

## SCRA 6% Interest Rate

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A recent *Times* news article mentioned the Soldiers' and Sailors' Civil Relief Act (SCRA) in a partial discussion of the provisions of 50 United States Code Appendix Section 526. This section of the SSCRA regulates the maximum interest rate on **pre-active duty service** loans when the service member is "...materially affected by reason of such service..."

You may be entitled to have the interest rate on some of your loans reduced to 6% for the time you are on active duty. There are a number of special requirements for the 6% rate, and *guaranteed student loans are **not subject to this 6% protection***—see below for deferment and forbearance of student loans. You should talk with a Legal Assistance Attorney to ensure you are eligible. You may be eligible if you and your loan meet the following conditions:

- a) You took out the loan (other than a government insured, student loan) during a time when you were **not** on any form of **active duty** in any branch of the uniformed services, and
- b) Your interest rate is currently above 6% per year, and
- c) **Your military service materially affects your ability to pay the loan at the regular (pre-service) interest rate.** Generally, this requirement means that you make less money on active duty, including your non-taxable BAH and other entitlements, than you made from all sources of income as a civilian. There are some special legal issues here - you may want to talk to your Legal Assistance Attorney about your entire financial situation.

If you qualify, notified your lender to start the 6% rate. Also notify your lender when you end your active duty military service. At that time you will resume your contract interest rate. Ask for the MLCP sample letter to start and end this SSCRA protection.

**Still Can't Afford the Payment?** Unless Congress changes the SCRA in this area, there is no authority that requires your lender to postpone or defer your payments while you are on active duty. (For student loans see below.) If your lender voluntarily postpones your payment, then you must carefully consider, how you will makeup those payments at the end of the agreed upon period. You don't want to force a foreclosure situation, because you postponed your payments, and are still unable to pay the required amount. Use caution before you precede with a financial agreement you may not be able to honor.

**Student Loans:** While the SCRA “6% protection” is not available for holders of FFLEP's (guaranteed student loans, formerly called GSL's), the Dept of Education (DE) will permit lenders to forbear or to defer payments. Most of the following information is from the revised rules DE issued on September 24, 2001, and it applies to service members who have been called to active duty. DE's new guidance relates to student loans made under the Federal Family Education Loan, William D. Ford Loan, and Federal Perkins Loan programs. Lenders will automatically postpone the student loan payments of borrowers during the period of the borrower's active duty service. Borrowers with subsidized student loans will be eligible to have the federal government assume the interest payments on their loans while they are on military duty. For military personnel called to active duty whose loans are not yet in repayment because they are currently students, or have only recently left school and are therefore in a grace period, the department has directed lenders to hold their loans in their current deferment status. Borrowers will not be required to make payments to their lenders during the term of their military service, as well as for a reasonable amount of additional time for the borrower to resume enrollment in school. In addition, borrowers generally receive a 6 to 9 month grace period after leaving school, and DE's action ensures that these students will not lose the benefit of this grace period as a result of their service. In additional guidance, DE strongly encouraged colleges and universities to provide either a full refund of tuition and other institutional charges or comparable credit to students forced to withdraw from school to fulfill their military obligations. DE also urged schools to offer flexible re-enrollment options to these affected students and to other students who have been forced to withdraw from school as a result of the terrorist attacks. For more information regarding tuition and student loans, check the DE website at <http://ifap.ed.gov/IFAPWebApp/index.jsp>.

If you have additional questions regarding this issue please call the MLCP Legal Assistance Branch at (510) 437-5891 and schedule an appointment with a Legal Assistance Attorney.

**Note:** This general information is not a substitute for consulting an attorney.