

# SCRA PROTECTIONS AGAINST REPOSSESSIONS

*NACA Defending Servicemembers by Building an Army of Informed Consumers*

The National Association of Consumer Advocates (NACA) is a non-profit association of attorneys and consumer advocates committed to representing consumers' interests. **This Handout addresses protections against repossessions available to servicemembers under the Servicemembers Civil Relief Act (SCRA)**, formerly known as the Soldiers and Sailors Civil Relief Act (SSCRA).

1. If you entered into a loan secured by personal property (auto, boat, RV, etc.) **before** you started active duty, you have certain protections against repossession of that property in the event of a default on the loan. The rest of this handout assumes that you entered into the loan before active duty and that the SCRA applies to you (and that you did not sign a written agreement waiving your SCRA rights during active duty).
2. The SCRA provides that a creditor cannot repossess your property while you are on active duty without first getting a court order. This means that a lender cannot repossess your car, or other personal property, without first starting a lawsuit, giving you notice, and convincing a judge to approve the repossession given that you are on active duty.
3. If you receive notice that the lender is trying to repossess while you are on active duty, let the lender know you are on active duty (or ask your family member to do so) and contact an attorney to assist you. Your family members may also have certain protections under the SCRA. Your legal services office can help, or they can refer you to a private attorney experienced in SCRA protections. Do this as quickly as possible.
4. If a lawsuit to repossess has been started, the SCRA gives you the right to ask for a "stay" of the lawsuit until you are more able to defend yourself in court. A "stay" means that the lawsuit is suspended for a specific period of time. The SCRA gives servicemembers an automatic 90 day stay. But you can ask for more time. You will need to let the judge know why you need more time to defend the lawsuit. If you are deployed and you will not be back home for some period of time, that may be reason for additional time. Also, the judge may adjust your loan obligation depending on the facts. It will be up to the judge to decide.
5. If a lawsuit to repossess was started, but you did not receive notice of it, you have the opportunity to undo the repossession and/or get damages. If the lender obtained a "Default Judgment" from the court, it had to first file an affidavit stating your military status. If the affidavit incorrectly states that you were not on active duty when in fact you were (or the lender's lawyer didn't file an affidavit at all), you may have a claim against the lender for violating the SCRA.
6. Under the SCRA, you can ask for actual damages and/or punitive damages if the lender violated the law. You can also recover your costs and attorney fees if you have to bring an action to enforce your rights. Most consumer lawyers will take the case on a contingent fee basis.

This handout is for information purposes only and is not intended to be legal advice. If you need legal advice and assistance you may see legal advice from your Legal Assistance Office. Legal Assistance Offices can be located at <http://legalassistance.law.af.mil/content/locator.php>. You may also locate and contact a NACA attorney in your area logging on to <http://naca.net/find-attorney>.