

## SCRA AND MLA QUICK REFERENCE GUIDE

	SCRA	MLA
<b>What is it?</b>	<b>Servicemembers Civil Relief Act, formerly known as the Soldiers and Sailors Civil Relief Act or SSCRA, was first adopted in 1940 to give active duty members relief from financial and contractual stressors.</b>	<b>Military Lending Act also known as the Talent Amendment; part of the John Warner National Defense Authorization Act for fiscal year 2007 was adopted to place limits on terms of consumer credit to servicemembers and their dependents.</b>
<b>What is covered?</b>	Any and all debts, or portion thereof, incurred prior to the member's active military service (with a specified exception of federally insured student loan debt); certain relief applies to real estate mortgages, assignments of life insurance policies, adverse actions, certain residential or motor vehicle leases, cellular phone contracts and storage liens; <b><i>whether the purpose is business or personal.</i></b>	Payday loans <sup>1</sup> , vehicle title loans <sup>2</sup> , and tax refund anticipation loans <sup>3</sup> : <b><i>expanded in 2016</i></b> to include consumer credit offered to a covered borrower for personal, family, or household purposes, and that is: (ii) subject to a finance charge; <b><i>or</i></b> (ii) payable by written agreement in more than four installments, incurred during the member's active military service and made after the effective date of <b><i>October 3, 2016.</i></b>
<b>What is <u>not</u> covered?</b>	Any and all debts, or portion thereof, incurred <b><i>during</i></b> the period of the member's active duty military service.	<ol style="list-style-type: none"> <li>1) Residential mortgages, which is any consumer credit transaction secured by a dwelling, whether construction, purchase, refinance, home equity loans or lines or reverse mortgages;</li> <li>2) Credit specifically for the purchase of a vehicle that is secured by the vehicle being purchased;</li> <li>3) Credit specifically for the purchase of personal property (defined as titled mobile homes, boats and recreational vehicles) that is secured by the personal property being purchased; or</li> <li>4) Any credit transaction that is an exempt transaction under Regulation Z, other than a transaction that is exempt under <a href="#">12 CFR 1026.29</a>.</li> </ol>
<b>Who is covered?</b>	Regular or reserve members of the Army, Navy, Marine Corps, Air Force or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer, and servicemembers who are commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration engaged in "active service;" for an interest rate limitation, an obligation or liability that is incurred by a service member, or the servicemember and the servicemember's spouse jointly. Most other provisions of the act apply to the servicemember or the servicemember's dependent <sup>4</sup> .	Regular or reserve members of the Army, Navy, Marine Corps, Air Force or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer, the servicemember's spouse, the servicemember's child (as defined in subparagraph (A), (D), (E), or (I) of <a href="#">10 U.S.C. 1072(2)</a> , or an individual for whom the member provided more than one half of the individual's support for 180 days immediately preceding an extension of credit is covered by this part.  Under §232.3(g)(1), (2) and (3), those covered under this act are considered "covered borrowers," "covered members," and "covered dependents," respectively. In this document, the term "covered borrower(s)" may apply to all.

<sup>1</sup> "Closed-end credit with a term of 91 days or fewer in which the amount financed does not exceed \$2,000 and the covered borrower: a) receives funds from and incurs interest and/or is charged a fee by a creditor, and contemporaneously with the receipt of funds, provides a check or other payment instrument to the creditor who agrees with the covered borrower not to deposit or present the check or payment instrument for more than one day, or b) receives funds from and incurs interest and/or is charged a fee by a creditor, and contemporaneously with the receipt of funds, authorized the creditor to initiate a debit or debits to the covered borrower's deposit account (by electronic fund transfer or remotely created check) after one or more days. This provision does not apply to any right of a depository institution under statute or common law to offset indebtedness against funds on deposit in the event of the covered borrower's delinquency," also known as right of setoff.

<sup>2</sup> "Closed-end credit with a term of 181 days or fewer that is secured by the title to a motor vehicle, that has been registered for use on public roads and owned by a covered borrower, other than a purchase money transaction."

