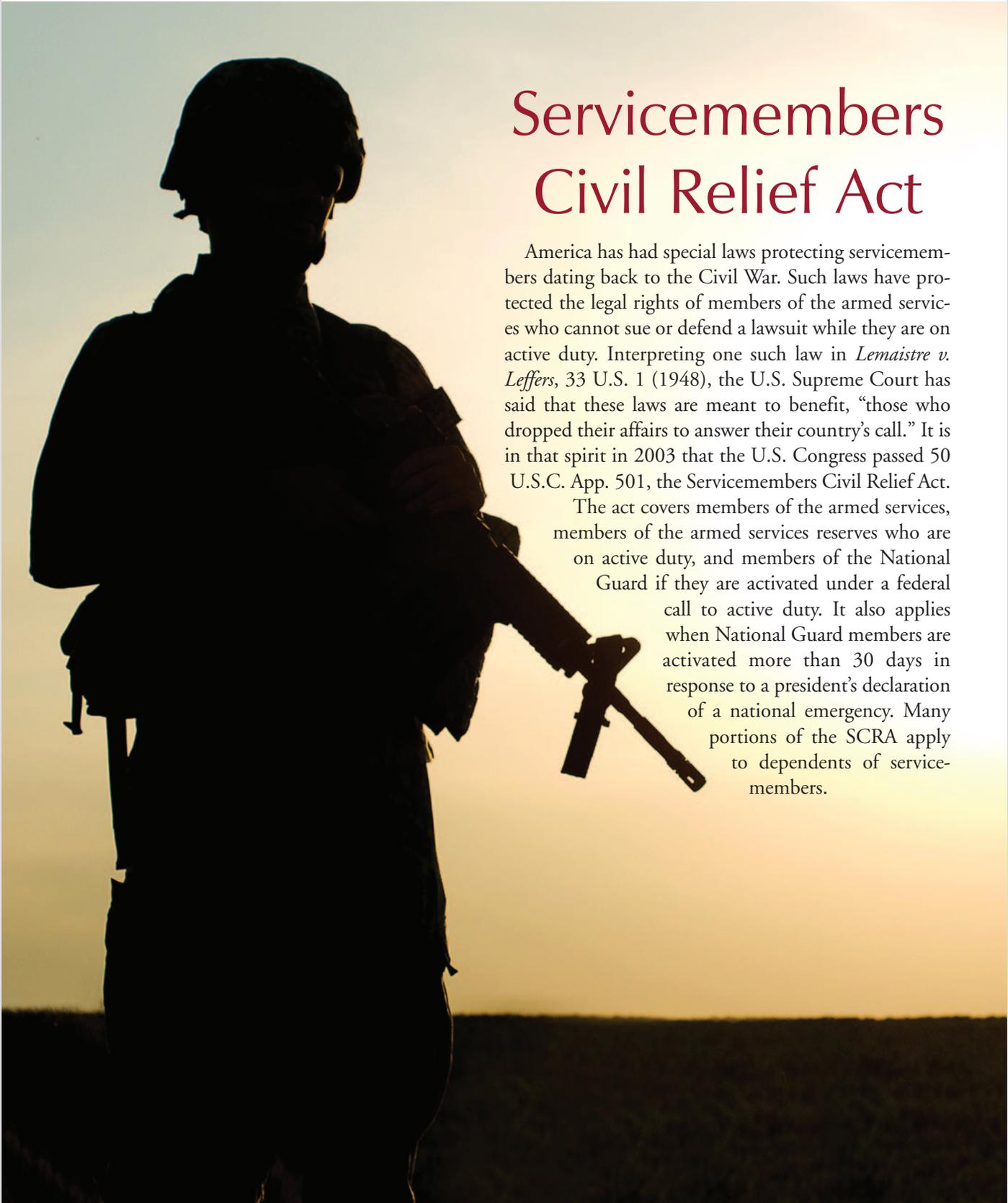




## INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

The information included in this column is for educational and informational purposes only. Please consult an attorney regarding specific legal questions.



## Servicemembers Civil Relief Act

America has had special laws protecting servicemembers dating back to the Civil War. Such laws have protected the legal rights of members of the armed services who cannot sue or defend a lawsuit while they are on active duty. Interpreting one such law in *Lemaistre v. Leffers*, 33 U.S. 1 (1948), the U.S. Supreme Court has said that these laws are meant to benefit, “those who dropped their affairs to answer their country’s call.” It is in that spirit in 2003 that the U.S. Congress passed 50 U.S.C. App. 501, the Servicemembers Civil Relief Act.

The act covers members of the armed services, members of the armed services reserves who are on active duty, and members of the National Guard if they are activated under a federal call to active duty. It also applies when National Guard members are activated more than 30 days in response to a president’s declaration of a national emergency. Many portions of the SCRA apply to dependents of servicemembers.



## THE SCRA HELPS WITH RESIDENTIAL LEASES

A servicemember and his or her dependents may not be evicted from a residence for which the monthly rent does not exceed \$2,400 during a period of military service except by court order. The amount of rent can be higher if adjusted for inflation. A landlord also may not subject the servicemember's residence to a distress during a period of military service.

A court may on its own motion, but must on a motion made by a servicemember, stay eviction or distress proceedings for a period of 90 days, or adjust the obligation under the lease to preserve the interests of all parties.

A servicemember may, at his or her option, terminate a residential lease any time after the lessee enters into military service. Leases that may be terminated include leases for premises occupied by the servicemembers or their dependents, and leases entered into by a servicemember for professional, business, or agricultural purposes.

## THE SCRA HELPS WITH MORTGAGES

Servicemembers can receive a stay of foreclosure proceedings during periods of active duty or within 90 days of return from active duty. A court may adjust the amount of mortgage payments and the maturity dates of mortgages to preserve the interests of the servicemember and his or her dependents during a period of active duty.

These protections apply to an obligation on real or personal property that a servicemember is still paying for and that the servicemember acquired before going into military service. To be granted this relief, a court must find that a servicemember's ability to meet his or her financial obligation as to the property is materially affected by military service.

## THE SCRA HELPS WITH AUTOMOBILE LEASES AND CREDIT PURCHASES

When a servicemember has been on active duty for 180 days, he or she may

terminate an automobile lease agreement. Servicemembers may also terminate automobile leases if they have received permanent change of station orders moving them outside the continental United States. Other scenarios involving permanent change of station orders can also trigger the protections of the SCRA regarding automobile leases.

Interest-bearing debt acquired before a servicemember goes into military service can have the interest rate capped at 6 percent on the servicemembers notice to creditors. The intent of this part of the SCRA is to lower the debt payments for servicemembers while they are on active duty. Interest in excess of 6 percent that would have been charged is forgiven, and it cannot be collected after the period of military service or under any other

name. In addition, a creditor may not accelerate the due date of payments in response to a request for the 6 percent interest cap. ✪

*The information in this article is excerpted from Servicemembers Civil Relief Act, a brochure prepared as a public service by the Texas Young Lawyers Association and distributed by the State Bar of Texas. Copies of the entire brochure can be downloaded at [tyla.org](http://tyla.org) or [texasbar.com](http://texasbar.com) or ordered by writing to Public Information Department, State Bar of Texas, P.O. Box 12487, Austin, TX, 78711, or by calling (800) 204-2222, Ext. 1800.*

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