



The Servicemembers and Veterans Initiative

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The SVI's Mission

- Supports Department of Justice efforts to protect those who protect us all.
- Coordinates the Department's servicemember-related litigation efforts.
- Delivers training, technical assistance, and other support to Department attorneys, servicemembers, veterans, and their families.
- Conducts outreach to veteran service organizations, state entities that assist veterans, and members of the bar and state judiciaries.



Statutes Enforced

- The Servicemembers Civil Relief Act (“SCRA”)
- The Uniformed Services Employment and Reemployment Rights Act (“USERRA”)
- The Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”)

Expanding outreach efforts:

- The Americans with Disabilities Act (“ADA”)
- The Fair Housing Act (“FHA”)



Basic SCRA Protections

Servicemembers Civil Relief Act (SCRA) 50 U.S.C. 3901 et seq.



WHAT IS THE SCRA?

The SCRA was enacted in 2003 to “provide for, strengthen, and expedite the national defense” by enabling servicemembers of the United States “to devote their entire energy to the defense needs of the Nation[.]” 50 U.S.C. § 3902.

- Revised and expanded the Soldiers’ and Sailors’ Civil Relief Act of 1940 (SSCRA)
- Designed to ease financial burdens on servicemembers during periods of military service.



SCOPE OF THE SCRA

- Contracts and Consumer Transactions
 - Debt
 - Leases
 - Mortgages
 - Cellular Telephone Contracts
 - Insurance
- Civil Proceedings
- Taxation

And more....



INTERPRETING THE SCRA

“The Soldiers' and Sailors' Civil Relief Act is always to be liberally construed to protect those who have been obliged to drop their own affairs to take up the burdens of the nation.” Boone v. Lightner, 319 U.S. 561, 575, (1943).

“[T]he Act must be read with an eye friendly to those who dropped their affairs to answer their country's call.” Le Maistre v. Leffers, 333 U.S. 1, 6 (1948).



BUT

“Although the act is to be liberally construed it is not to be used as a sword against persons with legitimate claims.” Engstrom v. First Nat'l Bank, 47 F.3d 1459, 1462 (5th Cir. 1995).



SVI Enforcement

DOJ SCRA Enforces cases where:

(1) Companies or individuals engaged in a pattern or practice of violating the SCRA;

OR

(1) The matter presents an issue of significant public importance

50 U.S.C. § 4041.



SCRA

KEY DEFINITIONS

Key SCRA Definitions



SCRA

KEY DEFINITIONS

“Military Service” (50 U.S.C. § 3911(2)) includes:

- Army, Navy, Air Force, Marine Corps or Coast Guard on active duty under Title 10 (10 U.S.C. § 101(d)(1)).
- Reservists when on active duty in Title 10 status.
- National Guard on active duty in Title 10 status OR when called to active service by SecDef or POTUS for national emergency purpose under 32 U.S.C. § 502(f) for more than 30 days.
- Commissioned officers of the Public Health Service and NOAA.
- It includes absences from duty due to sickness, wounds, leave or other lawful cause.



SCRA

KEY DEFINITIONS

“Period of Military Service”

- For most, SCRA protections begin on the date the servicemember enters active duty. See 50 U.S.C. § 3911(3)
- For military reservists, protections begin BEFORE they begin military service. Protections for reservists begin upon receipt of mobilization orders, not the report date. See 50 U.S.C. § 3917. Sometimes referred to as “**early alert.**”
- Most protections end if the servicemember is released from military service or dies while in military. Certain provisions extend protections for up to 1 year after military service - sometimes referred to as “**tail coverage.**”



SCRA

KEY DEFINITIONS

“Dependents” – 50 U.S.C. § 3911(4)

- Spouse;
- Child; or
- Individual who receives more than half of support from servicemember (for over 180 days preceding application for relief under Act).



SCRA

KEY DEFINITIONS

Pre-Service Requirement

- Certain SCRA protections only apply if the “obligation” (signing of contract, lease, etc.) began BEFORE the borrower entered military service.
- See SCRA Sections:
 - 3937 (6% interest)
 - 3952 (repossession)
 - 3953 (non-judicial foreclosures)





SCRA
Lease Terminations
50 U.S.C. § 3955

Lease Terminations



SCRA
Lease Terminations
50 U.S.C. § 3955

Servicemember tenants may terminate residential leases early IF:

- Premises are occupied or intended to be occupied by a servicemember or dependent;
- Tenant signs the lease and thereafter:
 - (1) enters military service;
 - (2) receives PCS orders (including retirement or separation orders); OR
 - (3) receives deployment orders for at least 90 days.



