

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 73 Termination of Agreements by a Servicemember

**SPONSOR(S):** Civil Justice Subcommittee, Maney and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 574

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Civil Justice Subcommittee	18 Y, 0 N, As CS	Leshko	Hall
2) Local Administration, Federal Affairs & Special Districts Subcommittee	18 Y, 0 N	Mwakyanjala	Miller
3) Judiciary Committee	20 Y, 0 N	Leshko	Kramer

**SUMMARY ANALYSIS**

Originally known as the Soldiers’ and Sailors’ Civil Relief Act of 1940, the federal Servicemembers Civil Relief Act (SCRA) was enacted to provide protections related to legal proceedings or financial transactions for active duty servicemembers. Some of the proceedings and transactions covered under SCRA are rental agreements, security deposits, evictions, mortgage foreclosures, auto leases, and health and life insurance. The SCRA specifically provides protections for the termination of residential leases.

In 2003, the Legislature enacted the Florida Uniformed Servicemembers Protection Act (FUSPA). As part of the FUSPA, the Legislature expanded servicemembers’ rights in relation to terminating rental agreements.

Under the National Defense Authorization Act of 1996, Congress authorized the Military Housing Privatization Initiative (MHPI) to address the deteriorating condition and quality of the Department of Defense’s (DOD) housing inventory. At the time, 180,000 housing units were identified as inadequate and in need of improvement or replacement. This housing backlog would have taken 30 years to resolve. To resolve this housing maintenance backlog more expeditiously, 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.

CS/HB 73 provides a definition of “government quarters” applicable to the termination of a rental agreement by a servicemember. 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.” Practically speaking, the bill clarifies conditions in which an active duty servicemember may break his or her rental lease.

The bill may have an indeterminate economic impact on the private sector based on the number of rental agreements terminated by servicemembers.

The bill provides an effective date of July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Federal Servicemembers Civil Relief Act<sup>1</sup>

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

##### *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.<sup>3</sup>

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 of the effective date of the termination of the lease.<sup>4</sup> A lessor who keeps the security deposit of a servicemember who lawfully terminates a lease may be subject to fines and/or imprisonment for up to one year.<sup>5</sup>

##### Florida Uniformed Servicemembers Protection Act

In 2003, the Legislature enacted the Florida Uniformed Servicemembers Protection Act (FUSPA).<sup>6</sup> As part of the FUSPA, the Legislature expanded servicemembers' rights to terminate rental agreements.

##### *Termination of Rental Agreement by a Servicemember*

Under the FUSPA, a servicemember may terminate his or her 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;

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<sup>1</sup> 50 U.S.C.A. ss. 3901-4043.

<sup>2</sup> Consumer Financial Protection Bureau, *The Servicemembers Civil Relief Act (SCRA)*, <https://www.consumerfinance.gov/consumer-tools/educator-tools/servicemembers/the-servicemembers-civil-relief-act-scra/> (last visited Feb. 15, 2023).

<sup>3</sup> 50 U.S.C.A. ss. 3955(a)(1)(A-C) and (b)(1)(A-C).

<sup>4</sup> 50 U.S.C.A. ss. 3955(e)(1) and (f).

<sup>5</sup> 50 U.S.C.A. s. 3955(h).

<sup>6</sup> Ch. 2003-72, Laws of Fla.

- Receives military orders requiring him or her to move into government quarters,<sup>7</sup> 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
- Prior to 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.<sup>8</sup>

In such situations, the servicemember is not responsible for any damages due to early termination of the lease.<sup>9</sup>

### Military Housing Privatization Initiative

Under the National Defense Authorization Act of 1996, Congress authorized the Military Housing Privatization Initiative (MHPI)<sup>10</sup> 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 more expeditiously, 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.<sup>11</sup>

### **Effect of Proposed Changes**

CS/HB 73 provides a definition of "government quarters" applicable to the termination of a rental agreement by a servicemember. 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." Practically speaking, the bill clarifies conditions in which an active duty servicemember may break his or her rental lease.

The bill provides an effective date of July 1, 2023.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 83.682, F.S., relating to termination of rental agreement by a servicemember.

**Section 2:** Provides an effective date of July 1, 2023.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

<sup>7</sup> Under the United States Code, "quarters" is defined as quarters owned or leased by the Government of the United States. 5 U.S.C.A. s. 5911.

<sup>8</sup> S. 83.682(1)(a-f), F.S.

<sup>9</sup> S. 83.682(4), F.S.

<sup>10</sup> 10 U.S.C.A. ss. 2871-2885.

<sup>11</sup> Military Housing Association, *About MHPI- History of the Military Housing Privatization Initiative*,

[https://www.militaryhousingassociation.org/about/about-](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.)

[mhpi/#:~:text=Military%20Housing%20Privatization%20Initiative%20%28MHPI%29%20Act%20of%201996,of%20military%20housing%20%28FH%20and%20Unaccompanied%20Housing%20%28UH%29.](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 Feb. 15, 2023).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may expand the situations in which a servicemember may lawfully terminate a lease.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 26, 2023, the Civil Justice Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments removed the new definition of “government quarters” as applied to real property purchase agreements and further clarified the definition of “government quarters” as applied to rental agreements.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.