



SENATE BILL 420: NC Servicemembers Civil Relief Act.

2019-2020 General Assembly

Committee:		Date:	December 10, 2019
Introduced by:		Prepared by:	Bill Patterson Staff Attorney
Analysis of:	S.L. 2019-161		

OVERVIEW: *S.L. 2019-161 enacts the North Carolina Servicemembers Civil Relief Act (NCSCRA) to provide protections for servicemembers engaged in military service and, in some instances, their dependents, in proceedings and transactions involving certain contracts. This act also amends existing State law relating to early rental termination rights by removing references to those service members whose termination rights under federal law have been incorporated into the NCSCRA. These provisions became effective October 1, 2019, and apply to contracts entered into, renewed, or modified on or after that date.*

Effective July 25, 2019, this act also provides that a member of the North Carolina National Guard has the right to take leave without pay from the member's civilian employment, rather than being required to use vacation or other accrued leave, when called into service of the State by the Governor.

CURRENT LAW: The Servicemembers Civil Relief Act (SCRA) is a federal statute extending legal 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 (PHS), and the National Oceanic and Atmospheric Administration (NOAA). In some instances, the SCRA also protects dependents of active duty personnel.¹

A member of the North Carolina National Guard (NCNG) called into service of the State by the Governor has the right to take leave without pay from his or her civilian employment, and cannot be forced to use vacation or other accrued leave time for a period of active service. In addition, during a period of a NCNG member's State service or within 60 days after its conclusion, the member is entitled to a stay of any legal

¹ Protections under Subchapter II of the SCRA include:

- 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.

Protections under Subchapter III of the SCRA include:

- 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.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 420

Page 2

proceeding to which the member is a party unless the court finds that the member's ability to litigate is not materially affected by reason of the military service.

BILL ANALYSIS:

Section 1.(a) enacts the North Carolina Servicemembers Civil Relief Act (NCSCRA), which applies to:

- Active duty members of the Army, Navy, Air Force, Marines, and Coast Guard.
- NCNG members under State service for more than 30 consecutive days.
- Members of another state's National Guard under that state's service for more than 30 consecutive days.
- Active service officers of the PHS and NOAA.

The NCSCRA does all of the following:

- Applies all rights, benefits, and protections of the SCRA to a servicemember engaged in military service to the extent the military service materially affects their ability to comply with their obligations.
- Extends protections under Subchapter II of the SCRA to dependents of servicemembers.
- Authorizes termination of certain telephone, internet, cable TV, satellite radio, and prepaid entertainments contracts by servicemembers and their dependents upon receipt of orders to relocate for 90 days to a location not supporting such services.
- Restricts residential evictions by prohibiting servicemembers from being evicted while on active duty and entitling servicemembers who are current on all rents and required security deposits and in good standing under the lease to extend residential leases that expire while on active duty.
- Makes a knowing violation of the NCSCRA an unfair and deceptive trade practice under Chapter 75 of the General Statutes.
- Authorizes the Attorney General to commence a civil action against a person who violates the NCSCRA.
- Authorizes civil penalties of up to \$5,000.00 per violation of the NCSCRA.
- Authorizes a private action by a servicemember seeking injunctive relief, restitution, damages, court costs, and attorney fees for violation of the NCSCRA.

Section 1.(b) extends to all servicemembers on active duty the right to a court-ordered stay of any litigation to which they are a party unless their military service does not materially affect their ability to litigate.

Section 1.(c) requires the NCNG to post on its Web site a list of the rights of servicemembers and their dependents under the SCRA and NCSCRA.

Section 1.(d) amends G.S. 42-45 by deleting references to members of "the Armed Forces of the United States, the Active Guard and Reserve under section 101 of Title 10 of the United States Code," whose early lease termination rights under the SCRA are incorporated by reference in the NCSCRA in Section 1.(a) of this act.

Section 2 clarifies that NCNG members are not required to use vacation leave when called into State service by the Governor.

EFFECTIVE DATE: Section 1 of the act became effective October 1, 2019, and applies to contracts entered into, renewed, or modified on or after that date. The remainder of the act became effective July 25, 2019.