

10 USC 2890: Rights and responsibilities of tenants of housing units

Text contains those laws in effect on March 17, 2024

From Title 10-ARMED FORCES

Subtitle A-General Military Law

PART IV-SERVICE, SUPPLY, AND PROPERTY

CHAPTER 169-MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

SUBCHAPTER V-OVERSIGHT OF LANDLORDS AND PROTECTIONS AND RESPONSIBILITIES FOR TENANTS OF PRIVATIZED MILITARY HOUSING

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§2890. Rights and responsibilities of tenants of housing units

(a) DEVELOPMENT OF TENANT BILL OF RIGHTS AND TENANT RESPONSIBILITIES DOCUMENTS.-(1) The Secretary of Defense shall develop two separate documents, to be known as the Military Housing Privatization Initiative Tenant Bill of Rights and the Military Housing Privatization Initiative Tenant Responsibilities, for tenants of housing units.

(2) The Secretary of each military department shall ensure that the housing documents are attached to each lease agreement for a housing unit.

(3) The rights and responsibilities contained in the housing documents are not intended to be exclusive. The omission of a tenant right or responsibility shall not be construed to deny the existence of such a right or responsibility for tenants.

(4) Each contract between the Secretary concerned and a landlord shall incorporate the housing documents and guarantee the rights and responsibilities of tenants who reside in housing units covered by the contract.

(5) The Secretary of Defense shall develop the housing documents in coordination with the Secretaries of the military departments.

(b) ELEMENTS OF TENANT BILL OF RIGHTS.-At a minimum, the Military Housing Privatization Initiative Tenant Bill of Rights shall address the following rights of tenants of housing units:

(1) The right to reside in a housing unit and community that meets applicable health and environmental standards.

(2) The right to reside in a housing unit that has working fixtures, appliances, and utilities and to reside in a community with well-maintained common areas and amenity spaces.

(3) The right to be provided with a maintenance history of the prospective housing unit before signing a lease, as provided in section 2892a of this title.

(4) The right to a written lease with clearly defined rental terms to establish tenancy in a housing unit, including any addendums and other regulations imposed by the landlord regarding occupancy of the housing unit and use of common areas.

(5) The right to a plain-language briefing, before signing a lease and 30 days after move-in, by the installation housing office on all rights and responsibilities associated with tenancy of the housing unit, including information regarding the existence of any additional fees authorized by the lease, any utilities payments, the procedures for submitting and tracking work orders, the identity of the military tenant advocate, and the dispute resolution process.

(6) The right to have sufficient time and opportunity to prepare and be present for move-in and move-out inspections, including an opportunity to obtain and complete necessary paperwork.

(7) The right to report inadequate housing standards or deficits in habitability of the housing unit to the landlord, the chain of command, and housing management office without fear of reprisal or retaliation, as provided in subsection (e), including reprisal or retaliation in the following forms:

(A) Unlawful recovery of, or attempt to recover, possession of the housing unit.

(B) Unlawfully increasing the rent, decreasing services, or increasing the obligations of a tenant.

(C) Interference with a tenant's right to privacy.

(D) Harassment of a tenant.

(E) Refusal to honor the terms of the lease.

(F) Interference with the career of a tenant.

(8) The right of access to a military tenant advocate, as provided in section 2894(b)(4) of this title, through the housing management office of the installation of the Department at which the housing unit is located.

(9) The right to receive property management services provided by a landlord that meet or exceed industry standards and that are performed by professionally and appropriately trained, responsive, and courteous customer service and maintenance staff.

(10) The right to have multiple, convenient methods to communicate directly with the landlord maintenance staff, and to receive consistently honest, accurate, straightforward, and responsive communications.

(11) The right to have access to an electronic work order system through which a tenant may request maintenance or repairs of a housing unit and track the progress of the work.

(12) With respect to maintenance and repairs to a housing unit, the right to the following:

(A) Prompt and professional maintenance and repair.

