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Legal help for military members, veterans and their families

Stateside Legal™

Self-Help Sample Forms Packet

Letter from Servicemember to Landlord: Eviction Protections (Protections under the Servicemembers Civil Relief Act)

This self-help resource was created by the Stateside Legal Project. Stateside Legal provides these sample forms and information free of charge to individuals with military connections (IMC). These forms are not based upon any specific state law or jurisdiction. They are intended as samples.

READ ALL INSTRUCTIONS AT THE END OF THIS PACKET VERY CAREFULLY. SOME CONTENT HAS BEEN PROVIDED BY THE DEPARTMENT OF DEFENSE AND THE ARMED FORCES LEGAL ASSISTANCE.

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MORE INFORMATION

For information about the Servicemembers Civil Relief Act or many more topics concerning individuals with military connections, visit www.statesidelegal.org or contact your local Judge Advocate General's Corps office sometimes referred to as a military legal assistance office. Use the following website to locate the nearest one: <http://legalassistance.law.af.mil/content/locator.php>.

DISCLAIMER: *The Stateside Legal Information Series is produced by the Pine Tree Legal Assistance of Maine®, Arkansas Legal Services Partnership®, and the Legal Services Corporation®. These organizations promote or provide free legal services to eligible low-income people. Additional information can be found at www.lsc.gov. This sample form packet is given to you as a guide to help you generally understand the way legal matters are handled. Local courts interpret things differently. The information and statements of law contained in this fact sheet are not intended to be used as legal advice. Before you take any action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.*

LETTER FROM SERVICE MEMBER TO LANDLORD

SERVICEMEMBER NAME

ADDRESS

CITY, STATE ZIP

DATE

LANDLORD NAME

ADDRESS

CITY, STATE, ZIP

RE: UNLAWFUL ATTEMPT OF EVICTION AT (ADDRESS)

Dear (LANDLORD NAME):

This notice is made pursuant to 50 U.S.C. § 3951 of the Servicemembers Civil Relief Act (the "SCRA") as legislated by the United States Congress and signed into law in December 2003.

This letter provides notice to you that the attempt to evict (SERVICEMEMBER NAME) and/or dependents from (ADDRESS) without a court order is in **VIOLATION OF FEDERAL LAW**.

The Servicemembers Civil Relief Act provides this protection to me and/or my dependents) because: (1) I am an active duty service member; (2) the premises are used by me, my children or other dependents; and (3) the rent does not exceed \$3,716.74¹.

Note that 50 U.S.C. § 3951(a) makes it a **requirement for you to obtain a court order** to evict a member of the military or the servicemember's dependents during the member's active duty service. If you do choose to pursue this matter and attempt to attain a court order allowing for eviction then note that I must receive timely notice of the action and, under the SCRA, I may be entitled to a Stay of Proceedings for this action for 90 days or longer.

Note that 50 U.S.C. § 3951(c) makes it a **criminal offense** for anyone who knowingly takes part in an eviction or who knowingly attempts to do so and that this person "shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both."

Should you have any questions, you may contact me at the address listed above. 50 U.S.C. § 3951 of the Servicemembers Civil Relief Act has been included in this letter for your convenience.

Sincerely,

Service Member Name

Rank, Service Branch

Enclosures (2): 50 U.S.C. § 3951 of the Servicemembers Civil Relief Act; Copy of Orders

¹ See 83 Fed. Reg. 5409.

LAW YOU SHOULD KNOW

The purpose of the Servicemembers Civil Relief Act (SCRA) is to provide protection to service members who have difficulty meeting their financial and legal obligations because of their military service. The SCRA requires landlords in all states to obtain a court order before evicting a service member or dependents during a time of active duty service.

DOES THIS APPLY TO ME?

To qualify for this protection, the following three conditions must be true:

- (1) You are an active duty servicemember;
- (2) The premises are used by you, your children or other dependents; and
- (3) The rent does not exceed \$3,716.74.

ABOUT THIS SAMPLE LETTER

Carefully read over these forms and letters. Make sure the information you have given is correct and complete. The sample letter in this packet is not based upon any specific state law or jurisdiction.

