



Military Housing Office
Bldg. 496 Madison Drive
MCAS Cherry Point NC 28533
252-466-2732
Chpt.fac.housing.smb@usmc.mil



Off-Station Housing Assistance Offerings **Military Housing Office**

Service Members have options when it comes to choosing where to call home at their current or future duty station. You may choose to live on the installation, rent a property in the local area, or purchase a home.

Rental Partnership Program

The Military Housing Office has made agreements with local Landlords to rent properties to Service Members at a discounted rate with a lessened or waived security deposit. If you are interested in learning more about the Rental Partnership Program or submitting an application to participate, please contact us today!

Rent A Home On Your Own

If you are interested in renting a home in the local community, we highly encourage using www.homes.mil to view available properties within 50 miles of MCAS Cherry Point. All homes listed on homes.mil have been inspected by MHO staff and meet all Department of Navy Environmental Health, and Safety standards.

If you find a home for rent that is not listed on homes.mil, our staff are available to inspect the property on your behalf. Please contact us to schedule an inspection.

If you have found the perfect rental and have questions about your lease, feel free to contact our office for assistance.

As an active-duty service member, you are protected by the **Service Members Civil Relief Act**. We recommend familiarizing yourself with this law. If you have questions regarding its provisions, please contact our office.

Purchase a Home

There are many local real estate professionals that have experience working with military families. While MHO cannot recommend specific brokers, we recommend using online resources to research local brokers and find one that best fits your family's needs.

Disputes

If you ever find yourself in a tenant/landlord dispute or would like assistance with a potential dispute, please contact our office today. MHO acts as a non-biased party when tenant/landlord disputes arise and can assist in mending communication gaps and/or resolution of your dispute.



Military Housing Office
Bldg. 496 Madison Drive
MCAS Cherry Point NC 28533
252-466-2732
Chpt.fac.housing.smb@usmc.mil



Off-Station Information Package **Table of Contents**

Commuting Distances

Helpful Hints for Renters

Apartment Guide MCAS Cherry Point

NC Military Lease Termination Information

General Fair Housing Brochure

Special Laws for Military Tenants

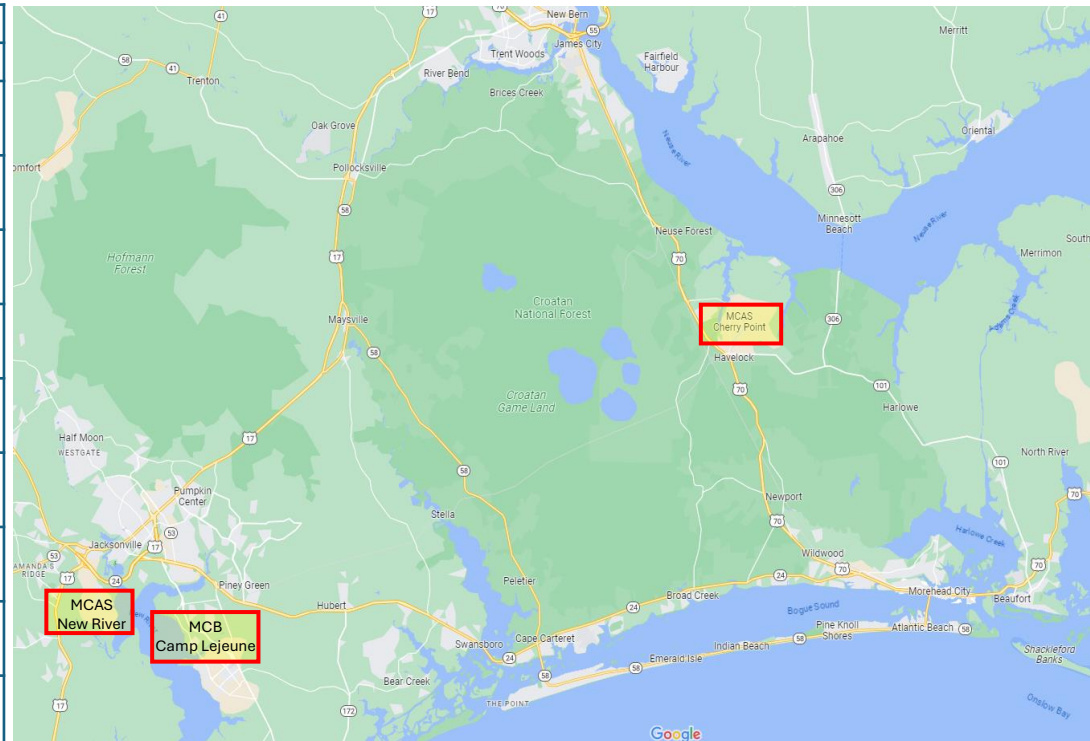


Military Housing Office
Bldg. 496 Madison Drive
MCAS Cherry Point NC 28533
252-466-2732
Chpt.fac.housing.smb@usmc.mil



