



Legal Briefs

From the Fort Knox Legal Assistance Office

LEASE TERMINATION UNDER THE SCRA

Servicemembers often have to cancel a lease early due to the demands of military life. A federal law, the Servicemembers Civil Relief Act (“SCRA”), allows servicemembers and, in some situations, their dependents, to cancel a residential or vehicle lease without penalty under certain circumstances. However, the servicemember and/or dependent must follow certain steps to do so.

Terminating a Residential Lease

Under the former Soldiers and Sailors Civil Relief Act (SSCRA), a servicemember could only terminate a lease if he or she entered into it before entering active duty. A servicemember could not terminate a lease due to a permanent change of station (PCS) or deployment unless the lease contained a “military clause,” permitting the early lease termination.

The SCRA now gives servicemembers the right to terminate a residential lease due to deployment for not less than 90 days or PCS, even if the lease does not contain a military clause or address deployment in any way.

The SCRA specifically defines a PCS as including separation or retirement from military service.

Under the former SSCRA, it was unclear whether cancellation of a lease signed by both the servicemember and the dependent also cancelled the dependent’s obligation under the lease. Congress clarified that in the new SCRA. Under the SCRA, if a lease is signed by both the servicemember and the dependent, termination applies to both.

A tenant invokes his or her SCRA termination rights by delivering two documents: a written notice of termination and a copy of the servicemember’s orders. If the servicemember does not have orders yet, he or she can provide “any notification, certification, or verification from the servicemember’s

commanding officer, with respect to the servicemember's current or future military duty status." For example, a letter from a servicemember's commander verifying the servicemember will be PCSing or deploying in the near future will satisfy this requirement of the SCRA.

Termination is effective 30 days after the date the next rental payment is due. Any rent paid in advance by the tenant that would cover a period after the termination date must be returned to the tenant. The advance rent must be returned to the military tenant within 30 days of the termination date.

The landlord cannot seize the security deposit or personal property of the tenant and/or dependent(s) for the purpose of subjecting it to a claim for rent accruing after the date of termination. If the landlord knowingly does so, he or she could be prosecuted under Title 18, United States Code, as well as potentially face a civil claim for violation of the SCRA.

Terminating a Vehicle Lease

Under the former SSCRA, a servicemember did not have the right to terminate a vehicle lease. The SCRA now allows termination of a vehicle lease if the leased vehicle is intended to be used by the servicemember or his/her dependents for personal or business transportation, and under one of the following conditions:

- The servicemember signs the lease and then gets active duty orders for not less than 180 days;
- While on active duty, the servicemember signs a lease and then gets PCS orders taking him/her from CONUS to OCONUS (or vice versa), or deployment orders for not less than 180 days.

A vehicle lease is terminated by delivering to the lessor or its agent the same written notice and copy of orders as one provides for terminating a residential lease, plus delivering the vehicle to the lessor or its agent within 15 days of delivering the written notice.

If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at <https://home.army.mil/knox/index.php/about/Garrison/legal-assistance-office/legal-assistance-division>. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. Our office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.