

LAW REVIEW¹ 0638
November 2006

Interest Rate Reduction to 6 Percent After Mobilization

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4.1—Right to Interest Rate Reduction upon Mobilization

Q: My husband and I got married five months before he was mobilized, and he is now on active duty in Iraq. At the time of the marriage, both of us had credit card debt and other debt, some of it bearing interest rates in excess of 20 percent. With both of us working good jobs, we were making progress on paying off that debt. We had consolidated some, but not all, of the credit cards into both of our names.

When he was mobilized, he had an Army judge advocate draft a “general power of attorney” for him, empowering me to act in his stead during his deployment. I have heard that the “Soldiers and Sailors Act” provides for interest rates to be reduced to 6 percent under these circumstances. I have communicated with the creditors, and most have reduced the interest rate with no problem.

¹I invite the reader’s attention to <https://www.roa.org/page/LawCenter>. You will find more than 2000 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

²BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General’s Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans’ Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

One particular credit card company has refused to reduce the interest rate, which is currently 28 percent. That card was mine before the marriage. During the five months we were married, before he was mobilized, we both contributed our incomes to a joint checking account and we made payments on this credit card balance, and other balances. We managed to consolidate some of the credit cards into both of our names, but we had not gotten around to consolidating this particular credit card into both of our names.

This particular credit card, which has the highest balance and the highest interest rate, has refused to reduce the interest rate. Help!

A: In late 2003, Congress enacted the Servicemembers' Civil Relief Act (SCRA), a long-overdue rewrite of the Soldiers' and Sailors' Civil Relief Act (SSCRA), which can be traced back to World War I. Section 207(a)(1) of the SCRA reads as follows: "An obligation or liability bearing interest at a rate in excess of 6 percent per year that is *incurred by a servicemember, or the servicemember and the servicemember's spouse jointly*, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service." (Emphasis supplied.)

I think that it is clear from the language of this section that you do not have the right to have the interest rate on that particular debt reduced to 6 percent, because the servicemember's name was not on the debt at the time he entered active duty. Let this be a lesson for other military Reserve families—if you want to take advantage of the interest rate reduction the servicemember's name must be on the debt.

I also invite your attention to Law Review 125, entitled "Legal Assistance—And It's Free." Since your husband is on active duty, you (as well as he) are entitled to military legal assistance. Call a military legal assistance office (an office specifically dedicated to assisting military personnel and family members with *civilian* legal problems) and make an appointment. Military legal assistance attorneys are trained not to give legal advice by telephone or e-mail. You need to make an appointment and visit in person. Gather all your financial papers and take them with you to the appointment.

Military legal assistance attorneys are generally quite good on problems of this nature. The creditor in this instance is under no legal duty to reduce the interest rate, but the creditor might be susceptible to "moral suasion" and "jawboning" by the legal assistance attorney.

Go to <https://legalassistance.law.af.mil/>. That website is operated by the Air Force, with input from all the services. It will show you, from your zip code, the nearest military legal assistance office—including the telephone number. Call and make an appointment.

Like so much in the military today, legal assistance is "purple." That means that you, as a spouse of an active duty member, are eligible for legal assistance at the closest military legal assistance office, even if it is of a service other than your husband's service. Good luck.

** Military title shown for purpose of identification only. CAPT Wright is a regular contributor to ROA's Law Reviews. The views expressed are the personal views of the author, and not necessarily the views of the Department of the Navy, Department of Defense, or the U.S. government*

Update – May 2022

The SCRA has been amended, revised, and expanded several times since its enactment in 2003. In 2015, there was an editorial reclassification of the SCRA by the Office of the Law Revision Counsel to the United States House of Representatives.³ The SCRA is now codified at 50 U.S.C. §§ 3901-4043. The changes in codification have not changed the substance or application of the sections. Therefore, the application of the SCRA throughout this article applies the same today as it did when it was written.

Section 207 of the SCRA discussing the maximum rate of interest on debts incurred before military service can be found at 50 U.S.C. § 3937.

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This article is one of 1800-plus “Law Review” articles available at www.roa.org/page/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America’s Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA or eligible to join, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

³*The Servicemembers Civil Relief Act (SCRA), THE UNITED STATES DEPARTMENT OF JUSTICE, <https://www.justice.gov/servicemembers/servicemembers-civil-relief-act-scra> (last visited Mar. 10, 2022).*

If you are now serving or have ever served in any one of our nation's seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at www.roa.org or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

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