



Military Servicemembers Relief

From the Office of Minnesota Attorney General Lori Swanson

The Servicemembers Civil Relief Act (Act) provides certain protections for men and women on active duty in the United States Armed Services. The Act also applies to a servicemember called to active State duty because of a federal emergency, such as the National Guard's assistance in airport security. **Under the Act, you may qualify for certain protections, including the following:**

- Reduced interest rates on debts incurred before active duty, including mortgages and car loans;
- Protection from eviction;
- Cancellation of telephone contracts;
- Relief in civil court actions, such as bankruptcy, foreclosure, or other proceedings; and
- Termination of certain types of automobile lease agreements.

Interest Rate on Debt

The Act limits the amount of interest that may be collected on pre-service debts of servicemembers to six percent per year during the period of military service. The provision applies to all debts incurred prior to the commencement of active duty, including mortgages, auto loans, and credit card debt. Federally guaranteed student loans are exempted from this interest rate cap, but payments for such loans can sometimes be deferred or suspended by contacting the loan guarantor. This reduced interest rate also applies to mortgages for an additional year after the expiration of active duty.

The Act requires you or your spouse to request the rate reduction by giving written notice to the creditor with a copy of military orders calling you to military service and any orders extending that service. Once you request an interest rate reduction, a creditor must lower your rate, effective as of the date on which you are or were called to service, or apply for court relief, in which case the burden is on the creditor to prove that you have not been “materially affected” by the deployment. The creditor must forgive any interest in excess of six

percent with a resulting decrease in the amount of any periodic payment that you are required to make.

Real Estate Leases

The Act also protects a servicemember and his or her dependents from being evicted by a landlord while the servicemember is on active duty. If monthly rent does not exceed a set maximum—which varies with inflation each year, and is \$3,716 in 2018—no eviction may occur during your period of active duty service without an application to the court. If an application is made, the court may enter a stay of 3 months, or another period of time the court believes is appropriate. The court may also adjust the rent obligation to preserve the interests of all parties. You may terminate a residential lease upon written notice of your military orders. The lease will terminate 30 days after the next monthly rent payment is due.

Telephone Contracts

The Act allows servicemembers to terminate contracts for cellular and other telephone services. You may end your phone contract without a termination charge, if you receive orders to relocate for 90 days or more to a place that does not support your contract. To end your contract, deliver written or electronic notice and a copy of your military orders to your carrier, together with the date on which you want your phone service terminated. Within 60 days of the effective date of termination, the carrier must refund all fees or other amounts pre-paid toward phone service that was to be provided after the date of termination.

Civil Actions and Foreclosures

The court must grant a stay for at least 90 days for civil actions and foreclosures upon request by the service member. If your request for an additional stay of foreclosure proceedings is denied by the court, it must appoint counsel to represent your interests. If a “default judgment”—i.e., a judgment entered in a case where

you did not show up in court—is entered against you while you are on active duty, the court must reopen the judgment if you were materially affected by your active duty status and have a meritorious legal defense. To reopen a default judgment, you must file an application within 90 days of release from active duty.

Motor Vehicle Leases

The Act allows servicemembers who have been called to active duty to terminate certain automobile lease agreements. For instance, if you are called to serve at least 180 days, you may end a motor vehicle lease, without paying an early termination fee or other penalty as long as you deliver the termination notice in writing along with a photocopy of your military orders to the lessor or its agent, and the vehicle is returned within 15 days of the delivery of the notice. If you entered the lease after being called to active duty, you can end it if you receive orders for a permanent change of station outside the U.S. or to deploy with a military unit for 180 days or more.

Minnesota-Specific Protections

Minnesota law also offers protection for servicemembers called to active duty. Under state law, cell phone or wireless service contracts may be terminated without penalty when a service member is called to active duty. In addition, rental contracts, club contracts, service contracts, and membership travel contracts may be canceled with no penalty and with a full refund of any deposit if a deployment or change in duty prevents you from using the service or abiding by the terms of the contract.

If you are having problems with your home mortgage, credit card, landlord, or another consumer-related matter, the Minnesota Attorney General’s Office may be able to help you resolve the dispute. For more information or to file a complaint, you may contact the Attorney General’s Office as follows:

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