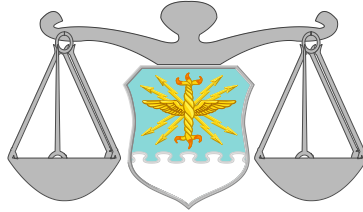


# CHANGING YOUR STATE OF LEGAL RESIDENCE



**4th Fighter Wing  
Office of the Staff Judge Advocate  
1600 Wright Brothers Ave, Suite 265  
Seymour Johnson AFB NC 27534  
(919)722-5322**

Current as of September 2014

**CHANGING YOUR STATE OF LEGAL RESIDENCE**

**1. Q. Why is your state of legal residence important?**

A. Your legal residence is significant for many reasons, including: voting, taxation, school tuition, property settlement, and probating your will.

**2. Q. What are the requirements for establishing legal residence?**

A. Whether you are a military member or civilian, the basic rule requires:

- That you currently reside in the state (a quick TDY to Florida is insufficient)
- That you intend to remain indefinitely (intend to make it your home)
- That you intend to abandon your previous state of legal residence

**3. Q. Can you become a legal resident of a state you are not currently residing in?**

A. No, you cannot meet the first requirement of establishing legal residence. For example, if you are currently stationed in North Carolina you cannot change your legal residence to New Mexico.

**4. Q. How does the law differ for military members?**

A. There is a legal presumption that your home of record (state of residence when you entered the military) is your state of legal residence. Therefore, no matter where you are stationed (even overseas) you will maintain that state of legal residence. This protects you from having your military pay taxed by another state (it will continue to be taxed by your state of legal residence). Also, your personal property will only be taxed by your state of legal residence. However, you still must pay real property taxes in the state where the property is located.

This presumption and protections are contained in the Soldiers and Sailors Relief Act. However, this law does not allow military members to “pick and choose” a state of legal residence. The law can make it more difficult for a military member to change his/her state of legal residence because it assumes that the member is residing in a state solely because of orders (therefore lacking the necessary intent to remain indefinitely in the state).

**5. Q. How does a military member change his/her state of legal residence?**

A. In order to change your state of legal residence you must be residing in the state that you wish to make your new legal residence. The fact that you are currently stationed in that state will be sufficient if you have established a home (living in a dormitory on base will not be sufficient).

You must then meet the second and third requirements that you have the intent to remain indefinitely in that state and that you intend to abandon your previous state of legal residence. This is more difficult for military members because of the legal presumption discussed above. There are a number of actions you should take to show the necessary intent to make the state your new home. These include the following:

- Buy a house
- Open a business
- Register your auto and obtain a driver's license
- Obtain any relevant professional licenses
- Register to vote and vote in local elections
- Enroll your children in the local school system
- Register to pay local personal property tax
- Change your will to indicate the new state

NOTE: Changing your military pay records does not automatically change your state of legal residence. Accounting and Finance will notify your old state and begin withholding taxes for your new state. However, you may still be liable to your former state of legal residence unless you have met these legal requirements. It is not uncommon for a service member to receive a tax deficiency notice from a previous state residence five or ten years after changing their state of legal residence. Therefore, if your former state sends you a request for documentation that you have met the necessary requirements, be sure you reply promptly.

ADDITIONAL INFORMATION: For additional information you should contact the Base Legal Office at 722-5322, to schedule an appointment to discuss your situation with an attorney.

**HELPFUL WEBSITES/PHONE NUMBERS:**

North Carolina Lawyer Referral

<https://www.ncbar.org/public/lrs/search.aspx>

North Carolina Legal Aid

<http://www.legalaidnc.org/>

Armed Forces Legal Assistance Website

<http://legalassistance.law.af.mil/>