member contact the unit or installation legal office immediately if they receive notice of court proceedings against them," Lindemann said. "Civil court proceedings can involve very complex issues and no one should do anything, including requesting a stay of proceedings, prior to seeking legal advice."

To learn more about these or other provisions of the Soldiers' and Sailors' Civil Relief Act, contact your unit or installation legal assistance office.

Related Site of Interest:
[Ombudsman Services and The Law](#)