Commuting Distances

Town	Travel Time		
	Camp Lejeune	Cherry Point	New River
Beaufort	57 min / 42 mi	35 min / 23 mi	77 min / 51 mi
Cape Carteret	23 min / 17 mi	27 min / 21 mi	36 min / 26 mi
Havelock	49 min / 39 mi	3 min / 1 mi	66 min / 48 mi
Hubert	8 min / 6 mi	44 min / 32 mi	20 min / 15 mi
Jacksonville	10 min / 5 mi	60 min / 44 mi	7 min / 3 mi
Maysville	25 min / 19 mi	45 min / 42 mi	26 min / 21 mi
Morehead City	49 min / 37 mi	28 min / 17 mi	63 min / 46 mi
New Bern	47 min / 42 mi	26 min / 18 mi	49 min / 45 mi
Newport	42 min / 32 mi	13 min / 8 mi	55 min / 41 mi
Piney Green	4 min / 2 mi	50 min / 37 mi	16 min / 11 mi
Swansboro	18 min / 13 mi	34 min / 25 mi	31 min / 23 mi



Please note that the distances provided are based on calculations from Google Maps and may vary depending on chosen route and specific location. Map and distances should be regarded as informative references.



Military Housing Office
Bldg. 496 Madison Drive
MCAS Cherry Point NC 28533
252-466-2732
Chpt.fac.housing.smb@usmc.mil



HELPFUL INFORMATION FOR RENTERS

LOOK AT THE PROPERTY YOU WANT TO RENT Do not rent the unit if it is dirty or requires numerous repairs. There are more rental units available locally to select from. If you choose to rent a property requiring repairs that the landlord promises to fix before move-in, ALWAYS make sure to obtain a detailed, written agreement.

READ & UNDERSTAND YOUR LEASE BEFORE YOU SIGN IT The lease you sign is a legal contract and you are bound by its terms. If you are unsure if your lease complies with state laws, we encourage you to have it reviewed by the Cherry Point Legal Service Support Team before you sign. Contact their office by emailing CHPT.LSST.legal.assistance.omb@usmc.mil or by calling 252-466-2311.

KNOW THE TERMS OF THE LEASE Can you have pets? Check the pet policy regarding weight limits, number of pets, and if there are any restricted pet breeds. When does the lease expire? Most leases in the local community are for one year. Leases of less than one year are available, but they are less common and may have higher monthly rental charges. Regardless of the length of the lease term, you are obligating yourself to rent that particular property for the period specified in the lease once you sign it.

KNOW WHAT HAPPENS WHEN YOUR LEASE EXPIRES Will your lease automatically renew for one year, or does it convert to a month-to-month tenancy? Are you required to sign a new lease? Will your rental rate increase? Ask your landlord these questions up front.

DOCUMENT THE CONDITION OF THE UNIT Complete a condition report as soon as you move in and return it to the landlord within the allotted timeframe. This will help to protect you and avoid conflict or legal issues when you vacate. Keep a copy of this report along with a copy of your lease. Submit all maintenance requests in writing and keep a copy for your records.

MAINTENANCE REQUESTS Always submit your maintenance or repair request in writing and keep a copy for your records. Every effort should be given to the landlord to perform any necessary repairs. If for any reason the landlord does not provide adequate resolution, please notify the Military Housing Office.

OBTAIN RENTER'S INSURANCE The property owner's insurance policy generally WILL NOT cover your possessions. You should always obtain coverage on your personal belongings in case of damage by hurricanes, flooding, fire, etc. Renter's insurance is relatively inexpensive to obtain and can often be bundled with your car insurance.



Military Housing Office
Bldg. 496 Madison Drive
MCAS Cherry Point NC 28533
252-466-2732
Chpt.fac.housing.smb@usmc.mil



PET FEE A pet fee is for the privilege of having a pet in your rental unit. It is not a damage deposit and will not be refunded when you vacate. Please be mindful that you will be responsible for any damages cause by your pet.

SECURITY DEPOSIT Provided there are no damages to the unit, your security deposit should be refunded within 30 days of your move-out inspection date. Make sure you provide a good forwarding address.

