

LEGAL GUIDE FOR FAMILY MEMBERS OF DEPLOYING SOLDIERS



**Legal Assistance Office
Office of the Staff Judge Advocate
United States Army Fires Center of Excellence and Fort Sill
Fort Sill, Oklahoma 73503
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LEGAL GUIDE FOR FAMILY MEMBERS

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Legal Assistance Office Information



WHERE ARE WE LOCATED?

- The Fort Sill Legal Assistance Office is located on the fourth floor of the Welcome Center at Hartell Hall, Building 4700, Suite 400 (4700 Mow-Way Road).



TELEPHONE NUMBERS

- The Fort Sill Legal Assistance Office telephone numbers are (580) 442-5058 and 442-5059.



WHO IS ELIGIBLE FOR LEGAL ASSISTANCE?

1. Active-duty military members from all service branches and commissioned officers of the U.S. Public Health Service and their ID card-holding family members;
 2. Military retirees and their ID card-holding family members; and
 3. Reserve Component military personnel on active duty for more than 29 days and their ID card-holding family members.
- ❖ **All those seeking legal assistance will be asked to present a valid military ID card.**



HOURS OF OPERATION

- ❖ **Office Hours:** The Legal Assistance Office is open Monday through Wednesday and Friday from 0900 to 1600 and Thursday from 1300 to 1600. Please call to make an appointment for Monday, Wednesday or Friday, or come in during our walk-in hours on Tuesday and Thursday.
- ❖ **Notary service and powers of attorney** are provided on a nonappointment, walk-in basis Monday, Tuesday, Wednesday and Friday from 0900 to 1600 and on Thursday from 1300 to 1600. A valid military ID card is required for service.

Powers of Attorney (POAs)

- ❖ A POA **allows another person** (called an “agent” or “attorney-in-fact”) **to act for another** (called a “principal”) and to conduct business and enter into obligations in the principal’s name.
- ❖ A **principal is legally bound** to contracts and agreements made and actions taken using a POA.
- ❖ **Third parties are not required to accept a POA.** An agent is required to present the original signed and notarized document. Photocopies are not a sufficient substitute.
- ❖ A power of attorney **must be signed by a principal under oath and before a notary public and notarized** by the notary public who administered the oath and observed the signature.

❖ **Types of POAs**

General: authorizes an agent to do, in the principal’s name almost everything the principal could do including:

- Borrowing money, buying or selling property, and incurring financial obligations.
- A POA should be given only to a trusted agent with good judgment and financial maturity. An agent should be someone well known by the principal who would only act in the principal’s best interests.
- A POA becomes void if the principal becomes incompetent or incapacitated.
- **A POA is a very powerful legal document!** *Giving a general power of attorney to an untrustworthy or unstable person can result in lawsuit and significant financial trouble.*

Special: grants limited authority to do specific things in the principal’s name.

- For example, to buy or sell a specific property, receive or ship household goods, register a vehicle, make deposits or withdrawals, prepare income tax returns, etc.
- An agent can only do the specific matter identified in the written document.
- Becomes void if the principal becomes incompetent or incapacitated.
- **DFAS requires its own special power of attorney to start, stop or change allotments and will accept no other, including a general power of attorney.**

Durable: the only POA form **which remains effective** and can be used to conduct the principal's business and make decisions if the principal becomes incompetent or incapacitated.

❖ **Important Considerations**

- ✓ **Choose a POA agent wisely!** Give a POA only to a completely trustworthy person.
- ✓ **Plan ahead!** It is recommended to use one or more special POAs rather than a general POA, which offers greater protection for the principal.
- ✓ **Expiration of a POA.** POAs prepared by the Fort Sill Legal Assistance Office are usually prepared for one (1) year's duration or the length of deployment plus three months, although special circumstances may justify a longer expiration date. POA duration should be limited to the shortest period of time necessary to accomplish the purpose of the POA.

❖ **How to Revoke a POA**

- ✓ A POA can be revoked at any time before the stated expiration date.
- ✓ Notification of the revocation of a POA must be provided to the agent in writing and a copy of the notice of revocation should be retained.
- ✓ All third parties where the POA was or may be used should be notified of the revocation.
- ✓ The agent should be directed to return the original POA.

Last Will and Testament

➤ **What is a will?**

- A Last Will and Testament is a legal document distributing the real and personal property owned at the time of death and appointing persons to take care of important responsibilities after death. It must be created and finalized according to the procedures required by law.

➤ **Why would I want a will?**

- To distribute property to those whom you want to receive it.
- To designate guardians of minor children and trustees and custodians to manage their inheritance until they become adults.
- To name an executor – the person who will be responsible for administering a deceased person's estate and ensuring that the directions in the will are followed.

➤ **Does everyone need a will?**

- No, not everyone needs a will, but anyone may have one prepared.
- Anyone who has minor or disabled children, non-traditional families, property owned in a sole name, or wants to disinherit specific persons should have a will.
- If you have family members (including a spouse, if you are separated or in the process of getting divorced) whom you do not wish to receive property upon your death, special provisions must be made in your will. You may designate other individuals, charities, or other organizations, to receive your property.

