

Housing Challenges Affecting Veterans Today:

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State And Local Laws Providing Military Status As a Protective Class

State Statutes:	Basis	Defined	Reported Cases
Fair Housing Act, 42 USC 3604(f)	Handicap	...a physical or mental impairment which substantially limits major life activities...	<i>Development Serv., v. City of Lincoln</i> , 504 F. Supp. 2d 776 (D. Neb. 2007):
ILLINOIS 775 ILCS 5/1-102	Military Status	...a person's status on active duty in or status as a veteran of the armed forces...	
MASSACHUSETTS: 804 CMR 02.00 MCAD Housing	Veteran Status	Not Defined	<i>Pechilis v. Massachusetts Commission Against Discrimination</i> , 1993 WL 818592 (Mass. Super. Ct. 1993).
NEW YORK: Article 15: NY CLS Exec § 296 5(a)	Military Status	A person participation in the military service ...	
WASHINGTON STATE: RCW 49.60.010	Honorably discharged veteran or military status	Not defined	

Two:

<u>City or County Laws Providing Military Status As a Protective Class</u>			
City or County Laws:	Basis	Definition	Reported Cases
City of Chicago, Illinois 5-80-20: Discrimination prohibited	Military Discharge Status	..the fact of discharge from military status and the reason for the discharge.	
Cook County, Illinois Cook County Human Rights Ordinance § II (L)	Military Discharge Status	...having been discharged from the Armed Forces of their Reserve components or any National Guard or Naval Militia other than by a "dishonorable discharge."	
Indianapolis, Indiana Sec. 581-101. Findings and purposes.	Military Service Veteran Status	...the ...denial of equal opportunities ...in acquisition of real estate..., or military service veteran status	
Sarasota, Florida Chapter 18 Human Relations Article I	Military Status		

City or County Laws:	Basis	Definition	Reported Cases
Cambridge, Massachusetts Title 14, Fair Housing, Unlawful practices	Military Status	... To discriminate against any person ... Because of ... Military status ...	
Jersey City, New Jersey Chapter 148 DISCRIMINATION, Unlawful Practices	Liability to the Armed Forces of the United States	... To refuse, sell, rent, lease, assign, or sublease, or otherwise deny to or withhold from any person or group ... Because of ... Liability to the Armed Forces of the United States	
Cleveland, Ohio Cleveland Mun. Code, Ch. 665 Fair Housing	Vietnam-era or disabled veteran status	... To refuse, sell, transfer, assign, rent, or finance ... Or change terms and conditions because of ... Vietnam-era or disabled veteran status	

Military Status As a Protective Class In Nebraska?

- Discrimination in housing on the basis of race, color, national origin, religion, sex, **disability** or familial status is prohibited by the Nebraska Act and the Lincoln Ordinance.
- However, discrimination on the basis of **military status**, is **NOT** a protected class.

Veterans & Homelessness:

	# of homeless veterans	Causes of Homelessness
Veterans Administration	144,842 (2010) (136,336 in 2009)	Substance abuse/Post Traumatic Stress
National Coalition for the Homeless	130,000 to 200,000	inadequate wages, lack of affordable housing, livable income, and lack of accessible, affordable health care,
CRS Report to Congress (6/2009)	111,476 to 178,208 (2009-2010)	Substance abuse/Post Traumatic Stress/war zone stress/lack of accessible, affordable

Approximately 29% of homeless persons are veterans:

- 47% Vietnam Era
- 17% post-Vietnam
- 15% pre-Vietnam
- 67% served three or more years
- 33% stationed in war zone
- 25% have used VA Homeless Services
- 89% received Honorable Discharge
- 79% reside in central cities
- 16% reside in suburban areas
- 5% reside in rural areas
- 76% experience alcohol, drug, or mental health problems
- 46% white males compared to 34% non-veterans
- 46% age 45 or older compared to 20% non-veterans

**To soon to determine a percentage of veterans returning from the Middle East wars.

National Coalition for homeless veterans: www.nchv.org/background.cfm

Helpful Programs:

National Call Center for Homeless Veterans	VA founded a National Call Center for Homeless Veterans hotline to ensure that homeless Veterans or Veterans at-risk for homelessness have free, 24/7 access to trained counselors
Grant and Per Diem Program	the VA funds community-based agencies providing transitional housing or service centers for homeless Veterans.
HUD-VASH	(HUD-VASH) Program provides permanent housing and ongoing case management treatment services for homeless Veterans who require these services to live independently. HUD has allocated over 20,000 "Housing Choice" Section 8 vouchers to Public Housing Authorities (PHAs) throughout the country for eligible homeless Veterans.
CHALENG	The Community Homelessness Assessment, Local Education, and Networking Groups: an initiative in which VA medical center and regional office directors work with other federal, state, and local agencies and nonprofit organizations to assess the needs of homeless Veterans, develop action plans to meet identified needs, and develop directories that contain local community resources to be used by homeless Veterans.

