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SCRA Enforcement is Rising: Key Risks and Compliance Strategies for Residential Landlords with Active-Duty Servicemembers as Tenants

Residential landlords of single- and multifamily residences are required to provide benefits and protections to active-duty servicemembers under the Servicemembers Civil Relief Act (SCRA) (50 U.S.C. § 3901 et seq.). Failure to do so, even unintentionally, can have significant consequences. However, SCRA compliance can be relatively straightforward if landlords understand their obligations and are proactive in establishing and implementing effective policies and procedures.

SCRA Benefits and Protections Relevant to Residential Landlords

The SCRA entitles active-duty servicemembers to protection from eviction without a court order and enables them to terminate certain residential leases without penalty upon retirement, separation, or receiving a permanent change of station. *See* 50 U.S.C. §§ 3951 and 3955.[1] The lease termination benefit applies to leases that are occupied or intended to be occupied by either a servicemember or a servicemember's dependents and can be for residential, professional, business, or agricultural use. 50 U.S.C. § 3955(b)(1). Early termination charges are prohibited and any rent paid in advance must be refunded to the servicemember. 50 U.S.C. § 3955(e)-(f).

Premises covered by eviction protection must be (1) occupied or intended to be occupied as a primary residence and (2) rented for \$10,239.63 or less.[2] 50 U.S.C. § 3951(a). The SCRA also protects active-duty servicemembers from default judgments and authorizes courts to waive certain penalties, among other benefits. 50 U.S.C. §§ 3931 and 3933.

Enforcement and Litigation Risks

SCRA compliance issues present both private litigation and government enforcement risk, and can come with large penalties. *See* 50 U.S.C. § 4041-4042. The Department of Justice (DOJ) investigates companies for violations of the SCRA. An enforcement action may seek a \$55,000 civil penalty for the first violation and double that—per violation—for subsequent violations. 50 U.S.C. § 4041(b)(3). The DOJ’s investigations may be initiated based on complaints brought to them by individual servicemembers. The current federal administration has indicated that protection of servicemembers is an enforcement priority, so we expect enforcement in this area to continue to be active. Individual servicemembers have a private right of action under the SCRA, which provides for monetary damages and the costs of bringing any action. 50 U.S.C. § 4042. The SCRA provides for harsher penalties for certain protections, including making it a misdemeanor for a person to knowingly violate the lease termination protections by seizing a servicemember’s personal effects or security deposit. 50 U.S.C. § 3955(h).

State-level enforcement also poses risks. Many states have their own versions of the SCRA, which incorporate federal protections and may add benefits or expand the scope of who qualifies for protections.

Affirmative Steps Towards SCRA Compliance

To reduce the risk of liability under the SCRA, landlords can take affirmative steps to review or, if necessary, develop new policies to ensure that active-duty servicemembers are properly identified and that employees know how to handle leases to protected servicemembers. The following are recommended practices and procedures to ensure compliance and documentation of that compliance.

Review and Update Policies

Every residential landlord should have an SCRA policy in place and review it regularly (at least annually) to ensure it remains up to date and is appropriately screening and flagging all potential active-duty tenants. An SCRA policy should describe the applicable benefits and protections the SCRA provides to active-duty tenants and what makes a tenant eligible to receive those.

Collect Information about Active-Duty Status

It is a good practice to collect information about a tenant’s active-duty status at the outset of your relationship, possibly in an application or as a question on a lease agreement. Doing so enables landlords to flag accounts as potentially eligible and to later run those accounts through applicable verification procedures.[3]

Importantly, many of the SCRA benefits and protections apply to agreements entered into prior to the servicemember's period of active-duty service. This means that a tenant may become eligible for protections during the period under the agreement. A tenant who may not have had any military connection at the outset of the relationship could later join and become eligible. These would not be flagged by any data gathered during the application process or execution of a lease agreement.