➤ **Does the state take your property if you die without a will?**

- **No, this is a common myth!**
- Each state has laws determining what happens to your property if you die without a will.
- Most states search for your closest living blood relatives and distribute your property to them.
- For example, in many states, if you are single and have no children, your property would go to your parents in equal shares, even if they are divorced.
- If you want to know what the law is in your state if you die without a will, consult a Legal Assistance Attorney.

➤ **Can I be ordered to get a will?**

- You cannot be ordered to make a will or power of attorney by anyone, including the Army. Such documents are your personal legal business and must be completely voluntary.
- Soldiers without wills are fully deployable.
- Your will should not be given to your unit for safekeeping. It is your personal legal document.

➤ **How long does a will remain valid?**

- Your will remains in effect until you revoke it by destroying it or by making a later will.
- You should review your will at least yearly to make sure no major life changes have occurred that affect the decisions made in your will. For example, if you get married or divorced, have a child or someone you named in your will passes away, you should have a new will prepared.

➤ **Is my SGLI included under the will?**

- Your SGLI and all other life insurance are **NOT** included in or controlled by your will. SGLI (and all other life insurance) will be paid only as you designate on your beneficiary forms. Your will cannot control your insurance beneficiaries or how life insurance proceeds will be distributed.
- Naming minor children as beneficiaries on your SGLI beneficiary forms is not advisable, as **SGLI PROCEEDS CANNOT BE PAID DIRECTLY TO A MINOR** and a court guardianship for the minor will be required.
- You should consider establishing a custodianship or trust instead in your will. Consult a Legal Assistance Attorney for specific information.
- If you want to create a custodianship or a trust for a minor funded by your SGLI, your Legal Assistance Attorney will provide specific information for completing your beneficiary designation form.

➤ **How long does it take to get a will at the Legal Assistance Office?**

- For routine wills it is a two appointment process involving completing an estate planning worksheet, reviewing that with an attorney, drafting of your legal documents, and then finalization (or execution) conducted according to the requirements of law.
- More complex wills involving extensive property, pre-existing planning arrangements, or complicated family arrangements may require additional appointments.



Family Support

- The Army requires Soldiers to be financially responsible for supporting their families.
- Court Ordered Support: **Court ordered family support does not stop while Soldiers are deployed.** Soldiers must establish allotments or take other steps to meet support obligations. Soldiers who do not may be sued in Court while deployed and subject to military discipline for failing to comply with the Army support regulation.
- **AR 608-99:** Interim Support
 - ◆ **When does AR 608-99 apply?**
 - 608-99 applies when a Soldier is not residing with his/her family members and no Court order or written support agreement exists.
 - ◆ **How much interim support must a Soldier pay?**
 - It is based on the BAH II-WITH (non-locality BAH, now known as BAH RC/T-WITH) and depends on a Soldier's rank, how many family members are entitled to support, and whether they live in government quarters.
 - ◆ **What is BAH II? Doesn't the Soldier just pay the whole BAH?**
 - BAH II **IS NOT** the same as BAH. In some cases, it is lower than the Soldier's BAH; in some cases it is higher. It is a rank-based amount created from the old BAQ at the with-dependents rate.
 - ◆ **Does the servicemember have to pay this BAH II-WITH even when no receiving BAH?**
 - Yes. The support obligation applies regardless of whether the Soldier is actually are receiving BAH.
 - ◆ **When is the money due?**
 - The support is due on the first day of the first month following the separation. So if the spouse left on January 14, the servicemember will owe support no later than February 1.
 - ◆ **Why does the Soldier have to pay if the spouse is the one at fault?**
 - AR 608-99 is a no-fault regulation; the Army will not get involved in determining who is at fault. However, there are a very limited number of exceptions to this requirement and the Battalion Commander after consultation with the Staff Judge Advocate is the authority for relieving a Soldier of this support obligation.

- ◆ **What happens if the Soldier does not pay?**
 - The spouse can contact the Soldier's commander, the Inspector General (IG), the local Legal Assistance Office, Congressional representative, or Department of the Army. AR 608-99 is a lawful, general regulation with punitive provisions. The Soldier may be subject to administrative, nonjudicial or judicial action for violating it.

- ◆ **What can the Soldier do to stop this obligation?**
 - A Court order or written agreement addressing support will relieve the Soldier of the support obligation under 608-99. Also, a battalion commander has the authority to relieve the Soldier from the obligation in extremely narrow circumstances.