SUBMIT YOUR VACATE NOTICE IN WRITING Submit your notice to vacate in writing and in accordance with your lease (30-day advance notice, 60-day advance notice, etc.). Schedule your final inspection with your landlord when you submit your notice. The unit must be vacated, clean, and free of all personal property for the final inspection. Check with your landlord regarding any requirements to have the electricity/water turned on during the inspection. An inspector from the Military Housing Office can attend your inspection upon your request.

LANDLORD DISPUTES Always put your complaint in writing. If there is a problem that you and your landlord cannot resolve, the Military Housing Office may be able to help reach a solution that is acceptable to both parties.

AS A MILITARY TENANT You are expected to conduct yourself in the same manner as required in on station housing. You are expected to honor and abide by all agreements written in your lease.

DISCRIMINATION If you are openly discriminated against due to race, sex, religion, or national origin, report it via a HUD complaint Form 903 with the Department of Housing and Urban Development at https://www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

LEASE TERMINATION Very few landlords will allow you to break a lease to move into on-station housing. Discuss it with your landlord before you break your lease, not after. Under the Service Member Civil Relief Act, you may be able to break a lease if you are in receipt of PCS orders or if you are discharged or released from active duty. You may terminate your rental agreement by giving the landlord at least a 30-day written notice (unless you have received “short orders”) and a copy of your discharge or transfer orders.

CHANGE IN DEPENDENTS Per ASO 11101.18E, a Service Member that has a change in dependents must notify IPAC/RPAC. Contact the office by calling 252-466-6777. Separation from a dependent may affect your BAH entitlement, so please contact IPAC/RPAC as soon as possible to prevent any negative financial consequences.

**Questions and Answers on:
NORTH CAROLINA
MILITARY PERSONNEL
RESIDENTIAL LEASE
TERMINATION**

This pamphlet focuses on questions regarding the rights of members of the Army, Navy, Air Force, Marine Corps, and Coast Guard to terminate a lease contract under North Carolina and Federal law. While it is written primarily from the viewpoint of those individuals, it is equally informative for owners and landlords of rental properties occupied by members of the U.S. Armed Forces.



Q: I am a member of the United States Armed Forces and I signed a 1-year lease for quarters in North Carolina. May I terminate my residential lease early?

A: North Carolina General Statute § 42-45 allows members of the United States Armed Forces to seek early lease termination in the following cases:

- The service member receives permanent change of station orders to depart 50 miles or more from the location of their current residence;
- The service member is “prematurely or involuntarily released or discharged from active duty with the United States Armed Forces;” or
- The service member is deployed for 90 days or more.

Q: Under North Carolina law, how do I exercise my right to terminate and when will my lease end?

A: You must give your landlord written notice of your intent to terminate, along with a copy of your military orders or a letter from your Commanding Officer verifying the reason for the need to terminate the lease.

If you receive permanent change of station orders to relocate at least 50 miles away, are prematurely or involuntarily discharged, or are released from active duty, your lease will terminate 30 days after the landlord receives your written notice.

If you are being deployed for 90 days or more, after you landlord receives the written notice, your lease will terminate 30 days after the next rental payment is due, or 45 days after the landlord received the notice, whichever is shorter. For example, if rent is due on the 1st of the month, and you provide written notice to terminate on January 5th, the lease can terminate as early as 30 days after February 1st, or 45 days after January 5th, whichever comes first. In this case, 45 days after January 5th is shorter.

Q: What will I have to pay under North Carolina law if I terminate my residential lease early?

A: Under N.C.G.S. §42-45, you are responsible for paying rent through the effective date of termination of the lease. And if you terminate within the first nine months of your lease term, you may be required to pay an additional amount, called liquidated damages.

The liquidated damages amount will depend on how much of the lease you have completed. If you have completed fewer than six months of the tenancy, the maximum liquidated damages can be up to one full month’s rent. If you have completed more than six months, but fewer than nine months, the maximum amount of liquidated damages will be up to one-half of a month’s rent.

Q: Will I always have to pay liquidated damages if I terminate my lease within the first nine months?

A: No, a landlord is not entitled to liquidated damages unless there are actual damages due to loss of the tenancy. Actual damages occur when, despite reasonable efforts to mitigate or limit damages, the landlord is unable to find a new tenant for the premises. For example, if the landlord rents the residence two days after you terminate your lease, the liquidated damages may not exceed two days’ rent and other actual damages.



