

FACT SHEET: VETERAN RESOURCE CENTER



Mel Martinez, Secretary

Soldiers' and Sailors' Civil Relief Act Information

While protecting the United States during the war on terrorism, some servicemen and servicewomen may face difficulty in meeting certain financial obligations at home, such as rent or mortgage payments, if they are activated for military duty. The U.S. Department of Housing and Urban Development (HUD) has taken steps to ensure that service members protecting our country do not suffer the added burden of worrying about the loss of a home.

"When our sons and daughters in uniform are called upon to serve this great Nation, we will stand behind them," stated Secretary Mel Martinez days after the September 11, 2001, terrorist attacks. "We want to reassure our servicemen and women that while they are focused on protecting America, we will do everything we can to protect their families' housing needs."

Secretary Martinez has advised lenders of mortgages insured by the Federal Housing Administration (FHA) to lower interest rates to no more than 6 percent for military personnel on active duty in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA). The Secretary also advised FHA-approved lenders that foreclosure sales during service members' active duty are illegal under SSCRA unless permitted by a court and asked them to postpone principal payments for military members during active duty and 3 months thereafter.

Secretary Martinez has announced that Ginnie Mae, the Nation's guarantor of mortgage-backed securities, has retroactively lowered costs on loans to American military members following September 11, 2001. The policy includes all active-duty personnel eligible for this reduction in the interest rate, not just those stationed in certain regions or conflicts. Ginnie Mae is helping its approved lenders reduce lending and processing costs by reimbursing them for the interest shortfall, saving lenders an estimated \$6 million annually in lost interest. The change will allow lenders to be reimbursed for more of the interest shortfalls that they have traditionally had to absorb.

Military personnel should learn about the SSCRA and the protections and benefits it provides for themselves and their families. The SSCRA can provide many forms of relief to military members. Below are some of the most common forms of relief.

Know Your Rights Under the Soldiers' and Sailors' Civil Relief Act

Mortgage Relief. The SSCRA can provide temporary relief from paying a mortgage. To obtain relief, a military member must show that (a) his or her mortgage was entered into before beginning active duty, (b) the property was owned prior to entry into military service, (c) the property is still owned by the military member, and (d) military service materially affects the member's ability to pay the mortgage.

Termination of Leases. The SSCRA also allows military members who are just entering active-duty service to lawfully terminate a lease without repercussions. To do

this, the service member needs to show (a) that the lease was entered into prior to the commencement of active-duty service, (b) that the lease was signed by, or on behalf the service member, and (c) that the service member currently in active military service.

Protection From Eviction. An active-duty military member who leases a house or apartment can prevent an eviction for a period of time, usually 3 months. The dwelling must be occupied by either the active-duty member or by his" or her dependents, and the rent cannot exceed \$1,200 a month.

Additionally, the military member must show that military service materially affects his or her ability to pay rent. A landlord who continues to try to evict a military member, or does actually evict the member, is subject to criminal sanctions, such as fines or even imprisonment. If a military member feels that an eviction is imminent, he or she should continue paying rent and should consult a legal-assistance attorney.

6-Percent Cap on Interest Rates. Under the SSCRA, a military member can cap the interest rate at 6 percent for all obligations entered into before beginning active duty. This can include interest rates on credit cards, mortgages, and even some student loans (except for Federal guaranteed student loans), to name a few. To qualify for the interest rate cap, the military member has to show that he or she is now on active duty, that the obligation or debt was incurred prior to entry on active duty, and that military service materially affects the member's ability to pay. The military member needs to send a letter (along with a copy of current military orders) to the lender requesting relief under the SSCRA. The interest rate cap lasts for the duration of active-duty service.

Stay of Proceedings. If an active duty military member is sued, he or she can obtain a "stay" or postponement of those proceedings. A "stay" can be used to stop the action altogether or to hold up some phase of it. According to the SSCRA, he or she can request a stay during any stage of the proceedings. However, the burden is on the military member to show that military service has materially affected the ability to appear in court. In general he or she can request

a stay for a reasonable period of time (30-60 days). For example, if a military member is sued for divorce, he or she can put off the hearing for some period of time, but it is unlikely that a court will delay the proceedings indefinitely.

Reopening Default Judgments. A default judgment is entered against a party who has failed to defend against a claim that has been brought by another party. To obtain a default judgment, a plaintiff must file an affidavit (written declaration of fact) stating that the defendant is not in the military service and has not requested a stay. If an active-duty military member is subject to a default judgment, he or she can reopen the default judgment by taking several steps. First, the military member must show that the judgment was entered during military service or within 30 days after leaving the service. Second, he or she must write to the court requesting the default judgment be reopened while still on active duty or within 90 days of leaving the service. Third, he or she must not have made any kind of appearance in court, through filing an answer or otherwise, prior to the default judgment. Finally, the military member must indicate that military service prejudiced the ability to defend himself or herself and show that he or she had a valid defense.

The SSCRA actually provides many more protections than those listed above, and the Supreme Court has ruled the SSCRA must be read with "an eye friendly to those who dropped their affairs to answer their country's call.

Military legal assistance attorneys are available to provide guidance on the SSCRA.

Resources

**For mortgage information:
HUD National Servicing Center**

500 West Main Street, Suite 400
Oklahoma City, OK 73102

Phone: (888) 297-8685

TTY: (405)553-7480

Fax: (405)553-7405

National Servicing Center Website:

www.hud.gov/offices/hsg/sfh/nsc/nschome.cfm

E-mail: hsg-Iossmi@hud.gov

**For other information:
HUD Veterans Resource Center
(HUDVET)**

P.O. Box 7189

Gaithersburg, MD 20898-7189

Phone: (800) 998-9999

TTY: (800) 483-2209

Fax: (301) 519-5027

HUDVET Website:

www.hud.gov/hudvet

HUDVET E-mail: HUDVET@hud.gov