- ◆ **What types of payment can the Soldier make?**
 - The Soldier can pay with cash, check, money order or an allotment. The Soldier can also pay with an electronic fund transfer or garnishment (or wage assignment).
 - Paying in cash is NOT recommended, because it leaves the Soldier without proof of payment.
 - Instead of monetary payment to family members entitled to support, Soldiers may make an "in-kind" payment but only for the rent or mortgage where the Soldier's family actually lives. Some escrow payments and essential utilities may also be covered. The Soldier must be financially responsible for the housing costs in order to make an "in-kind" payment, which generally means that the Soldier is on the deed, mortgage, or lease.
 - If the Soldier makes an "in-kind" payment that is less than the required support, the Soldier must pay the difference to the appropriate supported family member(s).
 - No other types of payment will satisfy AR 608-99 without the agreement of the family members entitled to the support.

Servicemembers Civil Relief Act (SCRA)

- **Six Percent (6%) Interest Cap:**
 - ◆ Creditors may not charge more than six percent (6%) on the servicemember's *pre-service* obligations as long as the Soldier is on active duty and his or her military service materially affected the Soldier's ability to pay at the higher interest rate. However, the creditor must be informed of the servicemember's active duty status, and the Soldier must request the interest reduction. *Pre-service* mortgage obligations may remain at the reduced interest rate for up to a year after the Soldier's military service is over.
 - ◆ A creditor has the burden of showing that the servicemember's military service does not materially affect his or her ability to pay.

- ◆ This protection also covers the spouse if he or she is on the account jointly.
 - ◆ Without the Soldier's consent, the creditor cannot keep the Soldier's monthly payments the same and apply the amount over six percent to the principal. The law requires the creditor to lower the servicemember's monthly payments because the Soldier's interest was reduced.
 - ◆ This provision applies to *pre-service* federal or private student loans, mortgages, credit card debt, and other loans.
- **Putting a Civil Proceeding (Lawsuit) on Hold:** A military member who is a party to a civil Court proceeding may request a "stay" from the Court for the proceeding to be put on hold for a later date.
- ◆ The servicemember does not have to be the defendant; the Soldier could be the plaintiff and request a stay.
 - ◆ Administrative hearings such as child support hearings and paternity claims are now covered. A 90-day stay must be granted if requested by the servicemember *in the correct way*. If the Court denies the request for a delay, the Court must appoint an attorney to represent and protect the interests of the servicemember.
 - ◆ The servicemember will need to write a letter that states why the Soldier's current military duties materially affect the servicemember's ability to appear at court. The letter must also state a date when the servicemember could appear in court. The servicemember's commanding officer also needs to write a letter that states that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.
 - ◆ The maximum period for the stay is the service period plus three months, BUT...
 - ◆ **Be Reasonable** in the request or the Court will not approve it. Ask for the minimum amount of time needed before the Soldier can take leave and also explain why the Soldier cannot come on the original date. State the earliest date the servicemember anticipates being able to appear.
 - ◆ **The burden is generally on the Soldier to show that the Soldier's military service has a "material effect" on the servicemember's ability to come to Court.** Is the servicemember overseas? Deployed? Is leave possible? Was a request for leave denied?
 - ◆ **If a Court determines the Soldier's presence is not essential to the proceeding, it may find no material effect and refuse to grant a stay. That means the lawsuit goes ahead without the servicemember.**
 - ◆ **If material effect is found,** the Court *must* grant a stay.
 - ◆ **How to Request a Stay:** Have the Soldier's commander write a letter to the Court. A Legal Assistance Attorney can provide a sample letter, but is not permitted to send the letter.
 - ◆ This law does not apply to proceedings in foreign Courts and criminal courts.

- **Statute of Limitations:** The statute of limitations for an administrative or civil proceeding may be tolled (stopped and the time does not count against the Soldier) during the Soldier’s period of service. This **does not apply to internal revenue laws**. The Soldier is not required to show material effect. There may be other dangers in waiting, so consult a Legal Assistance Attorney for advice on your particular situation.

- **Protection from Eviction:** The Soldier and his or her family members may not be evicted for not paying rent without a Court order if the rent is under a certain amount, which changes yearly. The Court has the authority to stay the eviction proceeding for up to three months. There are criminal sanctions for taking part in an eviction violating this provision.

- **Terminating a Lease:** Leases may be terminated by one who has entered into the lease (the “lessee”) if the premises are occupied or intended to be occupied by a servicemember or servicemember’s dependents, and:
 - (1) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service,
 - (2) the servicemember executes the lease and then must move pursuant to permanent change of station (PCS), or
 - (3) The servicemember executes the lease and then must deploy for 90 days or more.

The lessee must give written notice to the landlord of the termination, together with a copy of the military orders. In most situations, the termination is effective 30 days after the date the next rental payment is due after notice has been given to the landlord. If you intend to terminate a lease, see a Legal Assistance Attorney to ensure you are enforcing and protecting all of your rights.

- **Mortgage Foreclosures:** If the Soldier owned the mortgaged property before entering on active duty and the Soldier’s military service materially affects his or her ability to make the monthly payments, a Court has several options if the servicemember is sued for foreclosure. It can stay foreclosure proceedings, reduce or suspend installment payments or reopen or set aside a foreclosure judgment.