- This letter provides a written statement to your landlord informing him or her about the federal law protecting you from eviction without a court order. Include the attached excerpt of the Servicemembers Civil Relief Act, 50 U.S.C. § 3951 and a copy of your activation orders.
- It is a good idea to send this letter by registered mail with a return receipt request.

NEXT STEPS

The SCRA does not stop the landlord from evicting you, but it does demand that he or she go through the court system to do it. However, if your landlord does go to court to try and evict you, the SCRA has some other protections that you may want to use.

One of these other protections is that if there is an action filed against you, then you may be able to file a Stay of Proceedings for 90 days. Stateside Legal provides a sample *Motion for a Stay of Proceedings* form packet. Visit www.statesidelegal.org and search with keyword “lawsuit” for more information.

If the landlord does not follow law and evicts you without a court order, you may have a right to sue your landlord for violating the SCRA. Under the Veterans Benefits Act of 2010 (Title VIII Civil Liability §802), you may be able to not only return to your home, but also get money damages, court cost and attorney fees.

MORE INFORMATION

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Thank you for your service.

UPDATED: July 2018

50 U.S.C. § 3951 OF THE SERVICEMEMBERS CIVIL RELIEF ACT

SEC. 3951 EVICTIONS AND DISTRESS

a) Court-ordered eviction.

1. In general. Except by court order, a landlord (or another person with paramount title) may not--
 - A. evict a servicemember, or the dependents of a servicemember, during a period of military service of the servicemember, from premises--
 - i. that are occupied or intended to be occupied primarily as a residence; and
 - ii. for which the monthly rent does not exceed \$ 2,400, as adjusted under paragraph (2) for years after 2003; or
 - B. subject such premises to a distress during the period of military service.
2. Housing price inflation adjustment.
 - A. For calendar years beginning with 2004, the amount in effect under paragraph (1)(A)(ii) shall be increased by the housing price inflation adjustment for the calendar year involved.
 - B. For purposes of this paragraph--
 - i. The housing price inflation adjustment for any calendar year is the percentage change (if any) by which--
 - I. the CPI housing component for November of the preceding calendar year, exceeds
 - II. the CPI housing component for November of 1984.
 - ii. The term "CPI housing component" means the index published by the Bureau of Labor Statistics of the Department of Labor known as the Consumer Price Index, All Urban Consumers, Rent of Primary Residence, U.S. City Average.
3. Publication of housing price inflation adjustment. The Secretary of Defense shall cause to be published in the Federal Register each year the amount in effect under paragraph (1)(A)(ii) for that year following the housing price inflation adjustment for that year pursuant to paragraph (2). Such publication shall be made for a year not later than 60 days after such adjustment is made for that year.

b) Stay of execution.

1. Court authority. Upon an application for eviction or distress with respect to premises covered by this section, the court may on its own motion and shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service--
 - A. stay the proceedings for a period of 90 days, unless in the opinion of the court, justice and equity require a longer or shorter period of time; or
 - B. adjust the obligation under the lease to preserve the interests of all parties.
 2. Relief to landlord. If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.
- c) Misdemeanor. Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.
- d) Rent allotment from pay of servicemember. To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulations prescribed by the Secretary concerned establishing the maximum amount of pay of servicemembers

that may be allotted under this subsection.

- e) Limitation of applicability. Section 202 [50 USCS § 3932] is not applicable to this section.

*

The CPI-adjusted maximum rental rate for 2018 is \$3,716.74 (See 83 FR 5409)

The CPI-adjusted maximum rental rate for 2017 was \$3,584.00

The CPI-adjusted maximum rental rate for 2016 was \$3,451.20

The CPI-adjusted maximum rental rate for 2015 was \$3,329.84

The CPI-adjusted maximum rental rate for 2014 was \$3,217.81

The CPI-adjusted maximum rental rate for 2013 was \$3,139.35

The CPI-adjusted maximum rental rate for 2012 was \$3,047.45

The CPI-adjusted maximum rental rate for 2011 was \$2,975.54

The CPI-adjusted maximum rental rate for 2010 was \$2,958.53

The CPI-adjusted maximum rental rate for 2009 was \$2,932.31

The CPI-adjusted maximum rental rate for 2008 was \$2,831.13