

Law Could Help Active-duty Troops Avoid, or at Least Delay, Bankruptcy

Q: My financial situation is deteriorating while I'm on active duty, and serving in Afghanistan is making it hard to deal with my debt. Can I file for bankruptcy?

Abe Lincoln, Walt Disney, Henry Ford, Ulysses S. Grant, Thomas Jefferson and Francis Ford Coppola have something in common: They all filed for bankruptcy.

Anyone can run into unexpected financial circumstances. If this happens, service members have the same rights as civilians to file for bankruptcy.

If you're overseas, you may need to get a power of attorney to have someone file on your behalf and take steps to allow you to participate in the required court appearance, but the answer to your question is yes, bankruptcy is an option. But it's not the only option. It may not even be the best option — and not just because it can land you in hot water with your commander for failing to pay your debts.

Special protections exist for active-duty service members under the Servicemembers' Civil Relief Act, a federal law designed to provide temporary financial relief to troops so they can focus on their military duties. Among its protections, the SCRA generally suspends court actions and proceedings, possibly allowing active-duty members to avoid bankruptcy and its potentially detrimental effects.

Under SCRA, active-duty members not only can delay civil court action, but also may obtain reduced interest rates and forbearance on some loans, prevent foreclosure and eviction for themselves and their dependents, establish payment plans for debts, and stop wage garnishments. These protections last for the duration of active duty and up to 90 days after separation or demobilization.

SCRA protections apply to everyone on active duty, including National Guard members and reservists who have received mobilization orders but have not yet reported for active duty.

To receive SCRA benefits, a service member simply must submit a sworn affidavit to a creditor pursuing collections or to any court where a civil action has been brought. The benefits can apply to obligations incurred before military service. Your debts will still remain once you leave active duty, but you may be in a better financial position to deal with them once you're back home.

However, it may still be necessary to file for bankruptcy. Filing could affect your security clearance, especially if it is top secret; if you consult with an attorney for SCRA guidance or to file for bankruptcy, make sure you mention your clearance so you can try to mitigate the effects of bankruptcy on your career.