Servicemembers Civil Relief Act Overview

- The Servicemembers Civil Relief Act (“SCRA”) expanded the former Soldiers' and Sailors' Civil Relief Act (“SSCRA”).
- Provisions: protections for individuals entering, called to active duty in the military, or deployed service members.
- Intent: to postpone or suspend certain civil obligations to enable service members to devote full attention to duty.

- The SCRA covers all Active Duty servicemembers, Reservists and the members of the National Guard *while on active duty*. **The protection begins on the day of entering active duty and generally terminates within 90 days** after the date of discharge from active duty.

Examples of such obligations

protected by SCRA:

- **Stay of Proceedings:** If the person is in military service or is within 90 days after termination of or release from military service and has received notice of a civil action or proceeding. The court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days.
- **Default:** Before a court can enter a default judgment (for failure to respond to a lawsuit or failure to appear at trial) against a military member, the person who is suing the servicemember must provide the court with an affidavit stating the defendant is not in military service.
- **Defense Manpower Data Center's ("DMDC") Military Verification Service:**

<https://www.dmdc.osd.mil/appj/scra/scraHome.do>

Statute of Limitations:

Period of military service may not be included in computing any limitation period for filing suit, either by or against the servicemember. However, this **does not apply** to any period of limitation prescribed by or under the internal revenue (IRS) laws of the United States.

Right to Terminate Real Property Leases:

Lease of premises by a servicemember or a servicemember's dependents for a residential, professional, business, or similar purpose if:

- the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or
- the servicemember, while in military service, executes the lease **and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.**

The effective date of termination is determined as follows:

- **Month to month rentals:** the termination becomes effective 30 days after the first date on which the next rental payment is due subsequent to the date when the notice of termination is delivered. **For example, if the rent is due on the first day of each month, and notice is mailed on August 1, then the next rental payment is due and payable on September 1.** Thirty days after that date would be October 1, the effective date of termination.
- **All other leases:** termination becomes effective on the last day of the month following the month in which proper notice is delivered. For example, if the lease requires a yearly rental and proper notice of termination is given on July 20, the effective date of termination would be August

NOTICE:

- To terminate the lease, the member must deliver **written notice to the landlord at any time after call to active duty or receipt of orders for active duty.**
- 1. Personal service or
- 2. Certified mail or
- 3. Private business courier w/verification of delivery ex., FedEx, UPS...

Oral notice is insufficient.

- **Motor Vehicle Lease:** can be terminated if:
 - During the term of the lease the servicemember enters into military service under a call order specifying a period of not less than 180 days .
 - Or who is called for service for more than 180 days or
 - While in the military service signs a lease and then gets called for service for a period of not less than 180 days.

Interest on loans: if over 6% must be reduced to 6%.

- Loan was taken out b/r before active duty;
- Military service affects the ability to pay the loan, b/s person makes less money in the military and
- Provide notice to lender.

Two cases interpreting SCRA:

- *US v. Aristocrat Towing, Inc.* (E.D. Va. 2009), the court held that that section 537 of the SCRA is a strict liability statute and found that servicemembers need not notify towing companies of their active duty status in order to benefit from the SCRA's protection.
- *US v. Akhavan*, (E.D. Va. 2009), the complaint alleged that the landlord refused to return a deposit and rent paid in advance, even after receiving proper notice of the air force officer's call to active duty. A consent decree was entered, LL paid damages and was enjoined from future SCRA violations.

Cases involving veterans and housing:

- *United States v. Fox Point at Redstone Association, Inc.* (2012), Plaintiff alleges that the HOA refused to grant a reasonable accommodation so that a disabled combat veteran could keep a small dog in the condo he rented to help him cope with the effects of PTSD. Settled out of court for \$20k in monetary relief, fair housing training, and policy reformation.
- *Smart v. US Dept. of Veteran Affairs*, 759 F. Supp. 2d 867 (W.D. Tex. 2010), Plaintiff alleges a Section 1983 violation when he was denied benefits by the VA, after the VA concluded that he did not meet the statutory definition of being "homeless" for the purpose of receiving HUD-VASH benefits. Judgment for Defendants; Plaintiff relied on incorrect definition of "homelessness" at the time of his application for benefits. Factual circumstances precluded him from stating a valid claim.

Ending Housing Discrimination Against Service Members and Veterans Act of 2012

- Sponsored by Sen. Scott Brown (R, MA).
- Protects active-service members of the military, as well as veterans.
- Same protections as Fair Housing Act;
- Same exemptions as Fair Housing Act (*i.e.*, Religious Organization or Private Clubs)
- Also prevents “renting or selling a dwelling **only** to service members or veterans.”
- Bill expired after being referred to Committee on Banking, Housing, and Urban Affairs on June 11, 2012.

Recommendations and Solutions

General consensus of the studies and agencies:

1. Provide assistance to veteran community-based nonprofit groups;
2. Increase health care for homeless veterans;
3. Learn from the past and be prepared for the return of the veterans from current wars;
4. Prepare to deal with female veterans and their needs (VA anticipate 1.8 million females veterans in 2010);
5. Promote permanent supportive housing, improve services for veterans and focus on prevention of homelessness;
6. State agencies should include veterans as a protected class.

