North Carolina law, the termination date would be 90 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.

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.
• The waiver 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 prevent 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-57 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;
• 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 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 other statute.

If you are in the military and have questions about a lease, please call our special toll-free hotline at 1-866-405-6324.

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 by calling 919/875-5700.

THE NORTH CAROLINA REAL ESTATE COMMISSION
P.O. Box 17100 • Raleigh, NC 27619-7100
Phone: 919/875-3700 • Website: www.ncrec.gov

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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 enters permanent change of station orders to depart 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.

• The service member is deployed for 90 days or more. 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 January 1st, or 45 days after January 5th; whichever comes first. In this case, 45 days after January 5th is shorter.

• The service member is called to active duty and then received orders to deploy 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.

• The service member is called to active duty and then received permanent change of station orders to depart at least 50 miles or more from the location of their current residence; change of station orders to depart 50 miles or more from the location of their current residence; or involuntarily released or discharged from active duty; and other actual damages.

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

A: Under North Carolina law, your landlord is entitled to one month’s rent if you terminate your lease within the first nine months. If you terminate your lease after the first nine months, the maximum amount of liquidated damages can be up to one full month’s rent. If you have completed fewer than six months of the tenancy, the maximum liquidated damages cannot be more than one month’s rent. If you have completed more than six months of the tenancy, the maximum liquidated damages can be up to one full month’s rent.