

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

**H.B. 971**  
**May 16, 2012**  
**HOUSE PRINCIPAL CLERK**

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HOUSE DRH50419-RKz-49 (04/05)

Short Title: Active Duty Death/Lease Termination.

(Public)

Sponsors: Representatives Shepard and Cook (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE LEASE TERMINATION FOR A SERVICE MEMBER WHO  
3 DIES WHILE ON ACTIVE DUTY, AS RECOMMENDED BY THE HOUSE SELECT  
4 COMMITTEE ON MILITARY AFFAIRS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 42-45 reads as rewritten:

7 "**§ 42-45. Early termination of rental agreement by military ~~personnel~~personnel,**  
8 **surviving family members, or lawful representative.**

9 (a) Any member of the Armed Forces of the United States who (i) is required to move  
10 pursuant to permanent change of station orders to depart 50 miles or more from the location of  
11 the dwelling unit, or (ii) is prematurely or involuntarily discharged or released from active duty  
12 with the Armed Forces of the United States, may terminate the member's rental agreement for a  
13 dwelling unit by providing the landlord with a written notice of termination to be effective on a  
14 date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The  
15 notice to the landlord must be accompanied by either a copy of the official military orders or a  
16 written verification signed by the member's commanding officer.

17 (a1) Any member of the Armed Forces of the United States who is deployed with a  
18 military unit for a period of not less than 90 days may terminate the member's rental agreement  
19 for a dwelling unit by providing the landlord with a written notice of termination. The notice to  
20 the landlord must be accompanied by either a copy of the official military orders or a written  
21 verification signed by the member's commanding officer. Termination of a lease pursuant to  
22 this subsection is effective 30 days after the first date on which the next rental payment is due  
23 or 45 days after the landlord's receipt of the notice, whichever is shorter, and payable after the  
24 date on which the notice of termination is delivered.

25 (a2) Upon termination of a rental agreement under this section, the tenant is liable for the  
26 rent due under the rental agreement prorated to the effective date of the termination payable at  
27 such time as would have otherwise been required by the terms of the rental agreement. The  
28 tenant is not liable for any other rent or damages due to the early termination of the tenancy  
29 except the liquidated damages provided in subsection (b) of this section. If a member  
30 terminates the rental agreement pursuant to this section 14 or more days prior to occupancy, no  
31 damages or penalties of any kind shall be due.

32 (a3) If a member of the Armed Forces of the United States dies while on active duty,  
33 then an immediate family member, or a lawful representative of the member's estate, may  
34 terminate the member's rental agreement for a dwelling unit by providing the landlord with a  
35 written notice of termination to be effective on the date described in subsection (a1) of this



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1 section. A copy of the death certificate must accompany the notice for this subsection to be  
2 effective. If the member was a cotenant with a person who is not an immediate family member,  
3 then the termination shall relate only to the obligation of the member under the rental  
4 agreement. The prorated charges in subsection (a2) of this section and the liquidated damages  
5 provisions of subsection (b) of this section shall apply to any claims against the member's  
6 estate. This subsection shall not be effective if the death of the member was due to willful  
7 misconduct, and there shall be a rebuttable presumption that the member's death was not due to  
8 willful misconduct.

9 (b) In consideration of early termination of the rental agreement, the tenant is liable to  
10 the landlord for liquidated damages provided the tenant has completed less than nine months of  
11 the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The  
12 liquidated damages shall be in an amount no greater than one month's rent if the tenant has  
13 completed less than six months of the tenancy as of the effective date of termination, or  
14 one-half of one month's rent if the tenant has completed at least six but less than nine months of  
15 the tenancy as of the effective date of termination.

16 (c) The provisions of this section may not be waived or modified by the agreement of  
17 the parties under any circumstances. Nothing in this section shall affect the rights established  
18 by G.S. 42-3."

19 **SECTION 2.** This act is effective when it becomes law.