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JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Monday, February 27, 2012

**Justice Department Settles Disability Discrimination Case
Involving Disabled Veteran in Utah**

WASHINGTON - The Justice Department today announced a \$20,000 consent decree that resolves a lawsuit alleging that a Park City, Utah, condominium association and its management company violated the Fair Housing Act by refusing to grant a resident's request for a reasonable accommodation.

The lawsuit, filed on Nov. 21, 2011, in U.S. District Court for the District of Utah, alleges that the Fox Point at Redstone Association, Property Management Systems and on-site property manager Derek Peterson refused to grant a reasonable accommodation so that Thomas Burton, a disabled combat veteran of the first Gulf War, could keep a small dog in the condominium he rented to help him cope with the effects of depression and anxiety disorder. The lawsuit further alleges that the defendants refused to waive their pet fees and insurance requirements and issued multiple fines that eventually led to the non-renewal of Burton's lease.

Under the consent decree, which was entered by the U.S. District Court in Utah, the defendants will pay \$20,000 in monetary relief to Burton. Additionally, the defendants will attend fair housing training; implement a new reasonable accommodation policy that does not charge pet fees to owners of service or assistance animals and does not require them to purchase liability insurance; and comply with notice, monitoring and reporting requirements.

"In this case, a combat veteran was denied an assistance animal for his disability," said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division. "We are pleased that this settlement will compensate Mr. Burton and protect the housing rights of others who need this accommodation."

"Enforcing the fair housing rights of persons with disabilities in Utah, including disabled veterans, is a priority of this office. We will continue to work to ensure that disabled veterans are not denied accommodations they need to live independently," said David B. Barlow, U.S. Attorney for the District of Utah.

"No veteran should be denied the right to have a support animal when they return home with mobility impairments or other conditions," said John Trasviña, Department of Housing and Urban Development (HUD) Assistant Secretary for Fair Housing and Equal Opportunity. "HUD and the Department of Justice are committed to enforcing the Fair Housing Act and ensuring that housing providers grant people with disabilities reasonable accommodations."

The lawsuit arose as a result of a complaint filed by Burton with HUD. After an investigation of the complaint, HUD issued a charge of discrimination, and the Fox Point at Redstone Association elected to have the case heard in federal court.

The federal Fair Housing Act prohibits discrimination in housing based on race, color, religion, national origin, sex, disability and familial status. More information about the Civil Rights Division and the laws it enforces is available at www.justice.gov/crt. Individuals who believe that they may have been victims of housing discrimination can call the Housing Discrimination Tip Line at 1-800-896-7743, email the Justice

HUD > Press Room > Press Releases > 2010 > HUDNo.10-083

HUD No. 10-083
Shantae Goodloe
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FOR RELEASE
Tuesday
April 20, 2010

HUD CHARGES MIAMI HOUSING CORPORATION WITH DISCRIMINATING AGAINST DISABLED
VETERAN

Corporation allegedly refused to make Vietnam veteran's unit accessible

WASHINGTON - The U.S. Department of Housing and Urban Development today announced that it is charging the Urban League Housing Corporation of Greater Miami, Inc., its president, and a management company with violating the Fair Housing Act by refusing to make one of its units accessible for a disabled veteran. HUD brings the charge on behalf of a 71 year-old double amputee veteran, who uses a wheelchair for mobility. In addition, the Corporation allegedly refused to transfer the veteran to an accessible unit and threatened to evict him after he sought assistance from the Miami-Dade County Commissioner's office.

[The Fair Housing Act](#) makes it unlawful to refuse to grant persons with disabilities reasonable accommodations, such as changes to rules, policies or practices that allow them to fully enjoy their home. The Fair Housing Act also prohibits coercing, intimidating, threatening, or interfering with a person for having exercised their fair housing rights.

"Veterans deserve our thanks and respect whether their service to the nation was this year or fifty years ago," said John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "Moreover, landlords have a legal obligation to grant people with disabilities reasonable accommodations. HUD is committed to ensuring that they meet these fair housing responsibilities."

According to HUD's charge, the veteran's social worker made several requests to the Urban League Housing Corp. to install accessible features, including wider doorways, or to transfer him to an accessible unit, but was refused. Shortly thereafter, the tenant contacted the Miami-Dade County Commissioner's Office for assistance. After a staff person from the Commissioner's office visited the property, the veteran was transferred to another unit, that was not accessible. When the veteran moved back into his original unit six months later, the unit had still not been

made accessible and its stove had been removed.

The HUD charge will be heard by a United States Administrative Law Judge unless any party to the charge elects to have the case heard in federal district court. If an administrative law judge finds after a hearing that discrimination has occurred, he may award damages to the complainant for the discrimination. The judge may also order injunctive relief and other equitable relief to deter further discrimination, as well as payment of attorney fees. In addition, the judge may impose fines in order to vindicate the public interest. If the matter is decided in federal court, the judge may also award punitive damages to the aggrieved person.

FHEO and its partners in the Fair Housing Assistance Program investigate more than 10,000 housing discrimination complaints annually. People who believe they are the victims of housing discrimination should contact HUD at 1-800-669-9777 (voice), 800-927-9275 (TTY).