

**A BRIEF SYNOPSIS OF
THE SOLDIERS AND SAILORS CIVIL RELIEF ACT
50 U.S.C. App. Sections 500-548, 560-593 (1990) (Supp. 1993)**

ARTICLE I

A. Purpose: to postpone/suspend certain civil obligations to permit service member to devote full attention to duty.

B. Persons Protected

1. "Persons in the military service," including members of the Army of the United States, the Air Force, the United States Navy, the Marine Corps, the Coast Guard, and the Public Health service detailed for duty with the Army or Navy.

a. Includes members of the Army Reserve, Air Force Reserve, Fleet Reserve, Naval Reserve, Marine Corps Reserve, the Coast Guard Reserve, and the National Guard while in active federal service.

2. Period of Protection: protection from the date of entry on active service or receipt of orders, to the date of discharge.

3. Dependents have Article III benefits.

C. Jurisdictional Application: the SSCRA applies in all federal, state, and territorial CIVIL courts.

ARTICLE II

A. Key concept: "material effect". Many SSCRA protections require showing that military service materially affects the service member's ability to appear and defend in the civil action or otherwise meet the obligation.

B. Section 526 prohibits creditors from charging in excess of six percent on all indebtedness incurred prior to active duty unless a court finds no "material effect."

C. Section 521 Stay of Proceedings. Permits delay of civil court proceedings when military service presents a plaintiff or defendant in military service from asserting or protecting a legal right.

D. Maximum duration of stay is the period of service plus three months

after discharge.

E. The service member has the burden of proving that military duty materially affects the service member's ability to be present in court. If a court finds that there has been a material effect, the court MUST order a stay.

F. Section 520: Default Judgment

1. This section affords the service member, against whom default judgment is entered, a potential means to have the judgment reopened.

2. The court MUST appoint an attorney if the defendant is in the service and does not have an attorney present in court or if the plaintiff does not know whether the defendant is in the service. The responsibility of the court appointed attorney is to ascertain whether the defendant is in the military and, if so, typically to request a stay of proceedings on behalf of the defendant.

3. This section permits the application by service member to reopen a judgment entered during the service member's term of service or within thirty days thereafter. An application to reopen must be made during service or within 90 days thereafter.

G. Section 523 Stay or Vacation of the Execution of Judgments and Attachments.

1. A Court May Stay Execution of Any Judgment or Order Entered against a Service member, Vacate or Stay Any Attachment or Garnishment of Property, Money, or Deaths in Hands on Another, Whether before or after Judgment, for Any Judgment or Decree Entered against the Member during Military Service or within Sixty Days Thereafter.

H. Section 525 Suspension of Statutes of Limitation.

1. This provision tolls the running of statutes of limitation during the service member's period of military service with respect to any administrative or civil proceeding involving a service member as either plaintiff or defendant.

ARTICLE III Rents, Leases, Installment Contracts, Mortgages, Liens, and Assignments

A. Sections 530 to 536 protect service members and THEIR DEPENDENTS from eviction from leased housing without a court order.

B. Section 534 permits service members or THEIR DEPENDENTS to terminate a pre-service residential lease.

C. Section 532 allows a court to grant relief in actions to enforce mortgage obligations unless military service does not materially effect the ability to comply with the obligation.

ARTICLE VII

A. A service member may, at any time during military service or within six months thereafter, apply to court for relief of any obligation or liability incurred by such person prior to active service or in respect to any tax or assessment whether falling due prior to or during active military service.