Q: Under North Carolina law, what are my family’s options for my residential lease if I die while on active duty?

A: An immediate family member or lawful representative may terminate the lease with written notice. Termination will be effective 30 days after the first date on which the next rental payment is due, or 45 days after the landlord’s receipt, whichever is shorter. The notice to the landlord must include a copy of the death certificate, military casualty report, or letter from a commanding officer.

Co-tenants who are immediate family members are also no longer obligated under the lease. However, co-tenants who are not immediate family members will remain obligated under the lease.

Q: What if the State law doesn’t apply to my situation?

A: The Servicemembers Civil Relief Act (SCRA), a

federal law, provides a wide range of protections for service members. (50 U.S.C. App. § 501-597b.) The SCRA allows service members and their dependents to terminate residential leases in three instances:

- The service member entered the lease before active duty military service;
- The service member entered the lease while on active duty and then received permanent change of station orders; or
- The service member entered the lease while on active duty and then received orders to deploy in support of a military operation in excess of 90 days.

Q: Under the SCRA, how do I exercise my right to terminate and when will my lease end?

A: The notice requirements under both the SCRA and North Carolina law are similar. You must give your landlord written notice of your intent to terminate, along with a copy of your military orders or a letter from your Commanding Officer verifying the reason for the need to terminate the lease. Under the SCRA, you must give notice by hand delivery, private business carrier, or by U.S. Mail with return receipt requested.

Lease termination will be effective 30 days after the next rental payment is due following your landlord’s receipt of proper notice of intent to terminate. For example, if the monthly rent is due on the 1st day of the month and you deliver proper notice of termination to your landlord on January 25th, the earliest effective date the lease and your obligation to pay rent terminate, will be 30 days after February 1st.

Q: What will I have to pay under the SCRA if I terminate my residential lease early?

A: If you terminate your lease under the SCRA, you must pay rent through the effective termination date of the lease, but your landlord cannot require you to pay any liquidated damages.

Q: Should I use the State or Federal law to terminate my North Carolina lease?

A: In some cases, only one of the laws will apply. For example, only the North Carolina law will apply when the service member is “prematurely or involuntarily discharged.” On the other hand, only the SCRA will apply to permanent change of station orders of less than 50 miles. In cases where both laws apply, you should utilize the law that is most advantageous given the facts at hand.



Q: Which law is going to cost me less to terminate my lease — North Carolina or Federal?

A: It will typically less expensive to terminate under North Carolina law if you have been in your lease for nine months or more and you deliver notice to terminate more than fifteen days before the next monthly rental payment is due. For example, suppose you have been in your lease over nine months and the next rental payment is due April 5th. On March 6th, you deliver notice of intent to terminate. Under the SCRA, the effective date of termination is 30 days after April 5th, meaning you will pay two months’ rent. Under

Continued

MCAS Cherry Point Apartment Guide

All apartments allow pets and include amenities

Complex Name	Phone Number	Street Address	City	Bed/Bath	Lease Length
Neuse Landing	(252) 417-2742	1000 Edgewater Dr.	New Bern	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	4–15-month lease
Comet West Apartments	(252) 675-4274	1000 Comet Dr.	New Bern	1 Bed / 1 Bath 2 Bed / 2 Bath	4–15-month lease
Woodland Crossing	(833) 803-3231	2590 Woodland Ave.	New Bern	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	3-, 6-, and 12-month lease
Hawthorne at New Bern	(252) 358-3318	4115 Dr. M.L.K. Jr Blvd.	New Bern	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	4–14-month lease
Reserve at Glenburnie	(252) 672-8929	100 Gurten St.	New Bern	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	11–14-month lease
Hudson at Carolina Colours	(252) 659-4148	1090 Summersweet Dr.	New Bern	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	9–15-month lease
Compass Landing (RPP)	(252) 582-4056	900 Old Fashioned Way	Newport	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	6–15-month lease
Haven at Wild Dunes (RPP)	(252) 582-4090	133 Wildwood Rd.	Newport	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	6–15-month lease
The Arbors at Morehead City	(252) 582-7036	4000 Galantis Dr.	Morehead City	1 Bed / 1 Bath 2 Bed / 2 Bath	12-month lease

Complex Name	Phone Number	Street Address	City	Bed/Bath	Lease Length
Preserve at Carteret Place	(252) 499-9780	4005 Galantis Dr.	Morehead City	1 Bed / 1 Bath 2 Bed / 2 Bath 3 Bed / 2 Bath	12-month lease
Retreat at Carteret Place	(252) 499-9813	3839 Galantis Dr.	Morehead City	1 Bed / 1 Bath 2 Bed / 2 Bath	12-month lease

North Carolina law, the termination date would be 45 days after delivery of the notice. Since you have been in the lease for at least nine months, there are no liquidated damages. However, if you have been in the lease for less than nine months, the SCRA may be more economically favorable, because, as discussed above, the SCRA does not permit liquidated damages under any circumstances.

