

The Landlord Report

from Realty Management Associates, Inc.

WORKING WITH THE MILITARY

May 2007

With the current state of wartime activity, it is important for investors to realize the existence and impact of legislation that affects rental housing and the military, particularly those in National Guard units. At this moment of time, President Bush is deploying thousands of troops to the Middle East. The Servicemembers Civil Relief Act of 2003 covers such issues as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, civil judicial proceedings, mortgage foreclosure, and income tax payments. It provides important protections to military members while on active duty. Therefore, this law can have a definite influence on landlord/tenant relations.

The SCRA does not automatically excuse military members from paying rent or ignoring their rental obligations. The law is specific and to receive protection, service members are required to show the military service has had a "material effect" on the legal or financial matter involved.

Military members must request protection under the SCRA during the member's military duty, or within 30 to 180 days after military service

ends, depending on the protection requested.

Delay of Court/ Administrative Proceedings

One provision of the SCRA is that it permits active duty service members, who are unable to appear in a court or administrative proceeding due to their military duties, to postpone the proceeding for a mandatory minimum of ninety days upon the service member's request. There are specific requirements required.

- The request must be in writing.
- The request must explain why the current military duty materially affects the service member's ability to appear.
- The request must provide a date when the service member can appear.
- The request must include a letter from the commander stating that the service member's duties preclude his or her appearance and that he is not authorized leave at the time of the hearing.
- This letter or request to the court will not constitute a legal appearance in court. The court can grant further delays, and if the court denies additional delays, it is required an attorney represent the service member

Termination of Leases

The Service Members Relief Act also allows termination of leases by active duty servicemembers who subsequently receive orders for a permanent change of station, or a deployment for a period of 90 days or more.

Eviction for Nonpayment of Rent

The law does not automatically excuse military personnel from paying rent. However, if the military

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Office Hours

Monday - Friday 9:00 am - 5:00 pm
Closed Wednesday 9:30 am - 12:00 noon By
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OUR SERVICES

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If you are thinking of buying or selling in our area, we can assist you. Just call, and we will have an agent contact you to help you with your Real Estate needs. There is no obligation and no pressure. Check out property values today!

Referrals are Rewarding

Know someone who is looking for management services in our area? Refer them to us and we will "reward" you. We value your business and would like to show our appreciation to you.

Looking for Management Elsewhere?

You, or someone you know, may need a property manager in other states. Because of our proud affiliation with NARPM, The National Association of Residential Property Managers, we have contacts throughout the country and may be able to assist you.

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service creates payment difficulties, it does provide some relief. Additionally, as with the previous act, landlords must obtain a court order to evict military members and/or their dependents. Then the court will decide if there is a "material effect," or if the servicemember cannot earn sufficient income to pay the rent. If the court does decide there is reason for material effect, then it may stay the eviction three months unless the court decides less.

To justify an eviction, a property owner must:

- Attempt eviction during the period of military service, or after receipt of orders to report for duty
- Show the rental unit is used for housing by spouse, children, or other dependents of the servicemember
- Show the rent does not exceed \$2,400 (this amount if subject to change in future years, but not to exceed \$2465)

Default Judgment Protection

If military personnel receive a default judgment during their active duty service, or within 60 days thereafter, the SCRA allows the service member to reopen that default judgment and set it aside. In order to set aside a default judgment, the service member must show the inability to appear in person, providing good and legal defenses to the claims against them. The service member must apply to the court for relief within 90 days of the termination or release from military service.

It is important to remember that the law is to protect *both* service members and property owners alike. Working with our military personnel to work out reasonable solutions is the key to resolving rental issues, avoiding unnecessary litigation, and supporting our service members.

To find out more on the SCRA, go to:

http://www.uscg.mil/legal/la/topics/sscra/about_the_sscra.htm