- **Installment Contracts:** If the Soldier purchased or leased real or personal property (including an automobile lease with an “option to purchase”) before entering on active duty and made a payment before coming on active duty, the creditor cannot repossess the property or terminate the contract unless approved by Court action. Except for leases of automobiles in certain situations, the servicemember generally **MAY NOT** declare the contract canceled.

- **Motor Vehicle (Automobile) Leases:** Leases of automobiles used, or intended to be used, by a servicemember or a servicemember’s dependents for personal or business transportation may be terminated if:

- (1) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under an order for service of 180 days or more, or
- (2) the servicemember, while in military service, executes a lease and thereafter receives PCS or deployment orders of 180 days or more.

If the Soldier receives deployment orders of less than 180 days and would like to terminate his or her lease, please contact a Legal Assistance Attorney for assistance.

- **Storage Liens:** If the Soldier has property in storage and does not pay the storage fees, the storage facility cannot foreclose its lien and sell the stored property during the servicemember's period of active duty service and for 90 days after the servicemember's service ends unless it gets a Court order. "Lien" includes a lien for storage, repair, or cleaning of the property or effects of a servicemember.
- **Waiver of SCRA Rights:** In most situations, it is possible for the Soldier to waive some of his/her rights under the SCRA. Since the SCRA affords significantly more protections to servicemembers and their dependents than former laws, creditors, landlords, and others are increasingly attempting to obtain SCRA waivers from servicemembers. Contact a Legal Assistance Attorney before waiving any SCRA rights.



Landlord-Tenant

- **Military Clauses**
 - The SCRA gives protections that cannot be restricted in a lease. However, a landlord and tenant are free to agree to lease terms that provide MORE protections than provided in the federal Servicemembers Civil Relief Act. For example, the Soldier might try to negotiate a “**military clause**” in the lease that allows the Soldier to end the lease on fairly short notice such as 15 or 30 days, or that allows the Soldier to end the lease early without penalty when on-post residential housing becomes available. Even if a “military clause” is not included in your lease, the SCRA provides protections as explained above.

- If you are not sure whether a lease has such a clause, or what it covers, you should **bring a copy of the lease to a Housing Counselor or to a Legal Assistance Attorney for review before you sign it!**
- Some military clauses cover moves to military housing when space becomes available; most do not. Read and make sure you understand your lease before you sign! It is a legal contract and you can be sued if you don't follow it.
- **Prohibited Terms**
 - The following lease terms are **prohibited** under the Oklahoma Residential Landlord Tenant Act (ORLTA) and are **unenforceable**. **If you see one of these terms in your lease, visit with Housing Services or a Legal Assistance attorney!**
 - Waiver of rights and remedies under ORLTA
 - Waiver of your right to appear in court
 - Agreement to pay the landlord's attorney fees
 - Limitation or indemnification for damages to people or property caused by *you or the landlord*.
 - Penalty provisions (*e.g.*, certain fees)
- **Security Deposits:**
 - Some leases require forfeiture of all or part of your security deposit if you don't follow all provisions of the lease, including ending the lease early. Others do not.
 - Under **Oklahoma law**, you must make a demand in writing that your security deposit be returned. **The burden is on YOU to make a written demand for your security deposit to the landlord.** A landlord may keep all or part of your security deposit for any damages to the property caused by you but must itemize the damages in writing to you. If you make a written demand for return of your security deposit, the landlord **must** return the balance of your security deposit within 45 days. If you do not make written demand of your security deposit within six months of the termination of your tenancy, the landlord may keep it.
 - You cannot require your landlord to treat the security deposit as part or all of your final rent or any remaining rent and late charges you owe. The landlord makes that decision.

Consumer Law Issues

➤ Avoiding Consumer Scams:

- ◆ **Shop Around!** Compare goods and services, warranties or guarantees, and prices carefully. Look for the best interest rate possible on big-ticket items.
- ◆ **Some businesses target the military!** Watch for these frequent scams -- educational assistance companies, cameras with film processing packages, encyclopedias, magazines or other books, jewelry, vitamins, time shares, health club memberships, and discount buying services.
- ◆ **Read the fine print!** If you do not understand the contract, see a Legal Assistance Attorney before signing it. *Think before you ink!*
- ◆ **You cannot rely on what the salesperson says!** Get all promises in writing.
- ◆ **Credit life insurance, credit disability insurance, and similar contract “add-ons”** are rarely necessary. They just drive up your contract price.\
- ◆ **Education!** The Consumer Financial Protection Bureau (CFPB) was created in 2010 to educate, enforce, and study American consumer law issues. You may ask general consumer and financial questions to the CFPB at the following link: <http://www.consumerfinance.gov/askcfpb/>. You may also file a consumer complaint with the CFPB at <http://www.consumerfinance.gov/askcfpb/> if you continue to experience consumer-related issues.