But remember that in North Carolina, even if you have been in the lease for less than nine months, the landlord may only retain rent or liquidated damages if he or she has suffered an actual loss.

Q: My landlord also required my spouse's signature on the residential lease; does either law release my spouse from the lease as well?

A: Under the SCRA, yes. The SCRA is clear that termination by a service member terminates the obligations of a spouse and any other military dependent that may have signed the lease as well. The North Carolina law, however, does not address that issue.

If a spouse signs a lease on behalf of the service member, such as by using a power of attorney, then the lease is covered to the same extent as if the service member signed the lease. However, if the civilian spouse signed a lease in his or her own capacity and the service member did not, there is no protection under either statute.

Q: Can I waive my rights under either law in my lease contract?

A: The termination provisions in the North Carolina statute cannot be waived or modified under any circumstances. However, the SCRA

lease termination rights may be waived, but to be legally effective, a waiver must comply with requirements, including, but not limited to, the following:

- The waiver must be in writing;
- It must be on a document separate from the lease;
- The waiver must be signed by the service member;
- The waiver must specify the legal instrument (e.g., the lease) to which it applies; and
- It must be in at least a 12-point font.

If a landlord asks you to waive SCRA rights as a condition of renting the premises, you should go elsewhere for rental quarters and then report the matter to the nearest legal assistance office and the base housing and housing referral office.



Q: What should I do if I am a service member, but none of the scenarios above gives me the right to terminate my lease early?

A: When you need to terminate your lease and neither of the lease termination statutes applies, you should review the lease to see if it gives you any other special lease termination rights or seek legal assistance. If you leave the premises early in breach of the contract, the landlord may be entitled to damages you caused as a result of the breach. These damages can include the loss of rent during the remaining lease term and costs of re-renting the property. Again, the landlord must take reasonable

steps to “mitigate” damages, that is, to re-rent the premises, but the landlord may apply your security deposit to satisfy these damages and may also sue you for any additional damages in excess of the security deposit.

Q: I am a member of the Armed Services and booked a vacation rental but can no longer go because I received orders; can I terminate my vacation rental agreement?

A: North Carolina General Statute § 42A-37 allows members of the United States Armed Forces to seek termination of a vacation rental agreement in the following cases:

- The service member receives permanent change of station orders requiring the member to relocate on a date prior to the beginning of the lease term; or
- The service member tenant is deployed for a period that will overlap with the rental period.

In order to terminate the vacation rental agreement, you or your spouse must provide the landlord written notice of termination within 10 calendar days of receipt of the orders, along with a copy of your military orders or a letter from your Commanding Officer verifying the reason for the need to terminate the lease. Termination will be effective immediately upon receipt of the notice by the landlord. The landlord must refund any money you have paid in connection with the vacation rental agreement, with the exception of nonrefundable fees paid to third parties as described in North Carolina G.S. § 42-16(a), within 30 days of termination of the agreement.

Additional Resources:

For information on tenant security deposits, renting residential real estate, discrimination in rental housing and other consumer housing issues, visit the North Carolina Real Estate Commission Web site at www.ncrec.gov or call us at 919-875-3700 to request a free copy of a “Questions and Answers” brochure on any of these topics.

Other written materials are available from the Consumer Protection Section of the Attorney General's Office's Web site at www.ncdoj.gov or by calling 919-716-6000. For fair housing (discrimination) issues, visit the North Carolina Human Relations Commission Web site at www.doa.nc.gov/hrc or call 919-807-4420, or contact your local fair housing agency. In addition, if you are in the military, you may wish to consult your Judge Advocate General (JAG).

If you are in the military and have questions about a lease, please call our special toll-free hotline at 1-855-806-0232.



Scan the code above to access the Commission Website from your mobile devices.

**THE NORTH CAROLINA
REAL ESTATE COMMISSION**

P.O. Box 17100 • Raleigh, NC 27619-7100

Phone: 919/875-3700 • Website: www.ncrec.gov

7,500 copies of this public document were printed at a cost of \$0.00 per copy.