(B) To be informed of the required time frame for maintenance or repairs when a maintenance request is submitted.

(C) In the case of maintenance or repairs necessary to ensure habitability of a housing unit, to prompt relocation into suitable lodging or other housing at no cost to the tenant until the maintenance or repairs are completed.

(13) The right to receive advice from military legal assistance on procedures involving mechanisms for resolving disputes with the property management company or property manager to include mediation, arbitration, and filing claims against a landlord.

(14) The right to enter into a dispute resolution process, as provided in section 2894 of this title, should all other methods be exhausted and, in which case, a decision in favor of the tenant may include a reduction in rent or an amount to be reimbursed or credited to the tenant.

(15) The right to have the tenant's basic allowance housing payments segregated, with approval of a designated commander, and not used by the property owner, property manager, or landlord pending completion of the dispute resolution process.

(16) The right to have reasonable, advance notice of any entrance by a landlord, installation housing staff, or chain of command into the housing unit, except in the case of an emergency or abandonment of the housing unit.

(17) The right to not pay non-refundable fees or have application of rent credits arbitrarily held.

(18) The right to expect common documents, forms, and processes for housing units will be the same for all installations of the Department, to the maximum extent applicable without violating local, State, and Federal regulations.

(c) ELEMENTS OF TENANT RESPONSIBILITIES.-At a minimum, the Military Housing Privatization Initiative Tenant Responsibilities shall address the following responsibilities of tenants of housing units:

(1) The responsibility to report in a timely manner any apparent environmental, safety, or health hazards of the housing unit to the landlord and any defective, broken, damaged, or malfunctioning building systems, fixtures, appliances, or other parts of the housing unit, the common areas, or related facilities.

(2) The responsibility to maintain standard upkeep of the housing unit as instructed by the housing management office.

(3) The responsibility to conduct oneself as a tenant in a manner that will not disturb neighbors, and to assume responsibility for one's actions and those of a family member or guest in the housing unit or common areas.

(4) The responsibility not to engage in any inappropriate, unauthorized, or criminal activity in the housing unit or common areas.

(5) The responsibility to allow the landlord reasonable access to the rental home in accordance with the terms of the tenant lease agreement to allow the landlord to make necessary repairs in a timely manner.

(6) The responsibility to read all lease-related materials provided by the landlord and to comply with the terms of the lease agreement, lease addenda, and any associated rules and guidelines.

(d) SUBMISSION TO CONGRESS AND PUBLIC AVAILABILITY.- (1) As part of the budget submission for fiscal year 2021, and biennially thereafter, each Secretary of a military department shall submit the then-current housing documents to the congressional defense committees.

(2) Any change made to a housing document must be submitted to Congress at least 30 days before the change takes effect.

(3) Upon submission of a housing document under paragraph (1) or (2), each Secretary of a military department shall publish the housing document on a publicly available Internet website of the military department under the jurisdiction of such Secretary.

(e) INVESTIGATION OF REPORTS OF REPRISALS.- (1) The Inspector General of the Department of Defense shall investigate all reports of reprisal against a tenant for reporting an issue relating to a housing unit.

(2) If the Inspector General determines under paragraph (1) that a landlord has retaliated against a tenant for reporting an issue relating to a housing unit, the Inspector General shall-

(A) provide initial notice to the Committees on Armed Services of the Senate and the House of Representatives as soon as practicable after making that determination; and

(B) following that initial notice, provide an update to such committees every 30 days thereafter until such time as the Inspector General has taken final action with respect to the retaliation.

(3) The Inspector General of the Department of Defense shall carry out this subsection in coordination with the Inspector General of the military department concerned.

(f) PROHIBITION ON USE OF NONDISCLOSURE AGREEMENTS.- (1) A tenant or prospective tenant of a housing unit may not be required to sign a nondisclosure agreement in connection with entering into, continuing, or terminating a lease

for the housing unit. Any such agreement against the interests of the tenant is invalid.