➤ The Cooling Off Rule

If you buy something costing \$25 or more at your home or some other location that is not the seller's permanent place of business after being solicited, you have three business days (including Saturday) to change your mind and cancel the contract.

- ◆ **What is NOT covered:**
 - **Sales under \$25**
 - Sales for goods not primarily intended for personal, family or household use
 - **Sales entirely made via mail or phone**
 - Sales resulting from negotiations at the seller's permanent business location where such goods are regularly sold
 - Real estate, insurance or securities (stocks)

- Motor vehicles as long as the seller has a permanent place of business
- Arts and crafts sold at fairs, malls, schools, etc.

◆ **How to Cancel**

- Sign and date a copy of the cancellation form and mail it to the address given for cancellation. (If you did not receive a cancellation form, write your own cancellation letter and follow the same procedure.)
- Be sure it is postmarked no later than midnight of the third business day. (Sundays and federal holidays do not count.)
- Keep a copy for your records.
- The seller has 10 days to refund your money, cancel and return any promissory note you signed and return any trade-in.
- Within 20 days, the seller must either pick up the items you received or reimburse your mailing expenses if you agreed to send back the items.
- If you received any goods from the seller, you must make them available in their original condition. If you do not do so, you will still be held to the contract!

- ◆ Verbally canceling with the salesperson is not enough! Don't be tricked.
- ◆ **You do not have to have a reason for the cancellation! Just do it.**
- ◆ If you are not certain whether a recently-signed contract falls under this rule, consult a Legal Assistance Attorney as soon as possible.

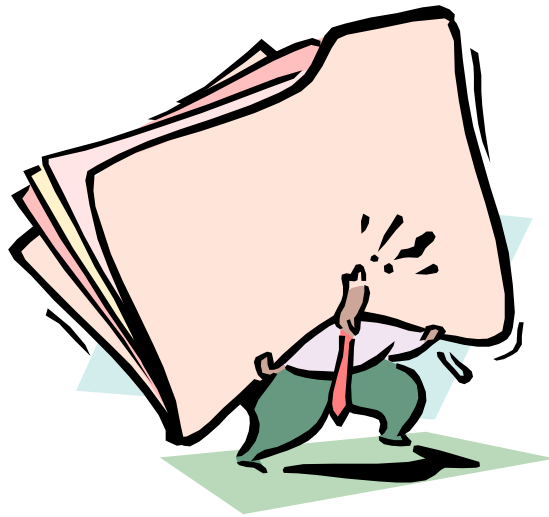
➤ **PLEASE NOTE:** After January 1, 2015, the Department of Defense Financial Management Regulation (FMR) will **prohibit** any new allotments for payments/deposits for the purchase, lease, or rent of personal property. These prohibited allotments will include, but are not limited to, payments for vehicles, appliances/household goods, and electronics. *Existing allotments will not be affected.* The FMR will *not* prohibit allotments made to savings accounts, support of dependents, insurances, mortgages, rents, or investments.



Payday Loans:

- ◆ Under the Truth in Lending Act, the lender must disclose the total cost of payday loans.

- ◆ This includes: the finance charge (in dollar amount) and the annual percentage rate or APR (the cost of credit on a yearly basis) IN WRITING.
- ◆ **Make a Complaint:** If you believe a lender violated the Truth in Lending Act, file a complaint with the Federal Trade Commission (FTC).
<http://www.ftc.gov/bcp/online/pubs/alerts/pdayalrt.htm>
- ◆ **You Have Other Options!**
 - Shop around for credit offers
 - Make sure you know and understand the terms
 - Consider a small loan from your credit union, a pay advance from your employer or a loan from family or friends
 - Ask your creditors for more time to pay your bills. Be sure to find out about late charges.
 - Make a budget and try to avoid unnecessary purchases.
 - Build up some savings to act as a cushion.
 - Find out about overdraft protection on your checking account.
 - If you need a debt repayment plan, contact your local Consumer Credit Counseling Service to negotiate with your creditors. The Lawton phone number is 357-3932. Also, consult ACS or the unit Command Financial Advisor.
 - If you must use a payday loan, borrow only as much as you can afford to pay back with your next paycheck and still meet your other necessary expenses. Don't dig yourself into a deeper hole.



➤ Debts and Debt Collection

- ◆ Commanders can initiate administrative or disciplinary action against Soldiers who fail to pay their just debts.

