

HOURS OF OPERATION

Legal Assistance

(Attorney consults by appointment only)

Will Appointments

Please complete Will worksheet BEFORE you make a will appointment! Stop by or call our office for more information.

Italian Legal Assistance

(Attorney consults by appointment only)

Powers of Attorney/Notaries

Mon-Fri 0745 - 1630

You can complete power of attorney & will worksheets, and read information at <https://aflegalassistance.law.af.mil>

31 FW/JA
Unit 6140 Box 115
APO, AE 09604-0115
Building 1403, Upstairs
DSN 632-7843 or
commercial 0434-30-7843

SERVICE MEMBERS CIVIL RELIEF ACT (SCRA)



31ST FW LEGAL OFFICE

Current as of April 2022

Taxation: A service member's state of legal residence may tax military income and personal property. A member does not lose legal residence solely because of a transfer pursuant to military orders. For example, if a member is a Virginia resident and PCS's to a base in California, the member does not lose Virginia residency nor will he or she be subject to pay California state income tax on his or her military pay. The same protections extend to a service member's spouse in most circumstances.

Adverse Actions: Public Law No.102-12 amended SCRA to prohibit creditors and insurers from pursuing adverse actions (i.e., notifying credit agencies, denying credit, changing terms) against service members who exercise their rights under SCRA.

Not a Free Pass: Note that SCRA is not a "free pass" from any civil courts reaching you here overseas; it's merely giving you a little leeway in very specific situations, and this coverage is NOT automatic. Many of these rights, especially with regard to judgments, are only a benefit to you if you assert them yourself. Talk to a legal assistance attorney if you have questions.

References: Service members Civil Relief Act, 50 U.S.C. App. §§ 501-597.

SERVICE MEMBERS CIVIL RELIEF ACT

The Service members Civil Relief Act of 2003 (SCRA) provides a wide range of protection for individuals entering or called to active duty in the military service. SCRA is intended to postpone or suspend certain *civil* (not criminal) obligations to enable service members to devote full attention to duty.

The protections generally begin on the date of entering active duty and generally terminate within 30 to 90 days after the date of discharge from active duty. Reservists and the members of the National Guard are protected by SCRA while on active duty. SCRA protections may also extend to service members dependents in limited circumstances. Members who face problems in the areas listed below should be referred to the base legal office for legal assistance.

Note, however, that SCRA is a U.S. Federal law. The protections under SCRA may apply to issues you have with courts and contracts you made in the U.S. but *don't* apply to courts and contracts made solely under Italian law.

WHAT SCRA PROTECTS

Rent: SCRA prohibits eviction, without a court order, of a service member and dependents from rented housing where the rent does not exceed \$3,217.815

per month. The court may delay eviction proceedings for up to three months.

Installment Contracts: A service member who enters into an installment contract (e.g. purchase of real or personal property) *prior* to entering active duty is protected if his or her ability to make payments is *materially affected* by military service. Here the courts will compare the service member's pre-service income and military income to determine financial condition. The creditor cannot exercise rights of rescission, termination, or repossession without a court order.

Maximum Rates of Interest: If, prior to entering active duty service, a member incurs a loan or obligation with an interest rate in excess of 6%, the member will, upon application to the lender, not be obligated to pay interest in excess of 6% per year. This relief applies during the period of active duty service unless the court finds the member's ability to pay has not been *materially affected* by military service.

Stay of Proceedings: Courts have discretion to delay a civil court proceeding when the requirements of military service prevent the member from either asserting or protecting a legal right. Generally, requests for a stay are granted if the time period requested is limited (e.g., TDY, involvement in exercise). Availability of leave, including excess leave, and duty requirements are key factors.

Default Judgments: Before a court can enter a default judgment (for failure to respond to a lawsuit or failure to appear at trial) against a military member, the person suing the member must provide the court with an affidavit stating the defendant is not in the military. If the defendant is in the military, the court will appoint an attorney to represent the defendant's interests (usually by seeking a delay of proceedings). If a default judgment is entered against a service member, the judgment may be reopened if the member makes an application within 90 days after leaving active duty, shows he or she was prejudiced, and shows he or she had a legal defense.

Insurance: A service member's private life insurance policy is protected against lapse, termination, or forfeiture for nonpayment of premiums for a period of military service plus two years. The insured or beneficiary must apply to the Veterans Administration for protection. Title 50 of the United States Code, section 703 was also added to provide for reinstatement of any health insurance which was in effect on the day before active military service began, without waiting periods and without physical condition restrictions.