SCRA

Lease Terminations

50 U.S.C. § 3955

Servicemember lessees can terminate vehicle leases early if:

- The servicemember or dependent uses or intends to use the vehicle; and
- The lessee executes the lease and:
 - (1) Then enters military service for 180 days or more;
 - (2) is in military service and later receives CONUS to OCONUS PCS orders;
 - (3) is in military service and later receives orders from an OCONUS state to any location outside that state; OR
 - (4) receives deployment orders for at least 180 days.



SCRA

Lease Terminations

50 U.S.C. § 3955

- Notice may be delivered by **hand delivery**, by **private business carrier**, or by **certified mail**.
- On January 5, 2021, Congress amended Sec. 3955 to clarify that **electronic notice** (such as email) is also permissible. See PL 116-315, January 5, 2021, 134 Stat 4932



SCRA

Lease Terminations

U.S. v. Twin Creek Apartments (D. Neb. 2018)

U.S. v. Twin Creek Apartments, LLC (D. Neb. 2018)

- An apartment complex in Bellevue, Nebraska was giving military tenants a monthly discount or “**rent concession.**” It required that tenants pay back the discounts if they terminated the lease early.
- The Department filed a complaint and alleged that the enforcement of the rent concession addendum constituted an **early termination fee** that violated Section 3955 of the SCRA.



Settlement provides:

- over \$75,000 in damages to 65 servicemembers;
- \$20,000 in civil money penalties; and
- Injunctive relief requiring Twin Creek to adopt SCRA compliant policies and training.



SCRA

Leases and Waivers

U.S. v. Western Rim Investors (W.D. Tex.)

United States v. Western Rim Investors 2011-4, L.P (W.D. Tex.)

- Two San Antonio-area landlords imposed early termination charges against and /or refused to allow termination for 45 servicemembers with qualified orders.
- The leases contained various addenda, including SCRA waivers
- DOJ took the position that such boilerplate addenda attached to the lease did not constitute valid SCRA waivers under Section 3917.



- The consent order required the defendants to pay over \$71,000 to compensate 45 aggrieved servicemembers, in addition to a civil penalty of \$64,715.



SCRA

Residential Lease Terminations

Special Circumstances:

- **Stop Movement Orders:** if a lessee receives a **stop movement order** issued by the Secretary of Defense in response to a local, national, or global emergency, effective for an indefinite period or for a period of not less than 30 days, which prevents the servicemember or servicemember's dependents from occupying the lease, the lessee can terminate the lease. **Termination is effective immediately.** Passed August 2020, but applies retroactively.
- **Death of a lessee:** if a lessee dies while in military service, the lessee's spouse may terminate the lease within one year of the lessee's death.
- **Catastrophic injuries and illnesses:** if a lessee incurs a **catastrophic injury or illness** during a period of military service, the spouse of the lessee may terminate the lease within one year of when the injury or illness was incurred.



SCRA
6% Interest Rate Cap
50 U.S.C. § 3937

6% Interest Rate Cap



SCRA

6% Interest Rate Cap

50 U.S.C. § 3937

Basic rule: Servicemembers can request a 6% interest cap

Requirements:

- **Pre-service** obligation;
- Give written notice;
- Copy of military orders or “other appropriate indicator” of service (ie –CO letter); AND
- Notice and orders must be provided to creditor within 180 days of the end of military service.



SCRA

6% Interest Rate Cap

50 U.S.C. § 3937

Statute amended in August 2018:

- Proof of Service: “other appropriate indicators” of military service allowed
- Independent Verification by creditor: “Creditor may use DMDC in lieu of servicemember providing proof of service.”
- Creditor can rely on DMDC information, UNLESS they have received notice and documentation from the servicemember.



SCRA

6% Interest Rate Cap

50 U.S.C. § 3937

U.S. v. Sallie Mae (aka Navient) (D. Del. 2014)

- Failure to reduce student loan interest upon proper requests.
- Over \$60 million in compensation to 78,000 servicemembers.
- Department of Education subsequently required federal loan servicers to proactively check DMDC.