<sup>3</sup> "Closed-end credit in which the covered borrower expressly grants the creditor the right to receive all or part of the borrower's income tax refund or expressly agrees to repay the loan with the proceeds of the borrower's refund."

<sup>4</sup> "The term 'dependent' under SCRA, with respect to a servicemember, means a) the servicemember's spouse; b) the servicemember's child (as defined in section [101\(4\) of title 38, United States Code](#)); or c) an individual for whom the servicemember provided more than one-half of the individual's support for 180 days immediately preceding an application for relief under this Act."

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<b>What are the rate and other provisions?</b>	<p>A cap of 6% APR, to include all service, renewal, late fees or other charges and fees with the exception of bona fide insurance charges.</p> <p>There are three primary areas of coverage under the SCRA: (1) protection against the entry of default judgments; (2) stay of proceedings where the servicemember has notice of the proceeding; and (3) stay or vacation of execution of judgments, attachments and garnishments. 50 U.S.C. app. §§ 521, 522 and 524.</p> <p>Specifically, real or personal property owned by a servicemember before the servicemember's military service that secures a mortgage, trust deed, or similar security interest cannot be sold, fore-closed upon, or seized based on a breach of such a secured obligation during the period of military service or one year thereafter without a court order.<sup>5</sup></p>	<p>A cap of 36% MAPR<sup>6</sup>, to include all service and renewal fees, application fee, finance charges, credit insurance premiums, debt cancellation or suspension charges, and fees for credit-related ancillary products sold in connection with the credit transaction. For open-end credit, if there is no balance in a billing cycle, the creditor may not impose any fee or charge during that billing cycle, except that the creditor may impose a fee for participation in the plan so long as the participation fee does not exceed \$100 per annum. Excludes application fee assessed by a bank for a closed end small-dollar, short-term loan (up to 9 months), provided it is not charged more than once in any rolling 12 month period and the charge is the same for any other consumer applicant. For credit cards (as applicable in 10/2017), certain "bona fide" fees are allowed under restrictions listed in <a href="#">§232.4(d)</a>.</p> <p>MAPR does <b>not</b> include late fees or charges for unanticipated late payments, default, delinquency or similar occurrence.</p> <p>Prohibits rollovers, renewals, and consolidations, with certain exceptions.<sup>7</sup></p> <p>Prohibits prepayment penalties and submission to arbitration, or otherwise waiving the covered borrower's right to legal recourse. Prohibits securing credit with a check or wage allotment.</p> <p>Prohibits a creditor from taking a security interest in funds deposited after the extension of credit in an account established in connection with the consumer credit transaction.</p> <p>See <a href="#">§232.8</a> for full descriptions of limitations.</p>
<b>How is a "covered borrower" identified under the Act?</b>	<p><b>An interest rate cap limitation is mandated upon written notice from the servicemember or the servicemember's commanding officer, and accompanied by a copy of orders, no later than 180 days after the date of the servicemember's termination or release from military service.</b></p>	<ol style="list-style-type: none"> <li>1) To determine whether a consumer is a covered borrower, a creditor may verify the status of a consumer by using information relating to that consumer, if any, obtained directly or indirectly from the database maintained by the Department, available at <a href="https://mla.dmdc.osd.mil/">https://mla.dmdc.osd.mil/</a>. Searches require the consumer's last name, Social Security number, and date of birth.</li> <li>2) A creditor may verify the status of a consumer by using a statement, code, or similar indicator describing that status, if any, contained in a consumer report obtained from a <b>consumer reporting agency</b> that compiles and maintains files on consumers on a nationwide basis, or a reseller of such a consumer report (as each of those terms is defined in the Fair Credit Reporting Act (<a href="#">15 U.S.C. 1681a</a>) and any implementing regulation (<a href="#">12 CFR part 1022</a>)).</li> </ol>
<b>How may a creditor verify the status of a "covered borrower?"</b>	<p>The creditor may, but is not required to, verify the status of a servicemember by accessing the information available at <a href="https://scra.dmdc.osd.mil/">https://scra.dmdc.osd.mil/</a>. Searches require the servicemember's full name, Social Security number and date of birth. Searches are free of charge.</p>	<p>The creditor may, but is not required to, unless using the first option above, verify the status of a servicemember or dependent by accessing the information available at <a href="https://mla.dmdc.osd.mil/">https://mla.dmdc.osd.mil/</a>. Searches require the consumer's last name, Social Security number and date of birth. Searches are free of charge.</p>
<b>Where can I find the full text of the Act?</b>	<p>Link to full <a href="#">SCRA</a></p>	<p>Link to full <a href="#">MLA</a></p>