- ◆ The Fair Debt Collection Practices Act (FDCPA) requires that debt collectors treat you fairly. It prohibits certain methods of debt collection.
- ◆ **The FDCPA does not erase your legitimate debts!**
- ◆ **What debts are covered?**
 - Debts for personal, family or household items are covered under the FDCPA. This includes credit cards, medical debts, and automobiles.
- ◆ **Who is a debt collector?**
 - A debt collector is any person who regularly collects debts owed to others, including attorneys who collect debts on a regular basis.
- ◆ **What contact methods can debt collectors use?**
 - A debt collector may contact you in person, by mail, telephone, telegram or fax. However, a debt collector may not contact you at inconvenient times (2100-0800), unless you agree.
- ◆ **Can you make them stop contacting you?**
 - You can stop a debt collector from contacting you by writing a letter telling them to stop. Once a collector receives your letter, it may not contact you again except to tell you there will be no further contact or to notify you of specific action the creditor intends to take, such as to sue you. **Just because collection action stopped does not make a legitimate debt go away!**
- ◆ **May a debt collector contact anyone else about your debt?**
 - If you have written the collector you have an attorney, the debt collector must contact the attorney instead of you. If you do not have an attorney, the collector may contact others, but only to try to get your contact information. It may not discuss your debt with others.
- ◆ **What information must the debt collector give you?**
 - Within five days after you are first contacted, the collector must send you written notice, including the amount of money you owe; the name of the creditor; and what action to take to dispute the debt.
- ◆ **What if you dispute the debt?**
 - A collector may not continue to contact you if, within 30 days of receiving the written notice, you send the collection agency a letter

stating you do not owe the money and dispute the debt. However, if the collector can prove the debt, it can renew collection activities.

- ◆ **What sorts of debt collection practices are forbidden?**
 - **Harassment:** including threats, obscene language, constant calls.
 - **False or Misleading Statements**
 - **“Unfair practices”**

- ◆ **What are false or misleading statements? Some examples include:**
 - Claiming to be an attorney or government representative if they are not.
 - Claiming you committed a crime.
 - Claiming you will be court-martialed if you don’t pay.
 - Claiming the forms sent are legal forms if they are not. Conversely, claiming legal forms are NOT legal forms.
 - Claiming you will be arrested if you do not pay the debt.
 - Using a false name or misrepresenting who it is.

- ◆ **What are “unfair practices?”**
 - Trying to collect any amount greater than the debt owed, unless state law permits such a charge.
 - Depositing a post-dated check earlier than promised.
 - Using deception to make you accept collect calls.
 - Taking your property, or threatening to do so, unless it is legal to do.
 - Contacting you by postcard.

- ◆ **What can you do if you think someone has violated the FDCPA?**
 - You have the right to sue a debt collector in a state or federal Court within one year from the date of the violation.
 - If you win, you may recover damages. You may also recover Court costs and attorneys’ fees.

- ◆ **Where can you report a violation?**
 - Report any problems you have with a debt collector to your state Attorney General’s office and the FTC. The Attorney General’s office can help determine your rights under state law. You may also consult a Legal Assistance Attorney to find out your rights.

➤ **Credit Reports:**

- ◆ The Fair Credit Reporting Act (FCRA) is designed to promote accuracy in your credit report.
- ◆ **Do not believe magic credit repair offers!** No one can legally remove accurate and timely negative information from a credit report.
- ◆ **How long does negative information stay on my credit report?**
 - Generally, accurate negative information can be reported for seven years, BUT some exceptions include...
 - Bankruptcy information can be reported for 10 years;
 - Information regarding a lawsuit or judgment against you can be reported for seven years, or until the statute of limitations runs out, whichever is longer; and
 - Default information regarding federally insured or guaranteed student loans can be reported for seven years after certain guarantor actions.
- ◆ **How do I get a copy of my credit report?**
 - Contact the three major national credit bureaus
 - **Equifax**, P.O. Box 740241, Atlanta, GA 30374
(800) 685-1111
 - **Experian**, P.O. Box 949, Allen, TX 75013
(888) EXPERIAN (397-3742)
 - **Trans Union**, P.O. Box 1000, Chester, PA 19022
(800) 916-8800
 - Also, anyone who denies you credit, insurance or employment based on a credit report must give you the name, address and telephone number of the Credit Reporting Agency (CRA) providing the report.
 - In addition, the CRA must tell you everything in your report and give you a list of everyone requesting your report in the past year (two years for employment).
- ◆ **Is there a charge for a copy of my credit report?**
 - You are entitled to one free credit report each year. You can access your annual free credit report at <https://www.annualcreditreport.com/index.action>. After that a CRA may charge up to \$11.00 for a copy of your credit report.
 - However, there is no charge if a company takes adverse action against you, such as denying you credit, insurance or employment based on your credit report. However, you must request the free report within 60 days of receiving notice of the adverse action.
 - If you fall into any of the following categories, you also may be entitled to one free credit report per year:

- You are unemployed and plan to look for work within 60 days;
- You are on welfare; or
- Your report is inaccurate because of someone else's fraud.

◆ **How can I protect my credit?**

- Request your credit report regularly to inspect for errors and determine whether accounts have been opened without your knowledge or consent.
- Initiate an **active duty alert** on your credit. An active duty alert indicates that you, the consumer, do not authorize any new credit, an additional card on existing accounts, or increases in the credit limits on existing accounts. Any credit user attempting to initiate new actions on your accounts must verify your identity and consent via phone. This alert is good for twelve months. Find the directions to start an alert at <http://www.consumer.ftc.gov/articles/0273-active-duty-alerts>.
- **Freeze your credit.** This will completely lock your credit to any and all activity, even by you. Once initiated, you will receive a PIN number – **do not lose this number**. If you ever need to open a new account or make any adjustments, you will need the PIN to “unfreeze” your credit. Find more information on starting a credit lock at <http://www.consumer.ftc.gov/articles/0497-credit-freeze-faqs#place>.

