

Interest Rate Reductions

Michael S. Archer
Legal Assistance Director
Marine Corps Installations East

Would you like to reduce that 22% credit card interest rate to a mere 6%? What about those high interest furniture, automobile or, better yet, or school loans? You may qualify for such interest rate reduction under the Service Member Civil Relief Act (SCRA)

Congress has long been concerned that service members may suffer economic and legal disadvantage because military duties interfere with their ability to take care of civil obligations. . The SCRA (50 U.S.C. 3901 et seq) is designed to prevent such harm. It provides service members with protection in several areas. The three most important and commonly used protections concern the delay of civil suits (50 U.S.C. 3931 / 3932) , limitations on interest rates, (50 U.S.C. 3937) and termination of residential and vehicle leases (50 U.S.C, 3955). This article examines SCRA interest rate protections.

Let's say that you purchased a car and took out a 14% loan to finance it. Can you use the SCRA to decrease the interest rate? It depends. The requirements for interest rate limits are as follows:

Pre-Service Obligation In order to qualify for interest rate reduction, the financial obligation must have been incurred prior to military service. Thus, as a practical matter, the SCRA rate cap provision most commonly applies to new enlistees and reservists. For reservists, military service is considered commenced upon receipt of orders. Reservists may request interest rate reduction for obligations entered while in the reserve component, as long as the obligation was not incurred while on active duty.

Military Service Members on active duty may claim interest rate reduction. It does not matter whether the claimant's military service was voluntary or involuntary, whether served in CONUS or abroad. Active duty members may also claim interest rate reductions for joint obligations with their spouse; as when husband and wife both sign the contract as borrowers.

Material Effect The rate cap applies only where the member's military service "materially affects" ability to pay his financial obligations; that is, military service has decreased the member's net income. Such would clearly be the case, for example, when a heart surgeon earning \$500,000 annually is called to active duty and becomes a Navy Commander earning far less. It is the burden of the lender; e.g., GMAC, MasterCard, etc., to prove that military service does NOT affect ability to pay. Thus, upon request of the member, the rate must be reduced to 6% until the lender convinces a court that military service has no material effect on ability to pay. As a practical matter, creditors rarely, if ever, attempt to prove to a court the absence of material effect.

What happens to the extra interest? Let's say that the lender reduces that 14% interest to 6%. What happens to the 8% difference? During the Gulf War, some lenders attempted to have the interest accrue; that is, make the service member pay some kind of penalty or otherwise attempt to have the member pay those extra charges after release from active duty. However, the intent of the statute is to completely forgive this excess interest; the member need not pay it at all. The Defense Department advanced this position during Desert Storm and was, in fact, able to persuade major lenders to voluntarily comply. In 2003, the law was changed to make this requirement explicit.

Effective date. The SCRA provides that the interest rate reduction is made effective as of the date that the applicant entered military service, even if the written request for reduction occurred much later.

Joint Obligations. Reduction of the interest obligations of the service member also reduce the interest obligations of the civilian spouse who also signed the pre-service contract.

Request for rate reduction. Your request for interest rate reduction should tell the creditor what debt you wish to reduce, including the account number. You should also attach proof of your military service and the date you came on active duty, such as a copy of your enlistment contract.

Student Loans At one time, federally guaranteed student loans were not covered under the SCRA; they were exempted from coverage by a different law. However, that exemption disappeared with the Higher Education Opportunity Act of 2008. Now, student loans, including federally guaranteed student loans, are covered under the SCRA. Let me say that again, SCRA rate reduction provisions apply to all pre-service student loans, regardless of the source.

Furthermore, in the case of federally serviced student loans (loans made by the federal government and serviced by another financial institution that accepts payment and keeps records) and commercial Federal Family Education Loans (a loan program wherein state or private loans are guaranteed by the federal government) there is no longer a requirement that the SM provide orders to the creditor, or even make a request for rate reduction. The contract that the United States has with institutions that make or service these loans requires them to check the Department of Defense Manpower Database on a monthly basis to determine borrower eligibility for SCRA rate reduction and to automatically reduce the rate to six percent, even in the absence of a consumer request. This requirement for automatic SCRA review has been in place since 2014.

Complaints and Enforcement. Unfortunately, creditors sometimes ignore requests for interest rate reduction or make up excuses why they don't need to reduce interest, or demand excessive documentation. If that happens, your legal assistance attorney may be able to help. That legal assistance attorney may also help you to reach out to the United States Department of Justice for enforcement of your rights. Further, consumers may make on-line complaints to the DoJ through its Servicemembers and Veterans Initiative: <https://www.justice.gov/servicemembers>

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