REC 3.62 • 9/1/16

Questions and Answers on:

N.C. MILITARY PERSONNEL RESIDENTIAL LEASE TERMINATION

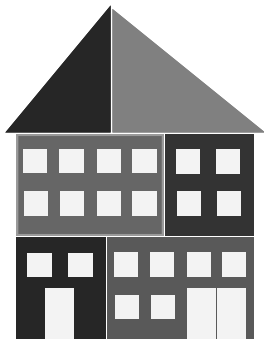


A publication of the North Carolina Real Estate Commission

USEFUL TIPS

What you should do if you believe you have experienced housing discrimination:

- Contact the Fair Housing Project and report the discrimination to us.
- Keep a journal of incidents of discrimination.
- Write down what you experienced, including names, dates, addresses, rental terms, and any other details about your interaction.
- Keep any documents related to the discrimination, including all emails and text communications.
- Following the incident, you have one year to file an administrative complaint or two years to file a lawsuit in court.



THE FAIR HOUSING PROJECT

The Fair Housing Project of Legal Aid of North Carolina is available to provide information concerning a person's rights under the federal Fair Housing Act. If you believe you are a victim of housing discrimination, contact us for assistance at **1-855-797-3247**. A project staff person will discuss the situation with you and help you to decide what to do next. Your response to us will be kept confidential.

When necessary, our staff can assist you in filing a complaint with the U.S. Department of Housing and Urban Development (HUD), local human relations commissions, or in court.

Fair Housing Project

LEGAL AID OF NORTH CAROLINA

P.O. Box 26087

Raleigh, NC 27611

(855) 797-FAIR

(855) 797-3247

www.fairhousingnc.org

"The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government."

HOUSING DISCRIMINATION

Your Rights to Fair Housing



LEGAL AID
OF NORTH CAROLINA

Fair Housing Project

P.O. Box 26087

Raleigh, NC 27611



HOUSING DISCRIMINATION

The federal Fair Housing Act prohibits discrimination in housing based on a person's

- ♦ **Race** (*any race*)
- ♦ **Color** (*any color*)
- ♦ **Religion** (*any religion or no religion*)
- ♦ **National Origin** (*any nationality*)
- ♦ **Sex** (*including gender identity*)
- ♦ **Familial Status** (*presence of children under 18 in family, pregnancy, or adults attempting to secure custody of children*)
- ♦ **Disability** (*handicap*)

PROHIBITED CONDUCT

Discrimination includes refusing to rent or sell, charging more, or offering different terms to someone because of his or her membership in one of the above groups.

Housing providers are prohibited from making discriminatory statements or publishing discriminatory advertising, as well as from making false statements about availability.

People with disabilities are also allowed to obtain reasonable accommodations to rules or policies to allow them to reside in housing and to make reasonable modifications to the property (such as installing grab bars or a ramp), if needed because of their disability.

HARASSMENT AND RETALIATION

Harassing someone, or retaliating against or interfering with someone who is attempting to exercise their fair housing rights, is also prohibited.

EXAMPLES OF POSSIBLE DISCRIMINATION

The following statements may indicate possible discrimination:

"Sorry, but after we spoke on the phone we rented the last unit."

"This is a Christian home."

"You would feel more comfortable in a different neighborhood."

"Because of noise, families with children have to live on the first floor."

"I have to charge you a pet deposit for your service animal."

"You may not install grab bars in the bathroom."

"None of your kind of people live in this area."

"We only rent to people who speak English."

"Since you use a walker, you need additional insurance coverage."

"We have a strict policy: if you have an arrests history, you cannot rent here."

"We only allow 2 people in a 1-bedroom unit."

WHAT PROPERTIES ARE COVERED?

The Fair Housing Act covers most residential units, such as:

- ♦ Houses
- ♦ Apartments
- ♦ Condominiums
- ♦ Group homes
- ♦ Shelters (*homeless & domestic violence*)
- ♦ Migrant housing
- ♦ Long term transient lodging

There are limited exceptions for some housing, including owner-occupied buildings of 4 or fewer units and some single-family homes. In addition, religious organizations and private clubs who rent housing for non-profit purposes may favor their members. Contact the Fair Housing Project for more information

WHO MUST COMPLY?

The Fair Housing Act applies to a wide variety of housing transactions, including rentals, sales, home mortgages, appraisals, and homeowners insurance.

Landlords, property managers, real estate agents, lenders, insurance companies, homeowners associations, condo boards, and others are prohibited from discriminating against someone based on their membership in one of the groups listed above.