◆ **What can I do about incorrect information on my credit report?**

- First, detail in writing to the CRA exactly what information you think is incorrect. The CRA must investigate the item, typically within 30 days. The CRA must forward all relevant data you provide to the information provider.
- Once the information provider receives notice of the dispute, it must investigate and report the results to the CRA.
- If the information provider finds a mistake was made, it must notify all nationwide CRAs so they can correct your file.
- When the reinvestigation is complete, the CRA must give you the written results and a free copy of your report if it was changed as a result.
- Finally, tell the creditor in writing you dispute an item. If the creditor reports the item to a CRA, it must include notice of your dispute.

◆ **What if my credit report is not corrected after I dispute the report?**

- If the reinvestigation described above does not end the dispute, ask the CRA to include your statement of the dispute in your file and

in future reports. You may also request the CRA provide your statement to anyone who recently received a copy of the old report. There is usually a fee for this service.

◆ **Who can get a copy of my credit report?**

- Only people with a legitimate business need recognized by the FCRA. For example, a company can get your report if you apply for credit, insurance, employment, or to rent an apartment. Your employer can only get your report with your consent. [CHECK]

◆ **Are there any other laws I should know about?**

- Yes. The Equal Credit Opportunity Act requires any creditor denying your credit application to specify why if you ask. You may want to find out why your credit was denied before contacting the CRA.
- You are also entitled to a free credit report from specialty CRAs as well. These CRAs track your history in relation to certain industries (i.e., your rent payment history, utility payment history, etc.). Find more information and get your free annual reports at <http://www.consumerfinance.gov/askcfpb/1813/what-are-specialty-consumer-reporting-agencies-and-what-kind-information-do-they-collect.html>.
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◆ **Where should I report violations?**

- Send your questions or complaints to: Consumer Response Center – FCRA, Federal Trade Commission, Washington, D.C. 20580.

◆ **Do I have the right to sue for damages?**

- You can sue a CRA, a user of a credit report, or a provider of CRA data, in state or federal Court for most FCRA violations. If you win, the defendant will have to pay damages and reimburse your attorneys' fees if ordered by the Court.



Identity Theft

- ◆ **Protect your personal information!**
 - **Guard your social security number** carefully. Ask to use another method of identification, if possible. Ask what law requires you to give them your social security number.
 - **Do not carry your social security card**; keep it with your other important documents. Carry only the identification and cards you really need.
 - Find out how your information will be used **before** you share it.
 - Pay attention to your billing cycles. **If a bill does not arrive when it usually does, call the creditor.**
 - **Guard your mail** from theft. If you will be out of town and cannot pick up your mail, request a vacation hold at the Post Office.
 - **Get password protection** on your credit cards, bank accounts, etc.
 - **Make your passwords and PIN numbers difficult to guess.**
 - **Never** give out personal information over the phone, by mail or online unless you initiated the contact or you are certain of the identity of the person on the other end.
 - Shred or burn documents with your personal information, including unwanted credit card offers. Cut up expired credit cards.
 - Keep your personal information in a safe place; do not leave it out in the open.

- ◆ **If you believe someone stole your identity:**
 - **First**, contact the fraud departments of each of the three major credit bureaus, tell them you are a victim and request they place a “fraud alert” in your file. Also, order a credit report from each bureau.
 - **Equifax**, P.O. Box 740241, Atlanta, GA 30374
(800) 685-1111
 - **Experian**, P.O. Box 949, Allen, TX 75013
(888) EXPERIAN (397-3742)
 - **Trans Union**, P.O. Box 1000, Chester, PA 19022
 - **Second**, contact the creditors for any accounts tampered with or opened fraudulently. Ask to speak with the fraud department and follow up with a letter. Immediately close the accounts and open new password or PIN-protected accounts.
 - **Third**, file a report with your local police or the police in the place you believe the theft occurred. Be sure to get a copy of the police report to help deal with creditors.

- **Fourth, if your checks were stolen or misused**, stop payment. The following companies can help you track down the checks:
 - **SCAN:** 1-800-262-7771
 - **TeleCheck:** 1-800-710-9898 or 1-800-927-0188
 - **Equifax Check Systems:** 1-800-437-5120
 - **International Check Services:** 1-800-526-5380
- **Information regarding identity theft is available in the Legal Assistance Office with the necessary instructions and affidavits you may pick up.**

Taxes

➤ Federal Income Tax

- Generally, Soldiers are required to file a federal income tax return.
- The **Income Tax Assistance Center (ITAC)**, located on the 4th Floor of Building 4700, Mow-Way Road, is a free service to assist you and your family members during the tax season for both state and federal taxes.
- **Filing Deadline:** Tax returns are due on 15 April.
- **Overseas Extension:** military personnel stationed outside the United States receive an automatic two-month extension until 15 June to file a tax return. This extension does not include an extension of time to pay any tax owed.
 - **Filing Jointly:** only one spouse has to qualify.
 - **Interest Charges:** will be added on any taxes due until paid.

