

Publications

Synopsis of the Soldiers' and Sailors' Civil Relief Act

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Recent events have led many employers to inquire how federal statutes such as the Uniformed Services Employment and Reemployment Act of 1994 (USERRA), (38 U.S.C. __ 4301-4333) impact their obligations with respect to benefits for employees who enter military service. While USERRA has appropriately begun to receive much attention, there is another statute that employers should also be aware of because of its potential impact on the administration of plan loans- The Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA), (50 U.S.C. App. __ 501-593). Section 526 of the SSCRA limits the interest that may be charged on outstanding obligations and liabilities of persons who enter active duty military service.

The Pension and Welfare Benefits Administration (PWBA) of the Department of Labor recently added a statement to the "Frequently Asked Questions and Answers" section of their website confirming that the SSCRA interest limitation applies to plan loans and indicating that a loan will not fail to be a qualified loan under ERISA solely because the interest rate is capped by SSCRA. This position appears to be consistent with both the SSCRA provision, which is broadly worded, and with Title I of ERISA, which specifically provides that ERISA does not supercede any federal law. This article gives a brief synopsis of the SSCRA maximum rate of interest provision, provides a brief review of USERRA as it applies to plan loans, and finally, notes outstanding issues that employers should be aware of when administering plan loans in accordance with the SSCRA and USERRA.

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