



Translating Military into Legalese *Servicemembers Civil Relief Act (SCRA) Compliance*

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The Consumer Financial Protection Bureau (CFPB) reports that over half of all complaints filed with the CFPB by military servicemembers and their families involve mortgages. See [Semi-Annual Complaint Report](#). The majority of these complaints involve loan modification, collection, and foreclosure practices. The CFPB's Office of Servicemember Affairs notes: "We monitor complaints carefully, as they can help us determine where the pain points are for military families navigating the consumer financial system."

One such "pain point" is the Servicemembers Civil Relief Act (SCRA), which was also the focus of a report on lender and servicer compliance from October 2012, entitled "[The Next Front? Student Loan Servicing and the Cost to Our Men and Women in Uniform](#)." The report recounted consumer complaints filed with the CFPB by military servicemembers and their families, noting that complaints indicated "[m] any servicemembers navigate hurdles that may be unnecessary in order to receive the SCRA interest rate cap." One of these hurdles was the recurring complaint that servicemembers were told their interest-rate cap would expire annually, and they were subsequently required to submit additional orders in order to retain this benefit.

This "hurdle" is likely nothing more than a translation problem. On the one hand, the SCRA is a little known law tucked at the tail end of the United States Code. On the other hand, the military has its own language to which most civilians are not exposed. For example, imagine a civilian translating the statement: "My XO in the Big Red One told me the PCS to Fort Riley would help me stretch my LES a little further." This difference in language creates issues that lenders dealing with servicemembers need to be aware of and take into account in order to avoid SCRA complaints. Let's examine typical language from military orders and then try to figure out how a lender or servicer would translate it, ensure compliance with the SCRA, and avoid misunderstandings that might lead to an SCRA complaint — either to the CFPB or in the courts.

SCRA Compliance

Once a servicemember requests the SCRA interest-rate cap, the lender or servicer should apply the benefit for the duration of active-duty status. The SCRA puts the initial responsibility on the servicemember to provide proof of eligibility, specifically requiring the servicemember to provide "a copy of the military orders calling the servicemember to military service and any orders further extending military service." 50 U.S.C. App. §527. As the CFPB notes, "[a] military borrower is not required to inform his servicer at regular intervals of the continuation of his active military service."

An SCRA Compliance Hypothetical

Let's take as an example a First Lieutenant ("1LT") in any state National Guard. A servicemember is called to active-duty military service by way of military orders. These orders will state the date to report for military service, but the end date might be undefined. For instance, a servicemember may receive orders



“for a period not to exceed 400 days.” This hypothetical 1LT would now like to reduce her student loan to 6 percent, as required by the SCRA. If the report date is January 1, but the end date is not defined, how can a lender or servicer ensure compliance with the SCRA?

Department of Defense SCRA Records Request Website

The SCRA states that any interested party may apply to the Department of Defense (DOD) for information on whether a person is in the Armed Forces, and the DOD must issue a statement as to military service. 50 U.S.C. App. § 582. The office in DOD to contact is the Defense Manpower Data Center (DMDC).

To facilitate SCRA searches, DMDC has developed a secure public internet access system through which any requester can quickly determine whether an individual is currently in the Armed Forces. There is no charge for the online **SCRA queries** and no specialized authorization, user ID, or password is required.

The requester must provide a Social Security Number and a last name. A first name, middle name, birth year, and birth month are optional. Further information is available on the “Help” section of the above website. To execute a report, click on the “LookUp” button, which will open up a second window holding the report generated by DMDC. If the individual is on active duty, the report will show his or her branch of service and beginning date of active duty status. If DMDC does not have information as to whether the individual is on active duty, the generated report will only list the supplied last name, first name and middle initial (if supplied), with the text: “Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.” The report is signed by the DMDC Director.

Clear Message

A prudent lender or servicer should avail itself of the online database that provides information regarding the active-duty status of servicemembers. As noted by the CFPB, an annual certification requirement imposed on the servicemember is not a good idea; however, checking the online database is the highest and best evidence of continued military service. If the online database evidences that the servicemember is no longer on active-duty status, then the lender or servicer can request additional information from the borrower to establish continued entitlement. Lenders and servicers should not hesitate to utilize military Judge Advocate General legal assistance staffs and experienced SCRA counsel as resources to help translate military to legalese.

Dealing with our Nation’s men and women in uniform is an important part of being a good corporate citizen. Knowing and understanding not just the SCRA, but also the unique language of the military, is key to providing those men and women with the benefits to which they are entitled. Moreover, avoiding issues resulting from difficulty in translating “military” into “legalese” is essential to avoiding complaints with the CFPB — or worse.

Locke Lord has a dedicated team of compliance and litigation attorneys who have significant experience with the SCRA.

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