

CREDITOR LETTER

Soldier's Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Creditor's Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: \_\_\_\_\_

Account No. \_\_\_\_\_

Dear Creditor:

I am a member of the Utah National Guard and, subject to lawful military order, have been mobilized.

I am requesting that you grant me relief under the Servicemembers' Civil Relief Act (SCRA) (50 USC app. 501 et seq).

My purpose in writing is to seek the protection of the Act in regard to my obligation with your company. I will experience a reduction in income or will be materially affected by my military service and I believe that I qualify for the protections afforded by the Act. I am invoking the protections of the SCRA and expect your company to recalculate payments based upon 6% interest beginning \_\_\_\_\_ and ending approximately \_\_\_\_\_.

The SCRA applies to all personnel ordered to extended active duty in any of the armed forces. The protection of the Act applies to any civil law suit in any court in the U.S., including all federal, state and local courts.

The main purpose of the Act is to establish a framework under which legal proceedings and transactions may be temporarily suspended. The Act does not provide for the termination or abolishment of the liability. It provides for a delay of liability to protect the individual during the period of service. The Act provides procedural protection to service members when they cannot appear in a civil action because of their military duties and it also provides relief to individuals from debts they incurred prior to coming into the service. It is important to note that the Act does not apply to liability incurred after the service member has entered active duty.

Another important aspect of the Act is that it is designed to provide relief for those persons whose onset of military service makes it more difficult for them to fulfill their obligations. Therefore, unless the member can show that the obligation incurred prior to service has been made more difficult by military service, the courts ordinarily will not grant relief under the Act.

The Act protects the service member against default judgments as well as provides for stays of judicial proceedings at any stage of the lawsuit. The courts will grant a stay unless the other party can prove to the court that the military member's service does not materially affect the member's ability to appear and present his case. If an individual intends to utilize the Act, the individual must "trigger" the Act, or stated in another way, the member should direct to the court's attention the fact that the individual is a member of the service. If the court decides that military service did materially affect the member's ability to pay, appropriate relief may be granted. The Act, under certain circumstances, provides protection in other areas including: Insurance premiums, state income tax, non-compliance with mortgage contracts and other personal property contracts such as automobile payments.

Another important protection is that co-signers with a member who qualifies for the benefits of the Act are also protected. In addition, the Act provides that the maximum rate of interest that may accrue on the unpaid balance during the period of service is 6%.

Creditors are prohibited from exercising any of the rights granted to them under their contract against the service member without a court order and all civil court actions which are pending or initiated may, on court order, be stayed where their ability to participate in the proceedings is materially affected by their service.

I appreciate your support and willingness to work with me on this matter. Please do not hesitate to call the attorney for the Utah National Guard, Lieutenant Colonel Lawrence A. Schmidt, at 801.523.4322 if you have questions or need additional information.

Sincerely,

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