

General Policy Statement:

On loans to military personnel, the credit union will comply with the Service Members Civil Relief Act (SCRA) of 2003. This Act requires that the interest rate on loans incurred before military personnel began active duty be reduced to 6% for the duration of the active duty (if the current rate is lower than 6% no change will be made). It also affords additional protections to such personnel. The Credit Union will also comply with the Department of Defense's Military Lending Act (MLA) and the NCUA Letter to Federally Insured Credit Unions (12-CU-07) "Mortgage Servicing Practices Impacting Military Homeowners" which provides additional protections for the loans outlined herein. Additionally, the Credit Union will comply with any applicable state law that may cover a particular member.

Guidelines:

1. SCRA

A. Persons Protected.

- i. **Primary Coverage.** The Act protects persons on active duty in the Army, Air Force, Navy, Marine, and Coast Guard. This includes reserve units that are called to active duty. National Guard members are covered when called to active service authorized by the President or the Secretary of Defense for a period longer than 30 days. "Active duty" can occur during peacetime, including active duty training (boot camp), training and education programs (ROTC), or a reserve component call-up (such as Operation Desert Shield in 1990-91).
- ii. **Special Coverage.** In certain situations, protection extends to:
 1. Persons who are financially dependent on the service member, defined as the service member's spouse, child, or an individual for whom the service member provided more than one half of the individual's support for 180 days immediately preceding an application for SCRA relief.
 2. Cosigners, guarantors, or endorsers of debts incurred by the service member.

B. Debts Covered. The SCRA applies to debts incurred by the service member before they entered into active duty. Thus, credit card charges made after active duty began are not subject to the protections of the Act.

C. Interest Rate Reduction To 6%.

- i. On any covered debt incurred **prior** to active duty, the Credit Union must reduce the interest rate to 6% during the period of active duty.
 1. The service member must provide the Credit Union with a written notice and military orders calling him/her to active duty, as well as any orders further extending military service.
 2. The rate reduction takes effect when active duty began, not when the Credit Union receives notice of the active duty.
 3. "Interest" includes all service charges, renewal charges, fees or any other charges (except bona fide insurance).

4. The Credit Union **must** reduce the amount of the payment on outstanding balances and **cannot** reduce the number of total payments to be made.
 - ii. Under the Housing and Economic Recovery Act of 2008 (HERA), the 6% rate reduction for all obligations and liabilities consisting of a mortgage, deed of trust or other security in the nature of a mortgage, incurred **during** the period of active military service is to be extended until one year **after** active duty status.
 - iii. The Credit Union **must** forgive any interest in excess of 6% that would have been incurred if no rate cap was in effect.
 - iv. The 6% limit does **not** apply to new advances under an existing credit card or home equity line of credit program.
 - v. The Credit Union **cannot** automatically refuse to lower the rate. In order to challenge the rate reduction, the Credit Union can petition an appropriate court to authorize a higher interest rate. The Credit Union must show that the service member's ability to repay the loan is "not materially affected" by the active duty service.
 - vi. The Credit Union may reinstate the original contract rate on non-mortgage loan debt outstanding balances as soon as the service member is no longer on active duty.
 - vii. The Credit Union may reinstate the original contract rate on mortgage loan debt outstanding balances one year following the end of active duty service to the military.
 - viii. Unless there is a joint obligation with the service member, dependents are generally **not** entitled to receive reduced rates of interest on loans, but may seek court protection to prevent foreclosure, repossession or an out of court sale.
- D. **Renegotiation of Loan Contracts.** Rather than collect the 6%, the Credit Union and the service member may choose to renegotiate the original loan contract. Under the SCRA, contracts may be modified, terminated or cancelled, and that property which is security for an obligation may be repossessed, foreclosed, sold or forfeited pursuant to a written agreement between the service member and the Credit Union that is entered into during or after the period of active duty. All decisions to renegotiate contracts shall be made by management.
- E. **Truth-In-Lending Issues.**
 - i. **Open-End Loans.** For open-end loans, a change-in-terms notice is required when the Credit Union reinstates the contractual rate. This notice may be sent when the Credit Union receives notice of active duty.
 - ii. **Closed-End Loans.** For closed-end loans, an additional disclosure is only required for variable-rate loans secured by a member's principal dwelling that have a term of greater than one year. This notice must be sent at least 25 days and no more than 120 calendar days prior to the date that a payment at the new level is due, and includes the following information:
 - a. The current and prior interest rates;
 - b. The index values upon which the current and prior rates are based;