SCRA
Repossessions
50 U.S.C. § 3952

Repossessions



SCRA
Repossessions
50 U.S.C. § 3952

REPOSSESSIONS: No repossessions while borrower is in **military service (or early alert), IF:**

Borrower meets **pre-service requirement** (i.e., the first payment or deposit was made before entering military service);

AND

There was **no court order**.



SCRA
Repossessions
50 U.S.C. § 3952

U.S. v. Wells Fargo Dealer Services (C.D. Cal. 2016)

- DOJ investigation found that Wells Fargo unlawfully repossessed hundreds of servicemember cars.
- As a result of the Consent Order:
 - Wells Fargo required to pay over \$10 million to over 860 servicemembers (about \$10,000 to each, plus lost equity)
 - Policy changes, credit repair and injunctive relief
 - \$60,000 civil penalty



SCRA

**Cellular, Internet and
Cable/Satellite Contracts**

50 U.S.C. § 3956

Cellular, Internet and Cable/Satellite Contracts



SCRA

Cell Phone, Internet and Cable/Satellite Contracts

50 U.S.C. § 3956

Servicemember may terminate a contract for a commercial mobile service, telephone exchange service, internet access service, or multichannel video programming service any time after receiving orders for not less than 90 days to a location that does not support the contract.





SCRA
STORAGE LIENS
50 U.S.C. § 3958

Storage Liens



SCRA
STORAGE LIENS
50 U.S.C. § 3958

Basic Rule: A person holding a lien on a servicemember's property may not, during any period of military service or for 90 days thereafter, foreclose or enforce a lien on such property without a court order.



SCRA

STORAGE LIENS

U.S. v. City & County of Honolulu (2018)

U.S. v. City & County of Honolulu (D. Haw. 2018)

- Multiple servicemembers complained that the city auctioned their vehicles while they were deployed or at sea.
- City auctioned 1,440 cars registered to individuals who had identified themselves as servicemembers on their registration.
- Settlement required City to establish a \$150,000 settlement fund for affected servicemembers.
- Also required policy changes to ensure future compliance.



SCRA

Foreclosures

50 U.S.C. § 3953

Mortgage Foreclosures (Non-Judicial)



SCRA

Foreclosures

50 U.S.C. § 3953

Mortgage Foreclosures: Cannot foreclose on property owned by a servicemember during or within one year after the period of military service (or during early alert), IF:

- Borrower meets **pre-service** requirement;

AND

- No court order.



SCRA

Foreclosures

50 U.S.C. § 3953

- **Strict liability provision**
- **Tail Coverage** – protection applies during military service AND up to one year after service (50 USC § 3953(c)).



SCRA

FORECLOSURES

U.S. V. NORTHWEST TRUSTEE SERVICES

U.S. v. Northwest Trustee Services (W.D. Wash. 2017)

- NWTS foreclosed on Marine Corps veteran Jacob McGreevey's home, 2 mos. after leaving active duty.
- McGreevey brought private suit, but claim was time barred. [See McGreevey v. PHH Mortg. Corp., 897 F.3d 1037 \(9th Cir. 2018\).](#)
- DOJ opened an investigation and discovered that NWTS foreclosed on the homes of other SCRA-protected servicemembers.
- In September 2018, DOJ reached a settlement with NWTS for up to \$125,000 per violation.
- DOJ also settled in February 2019 with PHH Mortgage for \$125,000 per violation.





The Uniformed Services Employment and Reemployment Rights Act



USERRA

The Uniformed Services Employment and Reemployment Rights Act is a federal statute that protects the civilian **employment** and **reemployment** rights of persons who are or have been members of a “**uniformed service.**”

38 U.S.C. § 4301 *et seq.*



USERRA Overview

- Prohibits employment **discrimination**
- Prohibits **retaliation** against employees who engage in protected conduct
- Provides for **prompt reemployment** following uniformed service
- Ensures continuation of certain **benefits** during military service and upon return
- Provides **right to file a complaint** with the Department of Labor

38 U.S.C. §§ 4311-18 & 4322



DOL-VETS USERRA Process

- Claimants may **request representation** from DOJ (private, local, or state employer) or OSC (federal agency employer) for unresolved claims by requesting that DOL-VETS refer the case.
 - No statute of limitations.
- In FY 2018, DOL-VETS referred **50 cases** to DOJ (17 substantiated) and **25 to OSC** (6 substantiated).
- Decisions to represent/bring suit made <60 days of receiving referral.
38 U.S.C. §§ 4323 & 4324
- DOJ and OSC try to settle cases before filing suit
- **104 USERRA lawsuits** filed by DOJ since 2004
38 U.S.C. Subchapter III; FY 2018 USERRA Annual Report to Congress, at 15