➤ State Income Tax

- Only your state of legal residence may tax your military income.
- If your home state does not tax individual income then no state return is required.
- If the state does not tax military income, you will still need to file a return.
- Any nonmilitary income earned in the state where you are stationed is subject to state taxes.

➤ Extension of Filing Deadline for Military Personnel in a Combat Zone or Qualified Hazardous Duty Area

- **What is a Combat Zone (CZ)?**
 - The President designates an area in which the Armed Forces are or have engaged in combat as a CZ by Executive Order. Refer to: <http://www.irs.gov/uac/Combat-Zones>
- **What is a Qualified Hazardous Duty Area (QHDA)?**
 - Congress designates certain countries as QHDAs through legislation.

- **How do I know if we qualify?**
 - You must serve in a CZ or QHDA on at least one day while it is designated as such.
 - You also may qualify if your service directly supports military operations in a CZ or QHDA. You must meet three conditions:
 - Your direct support maintains, upholds or assists those involved in military operations in the CZ or QHDA;
 - You must be qualified for hostile fire pay or imminent danger pay; and
 - The reason for the hostile fire or imminent danger pay must be based on the risks or dangers of the CZ or QHDA.

- **How much extra time am I allowed?**
 - The time for filing a tax return, paying tax and other tax-related activities is extended for 180 days from the time you leave the CZ or QHDA.
 - If you are hospitalized as a result of an injury occurring in a CZ or QHDA, you get 180 days from the time you are released and travel back to a non CZ/QHDA location.
 - If you are serving in a CZ or QHDA during any part of the tax season (January 1-April 15), you get an additional day for each day you were deployed during that time.

- **How do I file if I qualify?**
 - You may choose whether to file your taxes within the normal filing period or within your extended time.
 - You can have someone else file your taxes by executing a power of attorney. http://www.irs.gov/file_source/pub/irs-pdf/f2848.pdf
 - If you are using the CZ or QHDA time extension, be sure to write the name of the CZ or QHDA at the top of anything sent to the IRS. For example “Operation Enduring Freedom Combat Zone.”

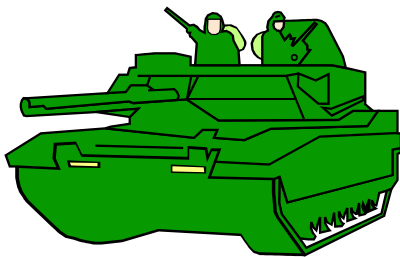
- **Do I have an extension on my state taxes too?**
 - Generally, states follow the federal government’s lead in granting tax relief, but check with the ITAC for your state’s rules.

- **What part of my military pay is not taxed when I serve in a CZ or QHDA?**
 - **Any official presence in a CZ or HQDA** during a month entitles you to exclude part or all of that month’s pay from your gross income.
 - **If you are enlisted or a warrant officer**, you can exclude all compensation received for active service that month.

- **If you are a commissioned officer**, you may exclude your pay limited to the highest rate of enlisted pay (Sergeant Major of the Army) plus imminent danger/hostile fire pay you received each month during any part of which you served in a combat zone or were hospitalized as a result of your service there.
<http://www.irs.gov/pub/irs-pdf/p3.pdf>

❖ **Earned Income Credit (EITC):**

- If married to a nonresident alien spouse, EITC will not be allowed on the married joint return.
- You may be eligible to take EITC if you earned less than \$46,227 (\$51,567 for married filing jointly) if you have three or more qualifying children, \$43,038 (\$48,378) for two qualifying children, \$37,870 (\$43,210) if you have one qualifying child, and \$14,340 (\$19,680) with no children.
- BAH, BAS, or any other allowances are not included in calculating income.
- Use the interactive tax assistant to research tax questions without having to wait on the phone or stand in line. This service is available 24 hours a day, 7 days a week and provides a variety of information.
[http://www.irs.gov/uac/Interactive-Tax-Assistant-\(ITA\)-1](http://www.irs.gov/uac/Interactive-Tax-Assistant-(ITA)-1)



Military Administrative Matters

The Legal Assistance Office assists Soldiers with advice and the preparation of rebuttals, requests for reconsideration, and appeal in the following administrative actions:

- **Financial Liability Investigations of Property Loss**
- **Letters of Reprimand**
- **Bars to Reenlistment**
- **Security Clearance Denials or Revocations**
- **OERs and NCOERs**
- **Hardship Discharges**
- **Compassionate Reassignments**
- **General Officer Memoranda of Reprimand**