- c. The extent to which the Credit Union has foregone an increase in the interest rate;
 - d. The contractual effects of the adjustment, including the payment due after the adjustment and a statement of the loan balance; and
 - e. The payment, if different from the disclosure in #4, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term.
- F. **Suspension of Payments and Extension of Loan.** A service member may request a court to suspend loan payments that fall due during active duty. If the service member is being sued for repayment of an obligation, the court may authorize reduced or suspended payments.
 - i. If such payments are suspended, the service member must begin making payments when active duty ends over an extended period of time authorized by the court. The maximum extension that may be authorized depends on the type of security.
 - . **Loans Secured by Real Estate.** The maximum extension is the remaining term of the loan plus the period of active duty service.
 - a. **Loans Secured by Personal Property.** The maximum extension is no longer than the period of active duty service.
 - ii. Loan payments that fall due after active duty terminates must be paid on time.
- G. **Restriction on Default Judgments.** In order to obtain a default judgment, the Credit Union must provide an affidavit stating facts showing that the defendant is not in military service. If the statement is not filed, the judgment is voidable (i.e., can be set aside and reopened by the service member upon proper showing that he/she has been prejudiced because of military service in making a defense).
- H. **Reopening Default Judgments.** A service member may have a default judgment reopened if the judgment was entered during service or within 60 days after separation from service. The service member must apply to the same court that entered the judgment and must file within 90 days after his or her military service ends.
 - i. Setting aside a default judgment will impair the rights or title to property that has been acquired by a bona fide purchaser. Thus, if a car is properly repossessed and resold to a bona fide purchaser, the defendant would not be able to reclaim the car, but could seek money damages from the Credit Union.
- I. **Prohibition of Foreclosures and Repossessions.** For covered debts secured by a service member's real or personal property, the Credit Union cannot foreclose on or repossess the security unless the Credit Union has first obtained prior authorization from a court, unless the service member and Credit Union entered into a loan agreement or modification after the member's active duty service that allows the Credit Union to foreclose on the loan and repossess the property.
 - i. **Default Notification.** Pursuant to Section 688 of the National Defense Authorization Act for Fiscal Year 2006, the Credit Union will provide homeownership counseling notification (prepared by the Department of

Housing and Urban Development [HUD]) to all members in default regarding the foreclosure rights of service members and their dependents under the SCRA. The notice must:

