Recent Legislative Changes to The Servicemembers Civil Relief Act (SCRA)
Recent Legislative Changes to the SCRA

Biography

• Army Judge Advocate
• Current Position:
  – Executive Director, Armed Forces Tax Council
  – Office of the Under Secretary of Defense for Personnel and Readiness

• Previous Assignments
  – Command Judge Advocate
    • Camp Humphreys, South Korea
  – Deputy, Legal Assistance Policy Division, Army
    • Office of The Judge Advocate General

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Presentation Outline

• Background of the SCRA
• Protections and Benefits
  – Termination of Certain Contracts
  – State Residency
• Legislative Changes
  – Veterans Benefits and Transitions Act (VBTA)
  – Expansion of Rights to Military Spouses
    • Termination of Contracts
    • State Residency for Tax/Voting
• Questions Outstanding
Background of the SCRA

- **Soldiers’ and Sailors’ Civil Relief Act (SSCRA) of 1918 and amended SSCRA of 1940**
  - Designed to ease financial burdens on Servicemembers during period of military service
  - Protections aim to allow military members to give full attention to their military duties.

- **SCRA*, enacted in 2003 and amended several times since then, expanded upon the rights in the SSCRA**
  - Strengthened protections/benefits for military members
  - 2009: Military Spouse Residency Relief Act (MSRRA)
  - Most recent amendments came with the enactment of the Veterans Benefits Transitions Act of 2018

*Location of the SCRA within the United States Code changed in 2015. It is now found at (as codified) 50 U.S.C. §§ 3901-4043.*
SCRA Protections and Benefits

• Basic Protections
  – Procedural Protections
  – Financial Protections
  – Contract Terminations
  – Residence for Tax/Voting

• Who is Protected
  – Active Duty Uniformed Services Members (10 USC § 101(a)(5))
    • Army, Navy, Air Force, Marines, Coast Guard, and commissioned officers in Public Health Service, NOAA
  – Reserve Component when on active duty
  – Service member dependents, sometimes
Veterans Benefits Transitions Act

- Public Law 115-407
- Enacted on 31 December 2018
- Primarily authorized certain burial benefits for spouses and children of Veterans
- Amended the SCRA to provide civil relief benefits for military spouses
  - Sec. 301: Termination of Leases
  - Sec. 302: Residence for Tax Purposes
  - Sec. 303: Residence for Voting Purposes
  - Sec. 304: Termination of Video/Internet Contracts
Termination of Certain Contracts

• **Sec. 301: Termination of Leases**
  - Amended § 3955 of the SCRA, which allows Servicemembers to terminate residential/motor vehicle leases upon entry/PCS/Deployment
  - Surviving Spouse may terminate residential lease within one year of Servicemember’s death (AD or IDT for NG members).

• **Section 304: Termination of Contracts**
  - Amended § 3956 of the SCRA, which allows Servicemembers to terminate certain phone contracts
  - Now includes “multichannel video programming service” as defined in 47 U.S.C. § 522.
  - FCC defines as cable and TV providers (47 C.F.R. 76.71)
    - Not online-only services such as Hulu and Netflix
State Residency for Tax Purposes

- **Sec. 302: Residence of Military Spouses**
  - Amended § 4001(a)(2)—The Military Spouse Residency Relief Act amendment (MSRRA) of 2009
    - MSRRA required the “Same State Rule” for Military Spouse to keep legal residence upon a PCS with Servicemember
    - New Subsection (B) allows Military Spouse to elect to use the legal residence of the Servicemember for purposes of taxation
      - No establishment of residence required
  - Effective for Tax Year 2018
    - Income Taxes—all of Tax Year 2018
    - Personal Property Taxes—Assessed in 2019
Why This Matters

- 184,540
- 47,636
- 164,234
- 64,066
- 48,974
- 115,280
- 112,951
- 55,369
- 88,089
- 92,249
State Residency for Voting Purposes

- Sec. 303: Residence of Military Spouses
  - Amended § 4025 of the SCRA which was also amended previously by the MSRRA
    - MSRRA required the “Same State Rule” for Military Spouse to keep legal residence upon a PCS with Servicemember
  - New Subsection (b) allows Military Spouse to elect to use the legal residence of the Servicemember for purposes of taxation
    - No establishment of residence required
  - Amendment effective 90 days after VBTA’s enactment (Dec. 31, 2018)
    - March 31, 2019
Conclusion

• Questions Remain Regarding Military Spouse Residency Election for State Tax/Voting

• Dual Military Couples? **NO ELECTION!**
  – Process by Which Elections are Made?
    • Taxes?
      – Virginia—VA Form 763A (from VTB 19-2)
      – Utah—TC-40A (from Utah Pub. 57)
    • Voting?
  – Constitutionality of Election?
    • Article 2, Sec. 8 vs 10\textsuperscript{th} Amendment