

LAW REVIEW¹ 19021

February 2019

SCRA Amended regarding Terminating Certain Leases and Contracts

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[Update on Sam Wright](#)

4.2—SCRA right to terminate a lease or contract

On 12/31/2018, President Trump signed into law the Veterans Benefits and Transition Act of 2018 (VBTA18), Public Law 115-407. Section 301 of this new Act makes a significant change in the Servicemembers Civil Relief Act (SCRA)³ regarding the right to terminate a lease on premises (apartment, house, office, farm, etc.). A person who is not on active duty in one of the uniformed services when he or she signs a premises lease, and who thereafter, during the term on the lease, enters active duty voluntarily or involuntarily is entitled to terminate the lease. A person who is on active duty when he or she signs a

¹ I invite the reader's attention to www.roa.org/lawcenter. You will find more than 1700 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. I am the author of more than 1500 of the articles.

² BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 42 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

³ On 12/19/2003, President George W. Bush signed the SCRA into law as a long-overdue update and rewrite of the Soldiers' and Sailors' Civil Relief Act (SSCRA), which was originally enacted in 1917. Please see Law Review 116 (March 2004), by Colonel Mark E. Sullivan, USA (Ret.).

premises lease and who thereafter, during the term of the lease, is transferred or deployed by the service is also entitled to terminate the lease.

Section 301 of this new Act adds an additional situation in which a person is permitted to terminate a premises lease. Section 301 amends section 305(a) of the SCRA⁴ by adding a new subsection (3), as follows:

The spouse of a lessee on a lease described in subsection (b)(1) may terminate the lease during the one-year period beginning on the date of the death of the lessee, if the lessee dies while in military service or while performing full-time National Guard duty, Active Guard and Reserve duty, or inactive duty training (as such terms are defined in section 101(d) of title 10, United States Code).⁵

For example, Mary Smith is married to Sergeant Joe Smith, who is on active duty in the Army and stationed at Fort Bragg, North Carolina. The Smiths live together in a rented apartment near the Army base. They have a one-year lease with nine months remaining on it when Sergeant Smith is deployed to Syria. A month later, Sergeant Smith is killed in action. Mary now wants to move out of the apartment and take her three children back to her hometown in Illinois.

As a result of this very recent amendment, Mary now has the explicit federal statutory right to terminate the lease, without regard to the terms of the lease or provisions of North Carolina law.

The SCRA also gives the person entering active duty or the active duty service member who is transferred or deployed the right to terminate a vehicle lease or a contract for telephone service. Section 303 of VBTA18 adds contracts for Internet service and for multichannel television service to the kinds of contracts that can be terminated under these circumstances.

⁴ 50 U.S.C. 3955(a).

⁵ 50 U.S.C. 3955(a)(3).