Let ‘em go, Landlord – SCRA, Residential Leases, and PCS

21 SW/JA

Capt Patrick Clary

Dominate the High Ground
Overview

- Section 535 of the SCRA
- What’s a PCS?
- State law
Force Reduction

- 5.5% over 5 years
  - Army – 6.8%
  - Navy – 3.9%
  - Marine Corps – 8.3%
  - Air Force – 2.3%

Section 535 SCRA

- Purpose of SCRA

- Key Terms
  - Residential Lease
  - Orders
  - Permanent Change of Duty
(a) Termination by lessee

(1) In general. The lessee on a lease described in subsection (b) may, at the lessee’s option, terminate the lease at any time after—

(A) the lessee’s entry into military service; or

(B) the date of the lessee’s military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.
(i) Definitions

(1) Military orders. The term “military orders”, with respect to a servicemember, means official military orders, or any notification, certification, or verification from the servicemember’s commanding officer, with respect to the servicemember’s current or future military duty status.
Dominate the High Ground

(b) Covered leases This section applies to the following leases

(1) Leases of premises. A lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember’s dependents for a residential, professional, business, agricultural, or similar purpose if—

(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 90 days.

Section 535 SCRA
What’s a permanent change of station?

**Permanent Change of Duty Station (PCS)**—In general, movement of an Airman to *a different duty location* for permanent duty, regardless of distance (with or without concurrent change in unit of assignment) under competent orders that *do not specify the duty as temporary, do not provide for further assignment to a new permanent duty station, or do not direct return to the old permanent duty station*. AFI 36-2110, Assignments, Attachment 1.
What’s a permanent change of station?

- Joint Federal Travel Regulation, Appendix A, Part 1
  - Permanent Change of Station (PCS)
    - e. Change from the last [permanent duty station] to home upon:
      - (1) Discharge, resignation, or separation from the Service under honorable conditions
      - (4) Retirement
Section 535 SCRA

- JFTR definition and the policy of SCRA

- United States v. Empirian Property Management, Inc., District of Nebraska

- Persuasive authority
Virginia - § 55-248.21:1. Early termination of rental agreement by military personnel.

A. Any member of the armed forces of the United States . . . may . . . terminate his rental agreement if the member

(i) has received permanent change of station orders to depart 35 miles or more (radius) from the location of the dwelling unit;

(ii) has received temporary duty orders in excess of three months' duration to depart 35 miles or more (radius) from the location of the dwelling unit;

(iii) is discharged or released from active duty with the armed forces of the United States or from his full-time duty or technician status with the National Guard
Florida – Title VI, § 83.682 Termination of rental agreement by a servicemember.—

(1) Any servicemember may terminate his or her rental agreement . . . if any of the following criteria are met:

(a) The servicemember is required, pursuant to a permanent change of station orders, to move 35 miles or more from the location of the rental premises;

(b) The servicemember is prematurely or involuntarily discharged or released from active duty or state active duty;

(c) The servicemember is released from active duty or state active duty after having leased the rental premises while on active duty or state active duty status and the rental premises is 35 miles or more from the servicemember’s home of record prior to entering active duty or state active duty;
Contact

- Capt Patrick A. Clary
  - 21 SW/JA
  - Chief, Legal Assistance and Preventive Law
  - patrick.clary.1@us.af.mil
  - (719) 556 - 4871
Questions?