

The SCRA and the “Collection Fee” on my College Tuition

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

[About Sam Wright](#)

4.1—SCRA Right to Interest Rate Reduction upon Mobilization

On October 18, 2012, the news service Reuters reported: “The military voiced concern on Thursday over mounting student loan debt owed by American troops, saying loan companies appeared to be taking advantage of U.S. forces—guiding them away from special protections they earned through service. ... But troops, unlike the general population, should benefit from laws meant to help them manage their student debt, including the Servicemembers Civil Relief Act (SCRA), which cuts interest rates to 6 percent during active duty service on debt incurred prior to service.” I am concerned that this Reuters report oversimplifies the situation and overstates the helpfulness of the SCRA in this scenario.

Congress enacted the SCRA in 2003, as a long-overdue rewrite of the Soldiers’ and Sailors’ Civil Relief Act, which was originally enacted in 1917, shortly after the United States entered World

¹I invite the reader’s attention to www.roa.org/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 very 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 (VRRRA—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 VRRRA 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 VRRRA 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.

War I. The SCRA is codified in title 50 Appendix, United States Code, at sections 501-597b (50 U.S.C. App. 501-597b).

The pertinent section is section 207 (50 U.S.C. App. 527).

Until August 14, 2008, student loan debts were exempted, by federal statute, from the SCRA requirement to reduce interest rates to 6%, on pre-service obligations, for persons entering active duty in the armed forces.

On August 14, 2008, President Bush signed into law Public Law 110-315. Among other changes made by that Public Law, it amended 20 U.S.C. 1078(d) to read: "No provision of any law of the United States (other than this chapter *and section 527 of the Appendix to title 50*) ... which limits the rate or amount of interest payable on loans shall apply to a [federally guaranteed student] loan." (Emphasis supplied.)

The purpose and effect of this 2008 amendment was to make the SCRA 6% interest rate cap applicable to student loans, just as it applies to credit cards, automobile loans, and other financial obligations. This is a very important change. For many junior officers and enlisted personnel in the armed forces, including the National Guard and Reserve, the student loan debt will be the most significant financial obligation for which the member will need relief upon call to active duty.

It is true that section 207 of the SCRA provides for reducing interest rates to 6% for debts incurred before entering active duty, but I invite the reader's attention to section 207(c) of the SCRA: "A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service." 50 U.S.C. App. 527(c).

To understand how this provision might work in practice, let us take a hypothetical but realistic situation. Joe Smith used federally guaranteed student loans to finance his college education, attending a state university from September 2007 to May 2011, when he received a Bachelor of Arts degree. He ran up \$30,000 in student loan debt. After he graduated, he sought employment for several months, without success. Finally, in December 2011 he enlisted in the United States Army. He attended Officer Candidate School (OCS) and was commissioned a Second Lieutenant in August 2012.

Joe cannot show that his December 2011 entry on active duty has materially (i.e., adversely) affected his ability to meet his financial obligations. As an officer candidate, and now as a Second Lieutenant on active duty, he is making more money than he was making during his four years of college education or during the seven months, after he graduated, when he was unsuccessfully seeking civilian employment. If the bank servicing Joe's student loans chooses to contest his right to the reduction of interest rates to 6%, the bank will could prevail.

Update – March 2022³

The location of the SCRA within the United States code changed in late 2015. Previously codified at 50 U.S.C App. §§ 501-597(b), there was an editorial reclassification of the SCR by the Office of the Law Revision Counsel to the United States House of Representatives that became effective on December 1, 2015.⁴ 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 in 2013.

The relevant sections cited throughout the article can be found as followed:

50 U.S.C. App. § 527 discussing the maximum rate of interest on debts incurred before military service can now be found at 50 U.S.C. § 3937.

For a complete conversion chart for the SCRA please see *The Servicemembers Civil Relief Act Has Moved*.⁵

Please join or support ROA

This article is one of 2,300-plus “Law Review” articles available at www.roa.org/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 on 10/1/1922 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 almost a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Through these articles, and by other means, including amicus curiae (“friend of the court”) briefs that we file in the Supreme Court and other courts, we educate service members, military spouses, attorneys, judges, employers, DOL investigators, ESGR volunteers, congressional and state legislative staffers, and others about the legal rights of service members and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA, 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.

³Update by Second Lieutenant Lauren Walker, USMC.

⁴*The Servicemembers Civil Relief Act (SCRA)*, THE UNITED STATES DEPARTMENT OF JUSTICE, <https://www.justice.gov/servicemembers/servicemembers-civil-relief-act-skra> (last visited Mar. 10, 2022).

⁵Samuel F. Wright, *The Servicemembers Civil Relief Act Has Moved*, Law Review 15115 (Dec. 2015).

If you are now serving or have ever served in any one of our nation's eight⁶ uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20 or \$450 for a life membership. 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:

Reserve Organization of America
1 Constitution Ave. NE

⁶Congress recently established the United States Space Force as the 8th uniformed service.