1. Be sent to all homeowners who are in default on a residential mortgage (HUD's counseling notification requirement only applies to a loan that is secured by the principal residence of the homeowner);
 2. Include the toll-free military one-source number to call if service members or their dependents require further assistance (1-800-342-9647); and
 3. Be made within 45 days from the date of a missed payment was due, unless the homeowner pays the overdue amount before the expiration of the 45-day period.
- ii. In order to initiate a foreclosure under HERA, the Credit Union must wait **twelve (12) months after** a service member returns from active duty service.
- B. **Stay of Legal Proceedings.** During service or within 90 days of separation, the service member can request a stay of any legal proceeding including enforcement of a judgment (e.g., execution, garnishment), or the court may enter a stay on its own motion. The court shall grant the stay unless the service member's active duty does not materially affect his or her ability to defend the proceeding. If the proceeding is stayed, the Credit Union cannot assess any fines or penalties against the service member while the stay is in effect. This protection applies to all of a service member's debts, including those incurred during active duty.
- i. The fact that a service member applies for or is granted temporary relief from his/her obligations and liabilities pursuant to the SCRA may not in and of itself be the basis for any of the following by the Credit Union:
 1. A determination that the service member is unable to pay the obligation or liability under its terms;
 2. A denial or revocation of credit, change in the terms of an existing credit arrangement, or refusal to grant credit in substantially the same amount or on substantially the same terms requested;
 3. An adverse report related to the creditworthiness of the service member by or to a credit bureau;
 4. A note in the service member's record identifying him/her as a member of the National Guard or a Reserve component;
 5. A refusal to insure the service member; or
 6. A change in terms offered or conditions required for the issuance of insurance.
- C. **Statute of Limitations.** The time period in which a claim must be made is suspended during the period of military service, even if a claim arose prior to or during active duty service.
- D. **Eviction and Distress.** When the Credit Union becomes the owner of residential property that is rented to a service member, the Credit Union may **not** evict a

service member or his/her dependents unless a court order is obtained. Additionally, the Credit Union may **not** subject the premises to “distress” (seizure of property to secure payment of overdue rent) during the period of military service.

E. **Termination of Leases.** The SCRA permits service members to terminate a “covered lease” if he/she delivers written notice of termination, along with a copy of his/her military orders to the Credit Union or its agent. This notice must be delivered by hand, private business carrier, or U.S. Mail, posted prepaid, return receipt requested.

i. **Real Property Leases.** A “covered lease” of real property is a lease of premises occupied, or intended to be occupied, by a service member or his/her dependents for a “residential, professional, business, agricultural or similar purpose” **and** either (1) is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or (2) is executed by a service member while in military service who thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of at least 90 days.

1. For residential leases that provide for monthly rent payments, once the notice is delivered, the termination is effective 30 days after the next rental due date.

ii. **Motor Vehicle Leases.** A “covered lease” is a lease of a motor vehicle used, or intended to be used, by a service member or his/her dependents for personal or business transportation if (1) the lease is executed by or on behalf of a person who thereafter and

during the term of the lease enters military service under a call or order specifying a period of not less than 180 days (or who enters service under such a call and, without a break in service, receives orders extending the period of military service to a period of not less than 180 days); or (2) the service member, while in military service, execute the lease and later receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 180 days.

1. Along with the termination notice, the service member must return the vehicle to the Credit Union no later than 15 days after the date of the delivery of the written notice.

2. Termination is effective once the notice requirement and return of the vehicle are satisfied.

3. Early termination fees are prohibited, but any taxes, summonses, title and registration fees or other lessee obligations, including reasonable charges for excessive wear and tear, use and mileage, etc. that are due and unpaid at the time of termination may be charged.

F. **Installment Contracts.** If a service member has paid a deposit or installment of the purchase price prior to military service, the Credit Union may **not**, without a

court order, exercise a right or option to terminate the contract or repossess the property for nonpayment that occurs prior to or during military service.

- G. **Protection of Dependents, Cosigners, Guarantors, and Endorsers.** If a legal proceeding is stayed, the court may extend the stay to any dependent, cosigner, guarantor, or endorser of the service member's debt.

2. **MILITARY LENDING ACT (MLA)**

- A. **Loans Covered.** The Credit Union will follow the Military Lending Act when granting "Consumer credit" to service members and their dependents. "Consumer credit" means credit offered or extended to a covered borrower primarily for personal, family, or household purposes and that is (1) subject to a finance charge; or (2) payable by a written agreement in more than four installments.

