

**THE SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)  
RIGHTS OF SERVICE MEMBERS ON ACTIVE DUTY  
THAT MAY IMPACT YOUR COMMUNITY OR LOAN TRANSACTIONS**

SCRA (50 App. U.S.C. 501, and following), is the successor statute to the Soldiers and Sailors Civil Relief Act. SCRA provides that it is intended to "provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service" so that members of the military who are on active duty not be distracted from their military duties. SCRA is a lengthy statute with numerous protective provisions for servicemembers. The following highlights some of these provisions, particularly those affecting the manufactured and modular home industry.

Note that "servicemembers" includes not only members of the armed forces of the United States, but certain employees of private contractors who are performing work overseas in support of the armed forces. For example, an employee of the XYZ Corporation provides security services for members of the armed forces stationed in Iraq. The XYZ employee would also be entitled to the protections of SCRA.

**I. Termination of Rental Agreements and Automobile Loans**

A servicemember on active duty has the right to terminate a lease or rental agreement (including auto loans) entered into:

- A. prior to the servicemember beginning active duty; or
- B. while on active duty, but prior to receipt of an order requiring a permanent change of station or deployment for more than 90 days.

In order to effectuate this right, the Service- member must deliver written notice to the landlord with a copy of his or her military orders. The termination is effective:

- A. For month-to-month rentals, 30 days after the date the next month's rent is due. Thus, if notice is given on August 15<sup>th</sup>, and the next rental payment is due on September 1, the termination is effective on October 1.
- B. For all other rentals, on the last day of the month after the month in which notice was received. Thus, if notice is received on August 15, the termination would be effective on September 30<sup>th</sup>.

Upon termination of a lease under SCRA, servicemembers are entitled to the pro-rata share of any prepaid rent and to the return of their security deposit.

## **II. Evictions**

A community owner may not evict a servicemember (or the dependents of a servicemember) on active duty from a residential lease. This right is only available on rentals where the monthly rent is below \$2831.13. This amount is required to be adjusted for inflation each year.

Under special circumstances, a community owner may seek a court order permitting an eviction notwithstanding that the servicemember is on active duty. The court may order a stay of the proceedings - 90 days, but the court has latitude to grant a longer or shorter period, depending on the circumstances.

The court may order adjustments in the rent to be paid during the period that the servicemember is on active duty as a way of accommodating the needs of the landlord. Note that violations of the anti-eviction provisions of SCRA are misdemeanors. SCRA also provides criminal penalties for landlords who confiscate property of servicemembers who are on active duty.

## **III. Foreclosures**

SCRA protects servicemembers from foreclosure of mortgages, deeds of trust and similar security instruments. The protections are available on obligations secured by real or personal property under the following conditions:

- A. The obligation arose, and the property was owned by the servicemember or dependent, prior to entry into active duty, and the servicemember or dependent continues to own the property at the time the foreclosure is sought;
- B. The ability of the servicemember to meet his or her obligations is "materially affected" by the servicemember's military service;
- C. The action is filed during the period of the servicemember's military service or within 9 months after such period.

Courts are given wide latitude to grant stays, extend the maturity date of the loan, and shape other relief to meet the particular circumstances.

## **IV. Reduction of rate of interest on certain loans to 6%**

Where a servicemember has entered into an "obligation or liability" prior to entering military service, and the rate of interest on the obligation or liability exceeds 6 percent, the servicemember has the right to require that the rate of interest be reduced to 6 percent for the duration of the time that the servicemember is in the military. If the obligation or liability is a mortgage, trust deed or other security in the nature of a mortgage, this interest rate protection

is for the duration of the military service and one year thereafter.

In order to effectuate this right, the servicemember must request the interest rate reductions by written notice to the creditor, including a copy of the written orders calling the servicemember up to the military. Such notice must be provided within 180 days of the completion of the servicemember's military service. The interest rate reduction is retroactive to the date that military service begins. Furthermore, SCRA stipulates that the interest above 6% is *forgiven* for the duration of the acts coverage, and provides other protections as may be necessary.