Implement Flags and Verify Active-Duty Status

One of the biggest challenges of the SCRA is identifying active-duty servicemembers and sorting out questions of eligibility. This can be particularly complicated once a servicemember is on an active-duty assignment, which may make them difficult or impossible to get in touch with. If a landlord has any indication that a lease may be held by an eligible servicemember, best practice is to flag the account to prevent potentially unlawful eviction proceedings until the landlord can verify that the tenant is not eligible or obtain a waiver, discussed below. If the landlord cannot get in touch with the servicemember or they decline to waive protections, the landlord must seek a court order to proceed with an eviction.

In order to take advantage of the lease termination protections, an active-duty servicemember must formally notify the landlord in writing and include a copy of the military orders or a letter from a commanding officer.[4] 50 U.S.C. § 3955(c)(1)(A). Once a landlord receives such notice, a servicemember's active-duty status may also be confirmed using the Defense Manpower Data Center (DMDC) database. If a landlord does not receive documentation of the orders and cannot verify the servicemember's active-duty status, honoring the early lease termination is not required; however, it is particularly important to document the verification process to demonstrate compliance.

Send questions to legal or outside counsel for confirmation prior to taking action on an account if there is uncertainty about whether SCRA protections apply or whether appropriate procedures have been followed.

Ensure Compliant Waivers

The SCRA provides that a servicemember may affirmatively waive SCRA protections by written agreement. *See* 50 U.S.C. §§ 3913 and 3918. However, the DOJ considers such waivers invalid if they are (1) executed as part of the lease, (2) signed at the same time as the lease, and (3) not supported by any additional benefit to the servicemember.[5] A waiver must be in 12-point font and is also only effective if it is executed during or after a servicemember's active-duty period of service (meaning it cannot be waived by all tenants at the outset of a lease as a precaution).[6] Any waiver entered into by a tenant prior to entering military service will be invalidated upon entering service. 50 U.S.C. § 3913(d)(2). It's important that landlords retain all waivers to demonstrate compliance.

Retain All Records

Record retention is key to being prepared for servicemember inquiries and in the event of a DOJ or state enforcement investigation. Investigations can be far-reaching in their data requests. It is important to save all records related to SCRA compliance, including application materials, leases, records related to verifying a servicemember's active-duty status, and all communications with servicemembers. Landlords can take proactive steps to preserve orderly files and communicate with partners and vendors who could have data that might be required to be produced in an investigation.

Provide Guidance and Training to Employees

Any good policy is useless if the people interacting with tenants and tenant data are unaware or insufficiently trained to follow it. An SCRA policy should include or be accompanied by step-by-step procedures detailing exactly what employees should do when they encounter a potentially active-duty tenant.

Primary Takeaway

With guidance and preparation, creating and implementing policies and procedures for SCRA compliance can be simple, and doing so before a regulator initiates an investigation protects your time, money, and reputation.

[1] To the extent applicable, the SCRA limits interest rates and any other charges or fees on obligations owed by servicemembers to no more than 6%. Obligations include mortgages, deeds of trust, or other securities in the nature of a mortgage. *See* 50 U.S.C. § 3937.

[2] The Department of Defense's most recently published rent threshold was in May 2025, retroactive to January 1, 2025. 90 FR 21473 (May 20, 2025), <https://www.federalregister.gov/documents/2025/05/20/2025-08911/notice-of-publication-of-housing-price-inflation-adjustment>.

[3] The SCRA applies to active duty servicemembers in the following categories: active-duty members of the Army, Marine Corps, Navy, Air Force, Space Force, and Coast Guard; members of the Reserve component when on active-duty; members of the National Guard mobilized under federal orders for more than 30 consecutive days; and active-duty commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration. CFPB, "When am I covered by the Servicemembers Civil Relief Act" (updated July 27, 2024), <https://www.consumerfinance.gov/ask-cfpb/when-am-i-covered-by-the-servicemembers-civil-relief-act-scra-en-2086/>.

[4] U.S. DOJ, Financial and Housing Rights (updated May 12, 2025), <https://www.justice.gov/servicemembers/financial-and-housing-rights-o>.

[5] *Id.*

[6] *Id.*