- i. **Exceptions.** "Consumer credit" does not mean:

1. A residential mortgage, which includes any credit transaction secured by an interest in a dwelling, including a transaction to finance the purchase or initial construction of the dwelling, any refinance transactions, home equity line of credit, or reverse mortgage;
2. Any credit transaction that is intended to finance the purchase of personal property when the credit is secured by the property being purchased;
3. Any credit transaction that is considered "exempt" under Regulation Z (other than a transaction exempt under 1026.29) or otherwise is not subject to disclosure requirements under Regulation Z; and
4. Any credit transaction or account for credit which the credit union determines that a consumer is not a covered borrower by using a method and comply with the recordkeeping requirements.

J. **Covered Borrowers.**

- i. A "covered borrower" is defined as a person with the following status at the time he/she becomes obligated on a consumer credit transaction:
1. *Covered Member* - A member of the armed forces who is serving on active duty pursuant to title 10, title 14, or title 32 of the United States Code under a call or order that does not specify a period of 30 days or less, or such a member serving on Active Guard and Reserve duty [as defined in 10 U.S.C. 101(d)(6)]; or
 2. A "dependent" with respect to the covered member as described in subparagraph (A), (D), (E), or (I) of 10 U.S.C. 1072(2).

- ii. A covered borrower does not mean a consumer who (though they were a covered borrower at the time they became obligated on a consumer credit transaction or established an account for consumer credit) is no longer a covered member or dependent of a covered member.
 - iii. The Credit Union may apply their own method to assess whether a consumer is a covered borrower. The credit union is provided a safe harbor and may conclusively determine whether credit is offered or extended to a covered borrower, by assessing the status using the following methods:
 - 1. The credit union may verify the status of a consumer by using information related to that consumer in a database maintained by the Department of Defense. The credit union will need the consumer's last name, date of birth and social security number to perform the search. Historical lookbacks in this database by the credit union to ascertain whether the consumer was a covered borrower after a contract has been established is prohibited.
 - 2. The credit union may also verify the status of a consumer by using a statement, code, or similar indicator describing the status (if any) contained in a consumer report obtained from the consumer reporting agency.
- K. **Recordkeeping.** The credit union making a determination regarding the status of a consumer by using one of the methods described above must timely create and maintain a record of the information obtained. The credit union may make the determination of covered status solely at the time consumer initiates the transaction or applies to establish the account or 30 days prior to that time, or at the time the credit union develops or processes a firm offer of credit that includes the status of the consumer as a covered borrower, so long as the consumer responds to that offer not later than 60 days after the time that the credit union had provided that offer to the consumer. If the consumer responds to the credit union's offer 60 days after the time the credit union provided it to the consumer, the credit union may act as though the consumer is initiating a new transaction.
- L. **Military Annual Percentage Rate (MAPR) Limitation.** The MAPR, defined as "the cost of consumer credit transactions expressed as an annual rate," and includes the following:
- . Finance charges (as defined in Regulation Z) associated with the consumer credit;
 - i. Any application fee charged to a covered borrower who applies for consumer credit, other than an application fee charged by the credit union when making a short-term, small amount loan, provided that the application fee is charged not more than once in any rolling 12 month period;
 - ii. Participation fees for a plan or arrangement for consumer credit;
 - iii. Credit insurance premiums or fees, including charges for single premium credit insurance;
 - iv. Fees for debt cancellation or debt suspension agreements; and

