



Office of the Staff Judge Advocate LEGAL SERVICES

I Corps (Fwd) and U.S. Army Japan

Newsletter

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Landlords in Foreclosure

The newly enacted Housing and Economic Recovery Act of 2008 contains important news for Servicemembers and their dependents who lease or rent their residence from a landlord.

If the dwelling of a Servicemember is in foreclosure, and the member and/or the member's dependent is forced to move because of the foreclosure, the Act requires the Department of Defense to pay the cost of a local move to another dwelling in the area. This provision does not apply if the Servicemember and/or dependent is the owner of the property.



President Bush signed the new law on 30 July 2008. The law also includes two other provisions specifically targeting Servicemembers. First, it requires the Department of Defense to develop and implement a program to provide credit counseling, home mortgage counseling, and other counseling as determined by DOD to Servicemembers returning from active duty abroad. Second, it amends the Servicemembers Civil Relief Act to extend protections against mortgage foreclosure from 90 days to 9 months after leaving service. The law also extends the period of the 6 percent interest cap on mortgages to one year after the end of military service. It is important to note that the SCRA provisions only affect a mortgage obligation that was entered into prior to entry on active duty.

If you have questions about this or any other legal matter, please contact your Legal Assistance Office.

Unit 45005
APO AP 96338

Bldg.101, Rm.CE209

Phone: 263-4698

Hours: Monday-Friday
09:00-12:00 &
13:00-17:00

Negligence: Keeping You from Collecting

Many times, losses incident to your service in the Army are payable under the Personnel Claims Act (PCA). The PCA gives Soldiers, as well as DoD and DA civilians an opportunity to be compensated for losses sustained while serving here in Japan.



However, there are several circumstances that may prevent you from collecting on your claim. One of the most common circumstances is that of negligence. In general usage, negligence means “carelessness.” Legal practitioners often use common words but attach special meaning to them. For example, under the Claims regulation, AR 27-20, negligence is defined as failure to exercise the degree of care that a reasonable and prudent person would have exercised under the same circumstances.

What does all of this mean? Army regulations require you to act like a reasonable person when it comes to your property. A reasonable person acts sensibly, takes proper but not excessive precautions, does things without serious delay, and weighs evidence carefully but not over skeptically. The reasonable person is neither perfect nor indifferent.

When dealing with your property show a degree of care. Ensure that you are behaving as a reasonable person. Make sure that you are doing all that you can reasonably be expected to do, from little things like locking doors on your quarters and your car to using your traffic signals when turning. Evidence that you acted as a reasonable person will go a long way towards making sure that your claim under the PCA is payable.

For example, if the power fails in your government-owned quarters, what should you do? As a reasonable person, you should first contact the housing office to make sure that they are aware of the situation. Then you should take steps to minimize your losses – this is known as mitigating your losses. That may be moving your perishables into a cooler or purchasing a bag of ice to keep items frozen. Don't expect to get paid if you were aware of a problem and did nothing to protect your property.

Each claim is different; this summary provides general information only. More information on the PCA can be found in AR 27-20, Chapter 11. For more information, please contact the Camp Zama Claims Office.

Voting Overseas



Generally, all U.S. citizens 18 years or older who are or will be residing outside the United States during an election period are eligible to vote absentee in any election for Federal office. Some states allow overseas voters to vote in elections for state and local offices, and for state and local referendums. Voting eligibility and residency requirements are determined by the various U.S. states, and are available on-line at <http://fvap.gov/pubs/vag.html>.

Your legal state of residence for voting purposes is your state of legal residence. If you are unsure what your state of legal residence is, please see the legal assistance office for help. For those who have never resided in the U.S., sixteen states, to date, allow eligible U.S. citizens to register where a parent would be eligible to vote.

To register to vote and/or apply for an absentee ballot, you can use the Federal Post Card Application (FPCA). The on-line version, the OFPCA, is accepted by all states and territories except American Samoa and Guam. Voters from American Samoa and Guam must use the standard form of the FPCA. The on-line OFPCA form must be completed legibly, printed, signed, dated, and mailed to your local election officials. Use an envelope and affix proper postage. The official U.S. Government website for overseas absentee voting assistance, www.fvap.gov, has a wealth of information about absentee voting, including the state-specific instructions for completing the FPCA form, links to state and local officials, and a downloadable emergency ballot for use by those who register in time but fail to receive an official ballot.

Under normal circumstances, most states and territories begin sending ballots to overseas citizens 30-45 days before an election. However, if you haven't received your ballot within three weeks of your state's ballot receipt deadline, and you are required to return your voted ballot by mail, you should download, complete, sign, date, and send in a Federal Write-in Absentee Ballot (FWAB), available at <http://www.fvap.gov/pubs/onlinefwab.html>. Make sure it is witnessed if required by your state. If you subsequently receive your regular absentee ballot, execute it and return it regardless of when you receive it. Court decisions sometimes require late counting of ballots voted by Election Day, but received by local election officials for a specified period of time following Election Day.

For questions or assistance, please visit the Camp Zama Legal Assistance Office in Building 101, Room CE209 or call DSN: 263-4698.