

# LAWFULLY SERVING SERVICEMEMBERS

**O**ur country's military members and their families devote their lives to serving the defense needs of our country, often at great personal sacrifice. As a result, federal and state laws have been crafted to provide these servicemembers and their families special protections, which are intended to allow the servicemembers to focus their entire attention and energy on the defense of our nation.

There are two major statutes affecting military borrowers—the new Military Lending Act and the longstanding Servicemembers Civil Relief Act (SCRA). This article only addresses the SCRA, which has been around since 1940, but SCRA violations continue to be an area of significant regulatory scrutiny. As a result, it's important to stay current, and to regularly review and update your SCRA policies and procedures.

The SCRA provides servicemembers with a number of important benefits, including a stay in court proceedings, protection from default judgments, and a 6% maximum interest rate cap during the servicemember's period of military service. Note that the SCRA takes a very broad approach to defining the term "interest," and indicates that it "includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability."

The SCRA also provides that a protected servicemember's vehicle cannot be repossessed without a court order. Regulators have imposed millions of dollars in penalties on companies who allegedly unlawfully repossessed the vehicles of SCRA-protected servicemembers. To help avoid this result for your dealership, you should always check the Defense Manpower Data Center's SCRA database before attempting to repossess any vehicle to make sure that the customer is not protected by the SCRA. Starting at the end of June, database users will be required to create a user account to search the database; however, there's no cost to create an account or to perform a search. Some states have also adopted their own versions of

the SCRA. In some cases, those state-specific versions expand the categories of protected servicemembers to include those on active duty for the state's National Guard. Other states prohibit discrimination based upon military status, or allow protected servicemembers to defer their credit obligations during times of military service. Thus, a careful review of the states' laws in which you operate is important, to ensure that you're properly complying with any additional military protections that the state may require.

Though new compliance issues are constantly arising and demanding your attention, don't forget about the "old laws" too. Take a look at your SCRA policies and procedures, consider having legal counsel review them for any shortcomings, and do a compliance audit to make certain that your organization is consistently following those policies and procedures, as scrutiny on whether servicemembers are being lawfully served will certainly continue.

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