USERRA Litigation

Strong v. City of Chicago, 1:19-cv-08244 (ND IL)(2019)

- Derrick Strong was deployed in 2016 when the City of Chicago administered a promotional exam for Fire Department engineers.
- DOJ brought suit representing Strong claiming that the City was required to give Strong the exam when he returned from active duty.
- City administered another exam in 2019 and 2020 and continues to require deployed individuals to take exam while deployed.



USERRA Amicus

Mueller v. City of Joliet, No. 18-3609 (7th Cir. 2019)

- District court dismissed Mueller’s USERRA case, finding that National Guard counterdrug duty was authorized under Illinois law and not covered by USERRA. DOJ CRT filed an amicus brief and argued case. Seventh Circuit reversed, finding:
 - “service in the uniformed services” explicitly covers full-time National Guard duty, including counterdrug activities, 38 U.S.C. 4303(13).
 - USERRA does not limit protection to those in “Federal service” like the Army or Navy but to those in “service in a uniformed service,” which explicitly includes Title 32 full-time National Guard duty.
 - The Posse Comitatus Act likewise only bars the Army and Air Force from domestic law enforcement, but does not apply to Title 32 National Guard duty, 18 U.S.C. 1385.



Financial Fraud

Financial Fraud Related to Servicemembers and Veterans



Financial Fraud

The Consumer Protection Branch is the primary criminal enforcement component of the Department's Servicemembers and Veterans Initiative.

Working with the Defense Criminal Investigative Service and FBI, the Branch investigates reported frauds and tracks evidence to uncover other schemes, seeking to ensure that the brave men and women who protect America are themselves protected from fraud and identity theft.

Questions

For more information visit:

- Servicemembers.gov

Or email:

Servicemembers@usdoj.gov

- Department of Justice, Civil Rights Division
- Housing and Civil Enforcement Section

www.justice.gov/fairhousing

202-514-4713

- Department of Housing and Urban Development

www.hud.gov

800-669-9777



U.S. DEPARTMENT OF JUSTICE
SERVICEMEMBERS &
VETERANS INITIATIVE

Questions



FEDERAL PARTNERS

- [FTC - Military Families](#) - Consumer information for servicemembers and military family members
- [CFPB Servicemembers](#) - Information for servicemembers on unfair, deceptive, and/or abusive financial practices
- [DOL-VETS](#) - USERRA fact sheet
- [SEC - https://www.investor.gov/military](https://www.investor.gov/military) - Information for servicemembers on investing wisely and avoiding fraud
- [FTC - https://www.military.consumer.gov/](https://www.military.consumer.gov/) - Find free resources to defend against fraud and manage your money

U.S. DEPARTMENT OF DEFENSE

- [Employer Support of the Guard and Reserve \(ESGR\)](#) - USERRA information and assistance
- [Federal Voting Assistance Program](#) - Voting assistance for servicemembers, their families, and overseas citizens
- [National Resource Directory](#) - Connecting wounded warriors, servicemembers, veterans, their families, and caregivers with those who support them
- [U.S. Armed Forces Legal Assistance](#) (SCRA) - Locate the closest military legal assistance office
- [Servicemembers Civil Relief Act](#) (SCRA) Website – Identify periods of military service with a single record request

U.S. DEPARTMENT OF JUSTICE

- [Guide to the Uniformed Services Employment and Reemployment Act](#)

A GUIDE TO DISABILITY RIGHTS LAWS

- www.ada.gov/cguide.htm (html) - A general guide to disability rights laws
- www.ada.gov/cguide.pdf (pdf) - A general guide to disability rights law (alternative format)
- www.ada.gov/cguide_spanish.htm (Spanish) - A general guide to disability rights laws
- www.ada.gov/servicemembers_adainfo.html



Questions

U.S. Attorney's Office Eastern District of Washington Civil Rights Team

- EDWA Civil Rights Web Page:
<https://www.justice.gov/usao-edwa/edwa-civil-rights-webpage>
- EDWA Civil Rights Email:
USAWAE.CivilRights@usdo.gov
- EDWA Civil Rights Phone/Voicemail:
(509) 835-6306