



STATE ENHANCEMENTS TO THE SERVICE MEMBER'S CIVIL RELIEF ACT (SCRA)

As a result of military duty, Service members can have unintended consumer concerns for which they can be protected through state consumer protection policies.

KEY MESSAGE: Service members are protected as consumers through the federal SCRA; however, these protections do not extend to members of the National Guard under state activation, or protect Service members concerning obligations that occur while on active duty. States can provide additional consumer protections that can mirror and extend the federal SCRA.



DISCUSSION POINTS:

- The 2003 federal SCRA generally provided protections associated with obligations made prior to Federal activation, and generally covered stays of some court proceedings; protection from default judgments, evictions, foreclosures and loss of insurance coverage; and limited certain taxes and obligations made before entering active duty.
- Updates to the SCRA since 2003 extended it to cover residential leases, motor vehicle leases and telephone service contracts entered while on active duty, in order to provide relief to Service members when they deploy or assigned overseas, or in some circumstances where they have a permanent change of station. Other changes have also provided remedies and civil enforcement by the U.S. Attorney General.
- Many states have applied several of the protections found in the federal SCRA to members of the National Guard under state activation; however, these protections vary widely. Some states have extended their consumer protections beyond what is included in the federal SCRA through state statutes, and applied these additional protections to Service members on federal active duty as well as state activations.
- DoD recognizes that states need to develop protections that make sense within the context of their consumer protection laws. DoD requests states consider protections:
 - Applicable to obligations made while on active duty for members of the Uniformed Services (Army, Navy, Marine Corps, Air Force, Coast Guard, National Guard, Public Health Services and National Oceanic and Atmospheric Administration);¹
 - Applicable to a contract to provide telecommunication services, internet services, television services, athletic club or gym memberships, or satellite radio services;¹
 - Applicable as well to certain residential lease/rental agreements due to moves into government owned/leased housing.

Title VIII of the SCRA provides authority to state attorneys general to enforce the provisions of the federal SCRA (Section 801 – 50 U.S.C. §597). In February 2012, the federal government and 49 state attorneys general reached an unprecedented joint agreement of \$25 Billion with the nation's five largest mortgage servicers to address mortgage loan servicing and foreclosure abuses.

¹ Protections approved as part of Indiana House Bill 1564, 2015



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SUBJECT: Service members are protected as consumers through the federal SCRA; however, the federal law does not protect Service members concerning obligations that occur while on active duty. States can provide additional consumer protections that can mirror and expand the federal SCRA.

PRINCIPLES: DoD recognizes that states need to develop protections that make sense within the context of their consumer protection laws. DoD requests states consider protections:

- Applicable to active duty for members of the Uniformed Services, (which parallels members covered by the federal SCRA: Army, Navy, Marine Corps, Air Force, Coast Guard, National Guard, Public Health Services and National Oceanic and Atmospheric Administration);
- Applicable to a contract to provide telecommunication services, internet services, television services, athletic club or gym memberships, or satellite radio services;
- Applicable as well to certain residential lease/rental agreements due to moves into government owned/leased housing.

EXAMPLES:

INDIANA HB 1456 (2015): SECTION 4. IC 10-16-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 20. Servicemembers Civil Relief Act

Sec. 1. A violation of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is a violation of this chapter. This chapter is intended to supplement rights and protections provided in the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

Sec. 2. The following definitions apply throughout this chapter:

(1) "Military service" means:

(A) in the case of a servicemember who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

(i) full-time training duty;

(ii) annual training duty; and

(iii) attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(B) in the case of a member or reserve member of the Indiana National Guard, service under a call to active:

(i) service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty (30) days in response to a national emergency declared by the President of the United States; or

(ii) duty as defined by IC 10-16-7-23(a) for a period of more than thirty (30) consecutive days;

(C) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; or

(D) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(2) "Servicemember" means an individual engaged in military service.

Sec. 3. After giving notice to a plaintiff, as applicable, the dependent of a servicemember has the same rights and protections provided to a servicemember under Title II of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 521 through 527).

Sec. 4. (a) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included in Title III of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 531 through 538), a servicemember may terminate a contract described in subsection (b) at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety (90) days to a location that does not support the contract.

(b) This section applies to a contract to provide any of the following:

- (1) Telecommunication services.
- (2) Internet services.
- (3) Television services.
- (4) Athletic club or gym memberships.
- (5) Satellite radio services.

(c) Termination of a contract must be made by delivery of a written or electronic notice of the termination and a copy of the servicemember's military orders to the service provider. If a servicemember terminates a contract, the service provider shall provide the servicemember with a written or electronic notice of the servicemember's rights posted on the Indiana National Guard's Internet web site as required by IC 10-16-6-13.

OREGON 2083 (2013): SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 399.

SECTION 2. (1) As used in this section, "service member" means:

(a) A member of the organized militia who is called into active service of the state by the Governor under ORS 399.065 (1) for 30 or more consecutive days.

(b) A member of the Armed Forces of the United States, as that term is defined in ORS 348.282, who is called into active federal service under Title 10 of the United States Code.

(2)(a) Except as provided in subsection (6) of this section, a service member who has obtained the following services from a telecommunications service provider, an Internet service provider, a health club as defined in ORS 431.680, a health spa as defined in ORS 646A.030 or a provider of television services may terminate or suspend the provision of services upon written notice and as provided in paragraph (b) of this subsection:

- (A) Telecommunications services.
- (B) Internet services.
- (C) Health spa services as defined in ORS 646A.030.
- (D) Exercise or athletic activities offered by a health club.
- (E) Television services, including but not limited to cable television, direct satellite and other television-like services.

(b) The service member must provide proof to the service provider of the official orders showing that the service member has been called into active service:

- (A) At the time written notice is given; or
- (B) If precluded by military necessity or circumstances that make the provision of proof at the time of giving written notice unreasonable or impossible, within 90 days after written notice has been given.

(3) A termination or suspension of services under this section is effective on the day written notice is given under subsection (2) of this section.

(4)(a) A service member who terminates or suspends the provision of services under this

section and who is no longer in active service may reinstate the provision of services on the same terms and conditions as originally agreed to with the service provider before the termination or suspension upon written notice to the provider that the service member is no longer in active service. Written notice under this subsection must be given within 90 days after termination of the service member's active service.

(b) Upon receipt of the written notice of reinstatement, the service provider shall resume the provision of services or, if the services are no longer available, provide substantially similar services within a reasonable time not to exceed 30 days from the date of receipt of the written notice of reinstatement.

(5) A service member who terminates, suspends or reinstates the provision of services under this section:

(a) May not be charged a penalty, fee, loss of deposit or any other additional cost because of the termination, suspension or reinstatement; and

(b) Is not liable for payment for any services after the effective date of the termination or suspension, or until the effective date of a reinstatement of services as described in subsection (4) of this section.

(6) A service member may terminate a contract for any service provided by a commercial mobile radio services provider in accordance with 50 U.S.C. 535a.