



ASA DIX LEGAL BRIEF

A PREVENTIVE LAW SERVICE OF THE JOINT READINESS CENTER LEGAL SECTION
UNITED STATES ARMY SUPPORT ACTIVITY DIX
KEEPING YOU INFORMED ON YOUR PERSONAL LEGAL NEEDS

SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

Reduction of Interest Rate to 6%

Servicemembers may be able to reduce the interest rate on their pre-service credit cards, car loans, mortgages, installment contracts, interest charged by the IRS, secured debts under a confirmed bankruptcy plan, and other debts or obligations to 6% per year under the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. App. Section 527. However, federally insured guaranteed student loans are not eligible for this rate reduction under the Higher Education Act of 1965, 20 U.S.C.S. Section 1078(d). The SCRA specifically includes debt owed by the Servicemember individually or jointly with a spouse. Debt jointly owed by a Servicemember and individuals other than a spouse has also been eligible for the interest rate reduction. It does not matter which one of you initially incurred the debt. The important issue is that both of you are legally obligated to repay the debt, for example both names are on the loan repayment documents.

The 6% interest rate cap only applies to debts that were made prior to entering active military service and it remains in effect only during the period of your active military service. Interest in excess of 6% must be forgiven, not just merely postponed, and the amount of the monthly payment must be reduced to reflect the actual interest rate being charged. Under the SCRA, interest includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) pertaining to the debt.

The interest rate is not automatically reduced to 6% once Servicemembers enter active military service. In order to obtain the interest rate reduction, Servicemembers must provide written notice and a copy of their military orders (and any orders extending such military service) to their creditor(s) no later than 180 days after termination or release from active military service. Although the SCRA permits this 180 day grace period, it is advisable to provide written notice to creditors once you receive military orders. Once you provide proper notice, the creditor must retroactively reduce the interest rate to 6% for the period of active service. However, the SCRA permits a creditor to file for relief from the reduced interest rate in the appropriate court of law if the creditor believes that the Servicemember's ability to pay the higher interest rate was not materially affected by his or her military service. The court may grant a creditor relief from reducing its interest rate if it is determined that the Servicemember's call to active duty did not materially affect his or ability to pay the higher rate. An example where the Servicemember's ability to pay the higher interest rate is not materially affected by military service is when the Servicemember's employer pays the difference between the military pay and the prior salary.

See 6% percent reduction of interest rate letter below.

Servicemember's name/address

Date _____

Creditor's Name and Full Address

Re: Request for Reduction in Interest Rate, _____
Type of Account and Account Number

Sir/Madam:

I have recently been ordered to active duty with the Armed Forces of the United States, (effective: _____) and therefore request that my monthly obligation with regard to the above-referenced account, including payments and interest, be reduced pursuant to my rights under the Servicemembers Civil Relief Act (SCRA), 50 USCS Appx §§ 501 – 596. My entry into military service has materially affected my ability to meet this obligation (incurred prior to my order to active duty) at the present interest rate.

The SCRA (50 USCS Appx § 527) set a 6% per annum ceiling on interest charges (including service charges, renewal charges and fees) during the period of a Servicemembers military service for obligations made before entry onto active duty. Thus the balance of my obligation may not have interest charged at a rate greater than 6% after the effective date of my orders. The difference in interest as a result of the reduction, must be forgiven and may not be merely accrued or deferred.

Please ensure that your records are amended/corrected to reflect that my obligation has been reduced to no more than the statutory ceiling rate of 6% as of the effective date of my active duty orders and that any excess charge withdrawn. It is my understanding that certain business entities have reduced their original interest rate to less than 6% as a good faith gesture in support of our country's military personnel and the important mission they serve to the United States. Note that compliance with this law is mandatory now that a request has been made. Failure to comply with such a request can subject a creditor to sanctions. Note also that there are civil and even criminal sanctions for the wrongful repossession of any property for non-payment of an installment obligation.

Thank you in advance for your attention and prompt action to this matter.

Sincerely,

Signature of Servicemember

Attachment:
Military Activation Orders

6% Interest Reduction