



Servicemembers' Civil Relief Act

If you are a service member on active duty, you are under the umbrella of protection provided by the Servicemembers' Civil Relief Act of 2003 from the day you take the oath to the day you leave military service. It is one of the most comprehensive and enduring packages of protection Congress has ever enacted on service members' behalf.

The Act covers any member of the Uniformed Services serving on active duty. This includes Guard and reserve component personnel called to active duty. In addition, the Act also covers Coast Guard personnel, and officers of the Public Health Service and the National Oceanic and Atmospheric Administration.

The Servicemembers' Relief Act provides protections against undue burdens placed on service members. The Act can help service members with credit card and mortgage interest rates and civil litigation such as repossession of property, bankruptcy, foreclosure, or other such actions. Many of the provisions in the Act provide protection for the service member without any action needed by the service member. These provisions have been around for so long they are embedded in the way the federal and state governments and the courts deal with the special status of military personnel.

Some of the protections include:

- Protection against paying taxes in both your home state and the state in which you are stationed.
- Exemption from personal property taxes if you're stationed in a state that is not your domicile, such as an annual property tax on the value of your automobile. (Taxes on real estate are not included in this exemption.)
- The ability to have civil court cases delayed if you are unable to assert your rights under the laws because of military responsibilities.

There are some provisions that require the service member to take special action to receive a specific protection. For example, the ability to have credit card and mortgage interest rates lowered to a fixed rate of six percent requires the service member to show "material affect." The term "material affect" refers to how military service impacts people's lives and their ability to meet their obligations. To receive the interest rate protection, the service member entering active duty must show that their military income is less than their pre-service income, which then affects their ability to meet financial obligations. This protection is usually used by reserve component service personnel called to active duty for long deployments.

To obtain the interest rate reduction, the service member should notify their credit card companies or mortgage lenders in writing of their intent to invoke the six percent interest cap. Notification must include proof of mobilization/activation to active-duty status, as well as documentation of reduced income, such as a leave and earnings statement. Interest rate reductions are not permanent. Service members are required to notify their creditors and/or lenders once their active duty service has ended.

The interest rates held prior to deployment would then be reinstated. Service members cannot receive reduced interest on student loans.

Service members also have protections in civil proceedings under the “material affect” clause. Service members who are stationed overseas or who are on an extended deployment and who are involved in civil litigation are most often the ones who invoke this protection. If the service member can show that because of their military responsibilities that they cannot be properly represented in court for civil litigation, they can request a delay in the case until proper representation is possible.

Service members who encounter personal legal problems, and who believe they may qualify for protection under the Servicemembers’ Civil Relief Act of 2003, should contact their unit or installation legal assistance office.