

Insights

Indiana Bankers Association's December Hoosier Banker Compliance Connection with Financial Institutions Practice Group Partner Brett J. Ashton

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Question: Does Indiana have any state law protections for members of the military that I need to comply with? If so, are there Indiana-specific requirements broader than the federal requirements that we have become accustomed to?

Answer: Yes, as of July 1, 2015, the Indiana Servicemembers Civil Relief Act (ISCRA) extends coverage to more servicemembers than its federal counterpart, the Servicemembers Civil Relief Act (SCRA). The SCRA is a federal law that protects Servicemembers, defined to include members of the Army, Navy, Air Force, Marine Corps, Coast Guard and commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration who are on active duty; or National Guard members called to active service by the president or the secretary of defense for a period of more than 30 consecutive days to respond to a national emergency. While the SCRA has been updated several times since it originally was enacted by Congress in 2003, until this year the ISCRA has mirrored the SCRA requirements. The Indiana General Assembly passed House Enrolled Act 1456 in the 2015 legislative session, and Gov. Pence signed the bill into law, with the result of expanding the scope of those covered by the ISCRA in Indiana effective July 1, 2015. The ISCRA expands the protections previously provided to members or reserve members of the Indiana National Guard when they are called to active service by the president or the secretary of defense for more than 30 consecutive days, and to Guard members or reserve members who are called to active duty by the Indiana governor pursuant to his or her authority under Ind. Code § 10-16-7-7. While banks have come to rely on the U.S. Department of Defense database to screen customers for SCRA coverage, members and reserve members provided protection under the ISCRA are unlikely to be identified in this system. Instead, the ISCRA requires members or reserve members of the Indiana National Guard who have been ordered to state active duty to provide documentation to their banks that they have been ordered to state active duty for at least 30 consecutive days. If a bank fails to comply with either the ISCRA or the SCRA, the Indiana attorney general's office is empowered to file a civil action in state court to seek injunctive relief and civil damages of as much as \$5,000 per violation, in addition to seeking attorney's fees.