- v. Fees for credit-related ancillary products sold in connection with the credit transaction for closed-end credit or an account for open-end credit.
 - vi. Even if the abovementioned charges would be excluded from the finance charge calculation under Regulation Z, they shall still be included in the MAPR calculation.
 - vii. The MAPR may not exceed 36%.
- M. **Mandatory Disclosures.** The Credit Union must provide covered borrowers at closing with a clear and conspicuous written disclosure in a form the member can keep.
- . The disclosures (except for the Regulation Z disclosures) must be provided verbally before or at the time of consummation of the loan. For mail or internet transactions, the Credit Union complies with this requirement by providing a toll-free telephone number on or with the written disclosures that consumers may use to obtain the verbal disclosures, and the Credit Union provides the verbal disclosures to the covered borrowers upon request.
 - i. The required disclosures must be kept separate from the Regulation Z disclosures.
 - ii. The written disclosures must be provided before consummation of the transaction. Disclosure of the MAPR in advertisements is not required.
 - iii. The refinancing or renewal of a covered loan requires new disclosures only when the transaction would be considered a new transaction that requires Regulation Z disclosures.
 - iv. The disclosures must include the following information:
 - 1. A statement of the MAPR applicable to the extension of consumer credit, which can be satisfied with the following model language: “Federal law provides important protections to members of the Armed Forces and their dependents relating to extension 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).”;
 - 2. Any disclosures required by Regulation Z (which shall be provided in accordance with the requirements of Regulation Z that apply to that disclosure); and;
 - 3. A clear description of the payment obligation of the covered borrower, as applicable (i.e., payment statement or account-opening disclosure pursuant to Regulation Z).

- N. **Preemption.** This regulation would preempt any inconsistent State or Federal law, rule or regulation, including any State usury law, unless such a law, rule or regulation provides additional protection to covered borrowers. States may not charge MAPRs that are higher than the limit for residents of the State, or permit the violation or waiver of any State consumer lending protection that is for the benefit of the residents of that State, solely on the basis of the covered borrower's non-resident or military status.
- O. **Limitations.** The rule prohibits the Credit Union and its assignees from the following activities:
- . Requiring covered borrowers to waive their legal recourse under any applicable State or Federal law, including any provision of the Service Members Civil Relief Act.
 - i. Requiring covered borrowers to submit to arbitration or imposing other onerous legal notice provisions if the event of a dispute.
 - ii. Demanding unreasonable legal notice as a condition for legal action.
 - iii. Using a check or other method of access to a deposit, savings, or other financial account maintained by the member. However, creditors may do the following:
 - 1. Require an EFT to repay the debt, unless otherwise prohibited by Regulation E;
 - 2. Require direct deposit of the covered borrower's salary as a condition of eligibility for credit, unless otherwise prohibited by law; or
 - 3. Take a security interest in the funds that are deposited after the extension of credit in an account established in connection with the transaction.
 - iv. Requiring that the covered borrower establish an allotment to repay the obligation.
 - v. Prohibiting the covered borrower from prepaying the debt, or charging a fee for prepaying all or part of the debt.

MORTGAGE SERVICING PRACTICES FOR MILITARY MEMBERS WITH PERMANENT CHANGE OF STATION ORDERS

P. Persons Protected.

- . **Primary Coverage.** The NCUA Letter to Credit Unions 12-CU-07 applies to military service members who have received mortgage services from the Credit Union and have received Permanent Change of Station orders from the military.

1. Mortgage services include managing a member's loan account and collecting and crediting monthly payments.
2. Permanent Change of Station (PCS) orders require service members to move to a new duty station, are non-negotiable, and operate under short, strict timelines.

Q. Loans Covered. The Credit Union will follow the guidance of NCUA Letter to Credit Unions 12-CU-07 for all mortgage loans and mortgage services provided to military service members.

R. Servicing Assistance. The Credit Union will protect military homeowners with PCS orders by:

- i. Providing homeowners with accurate, clear, and readily understandable information about available assistance options they may qualify for, based on information known to the Credit Union.
- ii. Provide a reasonable means for members to obtain information on the status for their request for assistance.
- iii. Communicating the Credit Unions decisions on requesting assistance in a timely manner.
- iv. The Credit Union will **NOT** ask a service member to waive their rights under the Service Members Civil Relief Act as a prerequisite to providing information about available assistance options or eligibility for assistance.
- v. The Credit Union will **NOT** advise service members who are current on their loans and able to make monthly payments to skip payments creating the appearance of financial distress in order to qualify for assistance.

Training. The Credit Union will provide training to employees in the capacity to assist service members with mortgage servicing issues covering assistance programs and options available to military service members.