



# HOUSE BILL 484: Servicemembers Civil Relief Act.

**This Bill Analysis  
reflects the contents  
of the bill as it was  
presented in  
committee.**

2017-2018 General Assembly

<b>Committee:</b>	House Homeland Security, Military, and Veterans Affairs. If favorable, re-refer to Judiciary I	<b>Date:</b>	April 5, 2017
<b>Introduced by:</b>	Reps. G. Martin, Grange	<b>Prepared by:</b>	Billy R. Godwin Staff Attorney
<b>Analysis of:</b>	PCS to First Edition H484-CSBD-19		

**OVERVIEW:** *The PCS for House Bill would enact the North Carolina Servicemembers Civil Relief Act to provide protections during certain civil proceedings and transactions for a servicemember engaged in military service and, in some instances, the servicemember's dependents. The bill would become effective October 1, 2017 and would apply to contracts entered into, renewed, or modified on or after that date.*

*The PCS for House Bill 484 would:*

- *Redefine "servicemember" and "dependent."*
- *Define "military order."*
- *Clarify that the Attorney General may bring an action under Chapter 75 of the General Statutes.*
- *Add a severability clause to the bill.*

**[As introduced, this bill was identical to S405, as introduced by Sen. Britt, which is currently in Senate Rules and Operations of the Senate.]**

**CURRENT LAW:** The Servicemembers Civil Relief Act (SCRA), 50 United States Code, Section 3901 *et. seq.*, is a federal statute extending protections to active duty members of the Army, Navy, Air Force, Marine Corps, Coast Guard, and National Guard (when called to federal service for more than 30 consecutive days). The SCRA also applies to commissioned officers of the Public Health Service, and the National Oceanic and Atmospheric Administration. In some limited instances, the SCRA also protects dependents of active duty personnel. Examples of protections include:

**Subchapter II of the SCRA provides servicemembers:**

- Protection against default judgments.
- Stay of civil actions or proceedings, including child custody proceedings.
- Stay of fines or penalties under disputed contracts.
- Stay of execution on judgments or orders of attachment or garnishment.
- Tolling of statutes of limitation.
- Interest rate cap of six percent (6%) on preservice obligations (includes spouse if joint obligation).
- Child custody protections.

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## **Subchapter III of the SCRA provides servicemembers:**

- Protection against residential evictions (includes dependents).
- Protection against rescission of preservice installment contracts for real or personal property.
- Protection against foreclosure of transactions secured by real or personal property.
- Authority to terminate leases for residential real property and motor vehicles (includes dependents).
- Authority to terminate telephone service contracts.
- Limits on assignments of life insurance policies given as security for obligations.
- Protection against enforcement of storage liens.

**BILL ANALYSIS: The PCS to House Bill 484** would enact the North Carolina Servicemembers Civil Relief Act (NCSCRA) which would include and expand protections already offered to servicemembers under the federal SCRA. The PCS would do the following:

### **Coverage**

- Include servicemembers and dependents of the N.C. National Guard, and those of other states in military service acting under orders of the Governor or the governor of another state.

### **Expansion of SCRA Rights / Dependent's Included**

- Provide servicemembers the same rights, benefits, and protections as the SCRA upon production of a written or electronic copy of military orders.
- Provide dependents within the scope of NCSCRA coverage.

### **Contract Termination Rights**

- Include the rights under Subchapter III of the SCRA and extends the additional right to terminate telephone, internet, cable TV, and satellite radio contracts any time after receipt of orders to relocate for 90 days to a location not supporting such services.
- Require the servicemember be given notice their rights under the NCSCRA.
- Prohibit early termination charges for terminated contracts.
- Require refund of fees prepaid beyond the termination date.
- Require the servicemember to pay any unpaid obligations due at time of termination.

### **Enforcement**

- Authorize enforcement by the Attorney General by civil action, including actions under Chapter 75 of the General Statutes and allows civil penalties of up to \$5,000.00 per violation.
- Authorize private enforcement action by the servicemember providing for injunctive relief, restitution, damages, court costs and attorney fees.

### **Posting of Rights**

- Require the NC National Guard to post the rights under the NCSCRA on its website.

The bill contains a severability clause providing that if any part of the act is declared invalid or unconstitutional, the remainder of the act is not affected.

**EFFECTIVE DATE:** The bill would become effective on October 1, 2017, and apply to contracts entered into, renewed, or modified on or after that date.