(2) Paragraph (1) shall not apply to a nondisclosure agreement executed-

(A) as part of the settlement of litigation; or

(B) to avoid litigation if the tenant has retained legal counsel or has sought military legal assistance under section 1044 of this title.

(3) A party presenting a proposed nondisclosure agreement to a tenant shall notify such tenant that such tenant may, not later than 10 business days after such presentation, seek legal counsel with respect to the terms of and implications of entering into such agreement. A tenant may not be required to sign such agreement before the end of such 10-day period.

(Added and amended Pub. L. 116–92, div. B, title XXX, §§3011(b), 3023, 3024(a), Dec. 20, 2019, 133 Stat. 1917 , 1935; Pub. L. 116–283, div. B, title XXVIII, §2811(b), Jan. 1, 2021, 134 Stat. 4323 ; Pub. L. 118–31, div. B, title XXVIII, §§2822(b), 2823, 2839(e), Dec. 22, 2023, 137 Stat. 751 , 752, 761.)

EDITORIAL NOTES

AMENDMENTS

2023-Subsec. (d)(1). Pub. L. 118–31, §2839(e)(1), substituted "each Secretary of a military department" for "the Secretary of Defense".

Subsec. (d)(3). Pub. L. 118–31, §2839(e), substituted "each Secretary of a military department" for "the Secretary of Defense" and "the military department under the jurisdiction of such Secretary" for "the Department of Defense".

Subsec. (e)(1). Pub. L. 118–31, §2822(b)(1), substituted "Inspector General of the Department of Defense" for "Assistant Secretary of Defense for Sustainment" and "tenant" for "member of the armed forces".

Subsec. (e)(2). Pub. L. 118–31, §2822(b)(2)(A), in introductory provisions, substituted "Inspector General determines" for "Assistant Secretary of Defense for Sustainment determines", "tenant" for "member of the armed forces", and "Inspector General shall" for "Assistant Secretary shall".

Subsec. (e)(2)(B). Pub. L. 118–31, §2822(b)(2)(B), substituted "Inspector General" for "Assistant Secretary".

Subsec. (e)(3). Pub. L. 118–31, §2822(b)(3), substituted "Inspector General of the Department of Defense" for "Assistant Secretary of Defense for Sustainment" and "Inspector General of the military department concerned" for "Secretary of the military department concerned".

Subsec. (f)(3). Pub. L. 118–31, §2823, added par. (3).

2021-Subsec. (b)(15). Pub. L. 116–283, §2811(b)(1), struck out "and held in escrow" after "payments segregated".

Subsec. (e)(2). Pub. L. 116–283, §2811(b)(2), inserted "a" before "landlord" in introductory provisions.

Subsec. (f)(2). Pub. L. 116–283, §2811(b)(3), added par. (2) and struck out former par. (2) which read as follows: "Paragraph (1) shall not apply to a nondisclosure agreement executed as part of the settlement of litigation."

2019-Subsec. (e). Pub. L. 116–92, §3023, added subsec. (e).

Subsec. (f). Pub. L. 116–92, §3024(a), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, §3024(c), Dec. 20, 2019, 133 Stat. 1935 , provided that: "Subsection (f) of section 2890 of title 10, United States Code, as added by subsection (a), shall apply with respect to any nondisclosure agreement covered by the terms of such subsection (f) regardless of the date on which the agreement was executed."

REGULATIONS

Pub. L. 116–92, div. B, title XXX, §3024(b), Dec. 20, 2019, 133 Stat. 1935 , provided that: "The Secretary of Defense and the Secretaries of the military departments shall promulgate such regulations as may be necessary to give full force and effect to subsection (f) of section 2890 of title 10, United States Code, as added by subsection (a)."

IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS RELATING TO STRENGTHENING OVERSIGHT OF PRIVATIZED MILITARY HOUSING

Pub. L. 118–31, div. B, title XXVIII, §2825, Dec. 22, 2023, 137 Stat. 752 , provided that:

"(a) IN GENERAL.-Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall implement each recommendation of the Comptroller General of the United States contained in the report titled 'DOD Can Further Strengthen Oversight of Its Privatized Housing Program' (GAO–23–105377), dated April 6, 2023, and reissued with revisions on April 20, 2023.

"(b) NON-IMPLEMENTATION REPORTING REQUIREMENT.-If the Secretary elects not to implement any such recommendation, the Secretary shall, not later than one year after the date of the enactment of this Act, submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes a justification for such election."

REQUIREMENTS RELATING TO MOVE-IN, MOVE-OUT, AND MAINTENANCE OF PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3056, Dec. 20, 2019, 133 Stat. 1944 , provided that:

"(a) MOVE-IN AND MOVE-OUT CHECKLIST.-

"(1) CHECKLIST REQUIRED.-The Secretary of Defense shall develop a uniform move-in and move-out checklist for use by landlords providing privatized military housing and by tenants of such housing.

"(2) REQUIRED MOVE-IN ELEMENT.-A tenant who will occupy a unit of privatized military housing is entitled to be present for an inspection of the housing unit before accepting occupancy of the housing unit to ensure that the unit is habitable and that facilities and common areas of the building are in good repair.

"(3) REQUIRED MOVE-OUT ELEMENT.-A tenant of a unit of privatized military housing is entitled to be present for the move-out inspection of the housing unit and must be given sufficient time to address any concerns related to the tenant's occupancy of the housing unit.

"(b) MAINTENANCE CHECKLIST.-The Secretary of Defense shall-

"(1) develop a uniform checklist to be used by housing management offices to validate the completion of all maintenance work related to health and safety issues at privatized military housing; and

"(2) require that all maintenance issues and work orders related to health and safety issues at privatized military housing be reported to the commander of the installation for which the housing is provided.

"(c) CONSULTATION.-The Secretary of Defense shall carry out this section in consultation with the Secretaries of the military departments.

"(d) DEADLINE.-The uniform checklists required by this section shall be completed not later than 60 days after the date of the enactment of this Act [Dec. 20, 2019]."

[For definitions of "landlord", "privatized military housing", and "tenant" as used in section 3056 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

STANDARDIZED DOCUMENTATION, TEMPLATES, AND FORMS FOR PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3057, Dec. 20, 2019, 133 Stat. 1945 , provided that:

"(a) DEVELOPMENT REQUIRED.-

"(1) IN GENERAL.-The Secretary of Defense shall develop standardized documentation, templates, and forms for use throughout the Department of Defense with respect to privatized military housing. In developing such documentation, templates, and forms, the Secretary shall ensure that, to the maximum extent practicable, the documentation, templates, and forms do not conflict with applicable State and local housing regulations.

"(2) INITIAL GUIDANCE.-Not later than 30 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall issue guidance for the development of the following:

"(A) Policies and standard operating procedures of the Department for privatized military housing.

"(B) A universal lease agreement for privatized military housing that includes-

"(i) the documents developed pursuant to section 2890 of title 10, United States Code, as added by section 3011, entitled Military Housing Privatization Initiative Tenant Bill of Rights and Military Housing Privatization Initiative Tenant Responsibilities; and

"(ii) any lease addendum required by the law of the State in which the unit of privatized military housing is located.

"(3) CONSULTATION.-The Secretary of Defense shall carry out this subsection in consultation with the Secretaries of the military departments.

"(b) MILITARY DEPARTMENT PLANS.-Not later than February 1, 2020, the Secretary of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation of this section by that military department."

[For definition of "privatized military housing" as used in section 3057 of Pub. L. 116-92, set out above, see section 3001(a) of Pub. L. 116-92, set out as a note under section 2821 of this title.]