Special Landlord and Tenant Laws for Military Personnel

North Carolina is home to a significant population of members of the military services, who often rent or lease properties near their duty stations and may be subject to relocation on short notice. In such circumstances, service members are protected under federal and state laws that grant them specific rights to achieve early termination of a lease.

As a broker who works with landlords and tenants, you should be knowledgeable about those laws.

Federal law is set out in the Servicemembers Civil Relief Act, enacted in 2003 to amend the Soldiers' and Sailors' Civil Relief Act of 1940. It provides a broad range of benefits and protections to service personnel including specific rights relating to renting and leasing obligations.

North Carolina law is found under General Statute §§ 42-45 and 42-45.2. It grants special protections to "military personnel, surviving family members, or lawful representatives" involved with early termination of a rental agreement.

The two laws differ in the rights and protections they provide when applied to early termination of a lease. One may be applicable to a particular situation and the other may not, or both laws may be applicable, but yield different outcomes.

The requirements under each law are as follows:

Federal Law

Requirements to Pursue Early Termination of a Lease	
SCRA	NCGS § 42-45
Each allows for early termination in three, but differing, instances:	
(1) Entry into lease before active service; (2) Permanent change of station received while on active duty; (3) Deployment in excess of 90 days while on active duty. Termination effective 30 days after next monthly payment following notice to landlord.	(1) PCS* to depart 50 miles or more from current dwelling; (2) Premature or involuntary service separation; (3) Deployment in excess of 90 days. Termination effective 30 days after notice to landlord in (1) and (2); 30 or 45 days after notice in (3), whichever is shorter. *Permanent Change of Station

The SCRA's rights to early termination of a lease are granted based on active duty status, i.e., they are secured for a lease already in force upon entering into military service and, when in active service, relocated to a new permanent duty station or

deployed in support of a military operation in excess of 90 days.

In these instances, lease termination is effective 30 days after the next rental payment is due following the landlord's receipt of proper notice of intent to terminate. [Notice must include a copy of the orders or a written verification by the tenant's commanding officer.]

(Example: If the monthly rent is due on the 1st day of the month and termination notice is delivered to your landlord five days earlier, your lease terminates and your final obligation to pay rent is effective 30 days following the 1st day of the month.)

State Law

State law, G.S. § 42-45, differs by specifying a permanent change of station of 50 miles or more from the member's current dwelling and allowing for premature or involuntary release from active duty; it differs slightly as to a deployment of "90 days or more" compared to "in excess of 90 days" in the federal law.

Also under our State law, the lease termination date depends first on which of the three reasons the service member has for terminating the lease.

Whether the service member receives permanent change of station orders to relocate at least 50 miles away or is prematurely or involuntarily discharged or released from active duty, the service member may provide written notice of termination to be effective as quickly as 30 days after the landlord's receipt of the notice.

A member of the Armed Forces of the United States who is deployed for 90 days or more may terminate 30 days after the next rental payment is due, following the landlord's receipt of proper notice of intent to terminate, or 45 days after receipt of notice, whichever is shorter.

The application of either or both laws should be determined after consulting with an attorney, who for a member on active duty may be available through the Judge Advocate General's Corp.

Liquidated Damages

The biggest differences between the SCRA and North Carolina law relate to how much money the service member may owe on the effective date of termination.

Generally, if a service member has been in the lease for less than nine months, the SCRA will be more favorable. How much must be paid will depend on the effective date of lease termination and liquidated damages.

When comparing federal and state law is more advantageous, consider the following:

Consequences of Pursuing Early Termination of a Lease

SCRA	NCGS § 42-45
No liquidated damages required	Liquidated damages • 1 month's rent if the tenant has lived in the residence for less than 6 months • 1/2 month's rent between 6 and 9 months
Contract may waive rights • Separate writing 12 point font • Signed by service member • Reference lease	No waiver allowed
Termination explicitly releases the spouse and all dependents of service member	No explicit language regarding release of others, but intent of law is likely persuasive

Example: Under N.C. law, the lease termination date depends first on which of the three reasons the service member has for terminating the lease. Whether the service member receives permanent change of station orders to relocate at least 50 miles away or is prematurely or involuntarily discharged or released from active duty, the service member may provide written notice of termination to be effective as quickly as 30 days after the landlord's receipt of the notice. For example, if a service member hand-delivers a notice of termination along with his or her official PCS orders on January 15th, the termination date may be as soon as February 15th, only 30 days later.

