

## INFORMATION PAPER

DAJA-LA  
5 January 2004

SUBJECT: Revision to the Soldiers' and Sailors' Civil Relief Act

1. Purpose. To provide information about the new Servicemembers Civil Relief Act.

2. Facts.

a. On 19 December 2003, President Bush signed into law the "Servicemembers Civil Relief Act" (SCRA). This law is a complete revision of the Soldiers' and Sailors' Civil Relief Act (SSCRA).

b. The SSCRA provided a number of significant protections to servicemembers. These include: staying court hearings if military service materially affects servicemembers' ability to defend their interests; reducing interest to 6% on pre-service loans and obligations; requiring court action before a servicemember's family can be evicted from rental property for nonpayment of rent if the monthly rent is \$1,200 or less; termination of a pre-service residential lease; and allowing servicemembers to maintain their state of residence for tax purposes despite military relocations to other states.

c. The SSCRA was largely unchanged from its enactment in 1940. The SCRA was written to: clarify the language of the SSCRA; to incorporate many years of judicial interpretation of the SSCRA; and to update the SSCRA to reflect new developments in American life since 1940. The SCRA:

- (1) Extends the application of a servicemember's right to stay court hearings to administrative hearings. It now requires a court or administrative hearing to grant at least a 90-day stay if requested by the servicemember. Additional stays can be granted at the discretion of the judge or hearing official. The court must appoint counsel to represent the servicemember if the court denies the request for an additional stay.
- (2) Clarifies the rules on the 6% interest rate cap on pre-service loans and obligations by specifying that interest in excess of 6% per year must be forgiven. The absence of such language in the SSCRA had allowed some lenders to argue that interest in excess of 6% is merely deferred. It also specifies that a servicemember must request this reduction in writing and include a copy of his/her orders.
- (3) Modifies the eviction protection section by precluding evictions from premises occupied by servicemembers for which the monthly rent does not exceed \$2,400 for the year 2003 (an increase from the current \$1,200). The Act provides a formula to calculate the rent ceiling for subsequent years. For 2004, the monthly rent ceiling has been determined to be \$2465.

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- (4) Extends the right to terminate real property leases to active duty soldiers moving pursuant to permanent change of station (PCS) orders or deployment orders of at least 90 days. This eliminates the need to request a military termination clause in leases.
- (5) Adds a new provision allowing the termination of automobile leases for use by servicemembers and their dependents. Pre-service automobile leases may be cancelled if the servicemember receives orders to active duty for a period of 180 days or more. Automobile leases entered into while the servicemember is on active duty may be terminated if the servicemember receives PCS orders to a location outside the continental United States or deployment orders for a period of 180 days or more.
- (6) Adds a provision that would prevent states from increasing the tax bracket of a nonmilitary spouse who earned income in the state by adding in the service member's military income for the limited purpose of determining the nonmilitary spouse's tax bracket. This practice has had the effect of increasing the military family's tax burden.
- (7) Adds legal services as a professional service specifically named under the provision that provides for suspension and subsequent reinstatement of existing professional liability insurance coverage for designated professionals serving on active duty. While the SSCRA specifically names only health care services, legal services have been covered since 3 May 1999 by Secretary of Defense designations. The SSCRA permitted such a Secretarial designation, but this revision will clarify this area.

d. Historically, the SSCRA applied to members of the National Guard only if they were serving in a Title 10 status. Effective 6 December 2002, the SSCRA protections were extended to members of the National Guard called to active duty for 30 days or more pursuant to a contingency mission specified by the President or the Secretary of Defense. This continues in the SCRA.

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