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Legal help for military members, veterans and their families

Stateside Legal™ Self-Help Sample Forms Packet Letter from Service Member 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.

PACKET CONTENTS:

Letter to Landlord	2
Helpful Instructions	3

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.

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

DATE

SERVICE MEMBER NAME
ADDRESS
CITY, STATE, ZIP

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. App. §331 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 (SERVICE MEMBER 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 dependants) because: (1) I am an active duty service member; (2) the premises are used by me, my children or other dependants; and (3) the rent does not exceed 3,329.84.

Note that 50 U.S.C. App. §331 makes it a **requirement for you to obtain a court order** to evict a member of the military or the service member'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. App. §331 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. App. §331 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. App. §331 of the Servicemembers Civil Relief Act; Copy of Orders

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 service member;
- (2) The premises are used by you, your children or other dependants; and
- (3) The rent does not exceed \$3,329.84 (*as of November 2015 - this limit is based on the Consumer Price Index and usually increases annually*).

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. App. §331 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.

UPDATE: November 2015

50 U.S.C. § 301 OF THE SERVICEMEMBERS CIVIL RELIEF ACT

SEC. 301 [50 U.S.C. App. 531] 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 service member, or the dependents of a service member, during a period of military service of the service member, 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) 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) PENALTIES —

(1) 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.

*

The CPI-adjusted maximum rental rate for 2015 is \$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