<sup>5</sup> In the absence of further legislation, these extensions will expire on December 31, 2017, and on January 1, 2018, section 303(c) of the SCRA will once again only apply to sales, foreclosures, or seizures of property occurring during or within 90 days after a servicemember's period of service.

<sup>6</sup> Military Annual Percentage Rate

<sup>7</sup> Unless the new transaction results in more favorable terms to the covered borrower. For other exceptions and clarification, please reference [§232.8](#).

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<p><b>What disclosures are required?</b></p> <p>Housing and Urban Development (HUD) requires the revised <a href="#">Notice of Disclosure</a> form that emphasizes the rights of the active duty military and their dependents protected under <i>Servicemembers Civil Relief Act</i>. HUD requires that notice be sent to <b>all</b> homeowner's who are in default on a residential mortgage within 45 days of a missed payment.</p> <p>If a customer sends notice of their protected status under the SCRA, carefully review all accounts on which the servicemember is a party, and reference the specific provisions related to your institutions products and services that might be impacted. Also, certain Titles under the SCRA are available to the servicemember's spouse and/or dependents, so these should also be carefully examined.</p>	<p>Under §232.6, "With respect to any extension of consumer credit (<b><i>including any consumer credit originated or extended through the internet</i></b>) to a covered borrower, a creditor shall provide to the covered borrower the following information before or at the time the borrower becomes obligated on the transaction or establishes an account for consumer credit:"</p> <ol style="list-style-type: none"> <li>1) Statement of the MAPR: A creditor may satisfy the requirement of paragraph (a)(1) of this section by describing the charges the creditor may impose relating to the consumer credit to calculate the MAPR. Paragraph (a)(1) of this section <b><i>shall not be construed as requiring a creditor to describe the MAPR as a numerical value or to describe the total dollar amount of all charges in the MAPR that apply to the extension of consumer credit.</i></b> <b>Model Statement for Paragraph (a)(1):</b> "Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: The costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account)."</li> <li>2) Any applicable disclosure required under Regulation Z, and</li> <li>3) A clear description of the payment obligation of the covered borrower, as applicable. A payment schedule (in the case of closed-end credit) or account-opening disclosure (in the case of open-end credit). For options on providing a description of the payment obligation, please reference <a href="#">Federal Register Interpretive Rule</a> Question 12.</li> </ol> <p>Section 232.6(d) requires a creditor to provide the required disclosures required under § 232.6(a)(1) and (a)(3) (which correspond to the items 1 and 3 numbered above) both (i) in writing and in a form the borrower can keep and (ii) orally. When orally providing the required disclosures, a creditor may elect to provide the disclosures in person, as the circumstances surrounding the establishment of the transaction or account involving consumer credit may permit, or to provide a toll-free telephone number that the borrower can use for that purpose. For further details, please see <a href="#">§ 232.6 Mandatory loan disclosures</a>.</p>
<p><b>Where can I locate a copy of the FDIC's examination for the Act?</b></p>	<p><a href="#">FDIC Examination SCRA</a></p> <p><a href="#">FDIC Examination MLA – Talent Amendment (will be updated for changes effective October 3, 2016)</a></p>