

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 574

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Burgess

SUBJECT: Termination of Agreements by a Servicemember

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Proctor</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 574 creates a definition of the term “government quarters” applicable to the termination of a rental agreement by a servicemember who receives military orders requiring him or her to move into government quarters, or who becomes eligible to live in and opts to move into government quarters. The effect of adding the definition is that privatized military housing that is owned, operated, or managed by a private sector company may qualify as available government quarters that would allow a servicemember to terminate a private rental agreement.

The bill may have an indeterminate, likely insignificant, negative fiscal impact on the private sector based on the number of rental agreements terminated by servicemembers. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Federal Servicemembers Civil Relief Act¹

Originally known as the Soldiers’ and Sailors’ Civil Relief Act of 1940, the Servicemembers Civil Relief Act (SCRA) was enacted to provide protections related to legal proceedings or

¹ 50 U.S.C. ss. 3901-4043.

financial transactions for active duty servicemembers. Some of the proceedings and transactions covered under the SCRA relate to rental agreements, security deposits, evictions, mortgage foreclosures, auto leases, and health and life insurance.²

Termination of Residential Leases

The SCRA allows for termination of a residential lease by:

- A person who enters into military service after executing a lease;
- A servicemember who receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days; or
- A servicemember who executes a lease upon receiving military orders for a permanent change of station or to deploy and thereafter receives a stop movement order effective for an indefinite period or for a period of not less than 30 days which prevents the servicemember from occupying the residence.³

In such situations, the lessor may not impose an early termination fee, and any rent amounts paid in advance for a period after the effective date of the termination must be refunded to the servicemember within 30 days after the effective date of the termination of the lease.⁴ A lessor who wrongfully keeps the security deposit of a servicemember who lawfully terminates a lease may be subject to fines or imprisonment for up to 1 year.⁵

Protection Under Installment Contracts for Purchase

The SCRA also provides protections for servicemembers relating to contracts for which a deposit or installment has been paid by the servicemember before entering military service. Under the SCRA, a court has authority to order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract. Alternatively, if the servicemember's ability to comply with the contract is materially affected by his or her military service, a court may stay any proceedings related to the contract for a period of time or make any other equitable disposition to preserve the interest of all parties.⁶

Florida Uniformed Servicemembers Protection Act

In 2003, the Legislature enacted the Florida Uniformed Servicemembers Protection Act (FUSPA).⁷ As part of the FUSPA, the Legislature expanded servicemembers' rights to terminate rental agreements and created statutory rights regarding a servicemember's right to terminate an agreement to purchase real property.

² Consumer Financial Protection Bureau, *The Servicemembers Civil Relief Act*, available at <https://www.consumerfinance.gov/consumer-tools/educator-tools/servicemembers/the-servicemembers-civil-relief-act-scra/> (last visited February 17, 2023).

³ 50 U.S.C. ss. 3955(a)(1) and (b)(1).

⁴ 50 U.S.C. ss. 3955(e)(1) and (f).

⁵ 50 U.S.C. s. 3955(h).

⁶ 50 U.S.C. ss. 3952(a)(2) and (c).

⁷ Chapter 2003-72, Laws of Fla.

Termination of Rental Agreement by a Servicemember

Under the FUSPA, a servicemember may terminate his or her residential rental agreement if 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;
- Is prematurely or involuntarily discharged or released from active duty or state active duty;
- Is released from active duty or state active duty 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;
- Receives military orders requiring him or her to move into government quarters,⁸ or the servicemember becomes eligible to live in and opts to move into government quarters;
- Receives temporary duty orders, temporary change of station orders, or state active duty orders to an area 35 miles or more from the location of the rental premises, if such orders are for a period exceeding 60 days; or
- Before taking possession of the rental premises, receives a change of orders to an area that is 35 miles or more from the location of the rental premises.⁹

Under these circumstances, the servicemember is not responsible for damages due to early termination of the rental agreement.¹⁰

Military Housing Privatization Initiative

Under the National Defense Authorization Act of 1996, Congress authorized the Military Housing Privatization Initiative (MHPI)¹¹ to address the deteriorating condition and quality of the Department of Defense's (DOD) housing inventory. In 1996, 180,000 housing units were identified as inadequate and in need of improvement or replacement. This housing maintenance backlog would have cost approximately \$20 billion and would have taken 30 years to resolve. To resolve this housing maintenance backlog, MHPI allows private developers to bid in an open competition to construct, operate, and maintain housing at military installations while DOD maintains ownership of the land of each property.¹²

III. Effect of Proposed Changes:

CS/SB 574 creates a definition of the term "government quarters" applicable to the termination of a rental agreement by a servicemember who receives military orders requiring him or her to move into government quarters, or who becomes eligible to live in and opts to move into government quarters.

⁸ Under the United States Code, "quarters" is defined as quarters owned or leased by the Government of the United States. 5 U.S.C. s. 5911.

⁹ Section 83.682(1), F.S.

¹⁰ Section 83.682(4), F.S.

¹¹ 10 U.S.C. ss. 2871-2885.

¹² Military Housing Association, *About MHPI- History of the Military Housing Privatization Initiative*, available at <https://www.militaryhousingassociation.org/about/about-mhpi/#:~:text=Military%20Housing%20Privatization%20Initiative%20%28MHPI%29%20Act%20of%201996,of%20military%20housing%20%28FH%20and%20Unaccompanied%20Housing%20%28UH%29>. (last visited February 17, 2023).

Under the bill, “government quarters” is defined as “any military housing option that is available to a servicemember, including privatized military housing that is owned, operated, or managed by a private sector company.” The effect of adding this definition is that privatized military housing that is owned, operated, or managed by a private sector company may qualify as government quarters for purposes of allowing early termination of a private rental agreement.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate, likely insignificant, negative fiscal impact on the private sector based on the number of rental agreements terminated by servicemembers. The bill may expand the situations in which a servicemember may lawfully terminate a rental agreement.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 83.682, Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Military and Veterans Affairs, Space, and Domestic Security on March 7, 2023:

The committee substitute removes the provision allowing a servicemember to terminate an agreement to purchase real property if relocating to military housing, and revises the definition of “government quarters” to also include military housing operated or managed by a private sector company.

B. Amendments:

None.