

# **Navy Housing SAILOR LEGAL READINESS**

## **Virginia Code Early Termination of Lease by Servicemembers**

Virginia law allows a servicemember to terminate a residential lease upon certain conditions. Section 55-248.21:1 governs the termination of leases by active duty military personnel. This section applies to all leases even if not specifically and expressly included in the lease.

Under the Virginia law any member of the armed forces of the United States or a member of the National Guard serving on full-time duty or as a Civil Service technician with the National Guard may, terminate his or her rental agreement if the member:

1. Has received **permanent change of station (PCS) orders** to depart **35 miles** or more (radius) from the location of the dwelling unit;
2. Has received **temporary duty orders (TDY)** in excess of three months' duration to depart **35 miles** or more (radius) from the location of the dwelling unit;
3. 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; or
4. Is ordered to report to government-supplied quarters resulting in the forfeiture of basic allowance for quarters.

Servicemembers who qualify to terminate a rental agreement under this section must provide the landlord a **written notice of termination effective on a specific date** stated in the notice.

The date of termination must be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. Additionally, the termination date shall be no more than 60 days prior to the date of departure necessary to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer.

Prior to the termination date, the servicemember shall furnish the landlord with a copy of the official notification of the orders or a signed letter, confirming the orders, from the tenant's commanding officer.

The landlord may not charge any liquidated damages.

# Differences between Lease Termination under the SCRA and Virginia law

## **Waiver:**

VRLTA - The Virginia Residential Landlord Tenant Act cannot be waived

SCRA - The SCRA can be waived

## **Termination**

VRLTA – Early Termination

SCRA – Statutory end of contract (not early just over)

## **Coverage**

VRLTA – Residential leases

SCRA - premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, or agricultural purposes.

## **Basis for Termination:**

VRLTA – TDY more than 90 days (35 miles), PCS (35 miles), Discharge, Ordered to Govt Quarters

SCRA – Deploy more the 90 days (no distance limitation), PCS (no distance limitation)

## **Impact on Dependents**

VRLTA – Spouses not covered

SCRA – Spouses Covered

## **Notice**

VRLTA -serve on the landlord a written notice of termination with a set date. Orders to be provided prior to the date for termination

SCRA - delivery to landlord written notice of the termination, and a copy of the orders lessor's agent (or the agent's grantee); and

## **Date of Termination**

VRLTA – not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given

SCRA - 30 days after the first date on which the next rental payment is due after the date on which the notice under subsection (c) is delivered.

## **Damages**

VRLTA – No liquidated damages (preset fees for damages)

SCRA – No early termination fee

## **Enforcement**

VRLTA – private cause of action by servicemember

SCRA – U.S. Department of Justice, private cause of action, attorney fees to servicemember

## **Orders**

VRLTA - official orders or a signed letter, confirming the orders, from commanding officer

SCRA - official military orders, or any notification, certification, or verification from the commanding officer

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