Example: A member of the Armed Forces of the United States who is deployed for 90 days or more may terminate 30 days after the next rental payment is due, following the landlord's receipt of proper notice of intent to terminate, or 45 days after receipt of notice, whichever is shorter. For example, if rent is due on the 1st of the month, and the service member provides proper notice to terminate on January 5th, the lease terminates 30 days after February 1st or 45 days after January 5th, whichever comes first. In this case, 45 days after January 5th is shorter and that is the earliest possible effective date of lease termination. However, if a service member terminates under North Carolina law and has been in the lease under nine months, he or she may also be required to pay liquidated damages.

"Liquidated damages" ordinarily refers to an agreed amount designed to estimate the dollar value of the harm that will be caused if a party to a contract violates the terms. If a service member terminates a lease under North Carolina law, the service member may be required to pay rent through the effective date of lease termination and may be required to pay the applicable liquidated damages amount if he or she has completed less than nine months of the lease term. If the service member completed less than six months of the tenancy, the maximum liquidated damage amount is one month's rent. If the service member completed at least six months of the tenancy but less than nine months, the maximum is one-half of a month's rent. After completing nine months of the tenancy, no liquidated damages are owed.

If a member of the armed forces terminates a lease under

the SCRA, there is no statutory requirement to pay liquidated damages. The service member must pay rent through the effective date of lease termination but there are no further charges resulting from early termination.

It is important to note that even under North Carolina law, the landlord is not entitled to liquidated damages where there are no actual damages due to loss of the tenancy. Actual damages occur when, despite making the required reasonable efforts to mitigate or limit damages, the landlord is unable to find a new tenant for the premises.

Example: If the landlord rents the residence two days after a service person terminates the lease, the liquidated damages cannot exceed two days' rent.

Notice Requirements

The notice requirements under both the SCRA and North Carolina law are similar. Service members must provide written notice and a copy of military orders to the landlord. Alternatively, a service member can provide a letter from his or her Commanding Officer verifying the reason for the need to terminate the lease. Under the SCRA, the only effective manners of service of notice are hand-delivery, private business carrier, or by US mail with return receipt requested.

Obligations of a Spouse

A North Carolina law was passed to assist service members whose military duties cause them to leave the area, but the law does not specifically address the obligations of a spouse on the lease. The latest version of the SCRA, on the other hand, makes it very clear that termination by the service member terminates the obligations of a spouse and any other military dependent that may have signed the lease as well.

Waiver of Rights

A lease can give a military tenant more lease termination rights than would otherwise be had, but, with one exception, its terms cannot take any of these rights away. While the North Carolina law specifically prohibits waiver or modification of its requirements under any circumstances, the SCRA does permit lease termination rights to be waived. To be legally effective, however, such a waiver must comply with certain requirements, including, but not limited to, the following:

- The waiver must be in writing;
- It must be on a document separate from the lease;
- The waiver must be signed by the service member;
- The waiver must specify the legal instrument (e.g., the lease) to which it applies; and
- It must be in at least 12-point font.

If neither law applies, landlords, property managers, and military tenants should review the lease to see if it contains any other special lease termination rights. If there are none, then early termination may not be permitted. If the tenant leaves the premises early and in breach of the contract, the landlord

is likely entitled to damages caused as a result of the breach. These damages include the loss of rent due to any vacancy of the premises during the remainder of the lease term. As always, the landlord must take reasonable steps to mitigate the damages, that is, to re-rent the premises, but the landlord may withhold the security deposit to satisfy these damages and may also sue for any additional damages that exceed the amount of the security deposit.

NC General Statute § 42-45(a3)

Since 2012, North Carolina law provides that when a member of the US Armed Forces dies on active duty, there is a specific right to terminate the lease. An immediate family member or lawful representative may terminate the lease with written notice as required in the other authorized situations. As with the case of a deployment for 90 days or more, termi-

nation is effective 30 days after the first date on which the next rental payment is due, or 45 days after the landlord's receipt of notice, whichever is shorter. Notice must include a copy of the death certificate, military casualty report, or letter from the commanding officer. While cotenants who are immediate family members are also no longer obligated under the lease, cotenants who are not immediate family members remain obligated under the lease. Payment of all rents is due up to the date of termination, and the same liquidated damages provisions discussed earlier apply under this law.

Service members are valued members of our community and should be treated as such. Brokers should be aware of the special circumstances that may allow service members to terminate a lease agreement early. These situations should be explained to landlords prior to entering into any lease agreement with a military tenant.