

military jurisdiction according to the respective beliefs and conscientious practices of all concerned.

[16 FR 12931, Dec. 27, 1951]

PART 513—INDEBTEDNESS OF MILITARY PERSONNEL

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§513.1 General.

(a) *Purpose.* This regulation prescribes Department of the Army (DA) policy, responsibilities, and procedures in handling debt claims against soldiers.

(b) *References.* Required and related publications and prescribed and referenced forms are listed in appendix A.

(c) *Explanation of abbreviations and terms.* Abbreviations and special terms used in this regulation are explained in the glossary.

(d) *Responsibilities.* (1) The Deputy Chief of Staff for Personnel will set policy on processing debt claims against soldiers.

(2) The Commanding General, U.S. Army Community and Family Support Center (CG, USACFSC) will—

(i) Set procedures for processing debt claims against soldiers.

(ii) Process debt claims received at USACFSC regarding soldiers.

(iii) Carry out the objectives of this regulation to protect the rights of the soldier, his or her family members, and the interests of the Army.

(iv) Advise and assist the directors of Headquarters, Department of the Army (HQDA) agencies, commanders of the major Army commands, and other commanders on matters pertaining to indebtedness of soldiers.

(3) Officers having general court-martial jurisdiction will—

(i) Ensure special emphasis on the indebtedness issue is given in command information programs. This includes soldiers being informed of their responsibility to manage their personal affairs satisfactorily and pay their debts promptly. Also, inform soldiers of the possible consequences of failure to pay their debts.

(ii) Take action on requests to file unfavorable information in a soldier's official personnel file. (See §513.3.)

(4) First level field grade commanders will monitor instances of soldiers' repeated failure to pay debts that are brought to their attention. These commanders will take action, when proper.

(5) Immediate commanders will—

(i) Ensure that soldiers are informed of the following:

(A) DA policy on indebtedness.

(B) The possible consequences of failure to pay their debts.

(ii) Manage the processing of debt claims per the terms of this regulation.

(iii) Answer all correspondence received from CG, USACFSC and other DA officials.

(iv) Answer all correspondence received directly from claimants and third parties (for example, Members of Congress). The commander will not include unreleasable information without the soldier's written consent. This complies with the Privacy Act of 1974. (See AR 340-21.) Commanders should ask the Staff Judge Advocate (SJA) for guidance in unusual or difficult situations.

(v) Inform the first level field grade commander of instances of soldiers' repeated failure to pay their debts. Also, point out actions taken or contemplated to correct the situation.

(vi) Refer correspondence or queries received from news media organizations to the unit, installation, or command public affairs officer for response.

(6) The unit, installation, or command public affairs officer will—

(i) Answer correspondence and queries received from news media organizations.

(ii) Coordinate with the SJA before making any response.

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(e) *Policy.* (1) Soldiers are required to manage their personal affairs satisfactorily and pay their debts promptly. Failure to do so damages their credit reputation and affects the Army's public image. The Army, however, has no legal authority to force soldiers to pay their debts. Also, the Army cannot divert any part of a soldier's pay even though payment of the debt was decreed by a civil court. Only civil authorities can enforce payment of private debts.

(2) Debt claims against corporations and organizations to which a soldier belongs, or of which a soldier is an officer, will not be processed under this regulation. In this situation, the matter should be pursued in civil court. If a judgment is received specifically against the soldier, then this regulation will apply.

(3) Creditors who follow §513.4 will have their debt complaints processed.

(4) Requests for help that do not follow §513.4 will be returned without action with an explanation as discussed in §513.4(d).

(5) The Army will revoke debt processing privileges for creditors who—

(i) Refuse to abide by this regulation.

(ii) Try to use the Army as a debt collection agency. (See §513.4(e)).

(6) The Army does not try to judge or settle disputed debts, or admit or deny whether claims are valid. The Army will not tell claimants whether any adverse action has been taken against a soldier as a result of the claim.

(7) If a soldier is not trying to resolve unpaid debts promptly or complaints of repeated failure to pay debts are received, commanders will consider the actions shown below. (See §§ 513.2(a)(3)(xv) and 513.3.)

(i) Making the failure a matter of permanent record.

(ii) Denial of reenlistment (enlisted personnel).

(iii) Administrative separation from the Service.

(iv) Punishment under the Uniform Code of Military Justice (UCMJ). When proper, such misconduct may be charged under articles 92, 123, 133, or 134 of the UCMJ.

(8) Checks that are dishonored for any reason remain proof of indebtedness until—

(i) Made good.

(ii) Proven to be the error of the financial institution on which drawn, or the error of any other person or institution; such action then absolves the soldier of fault. (See §513.2(c).)

(9) When necessary, commanders and soldiers are urged to seek help from the SJA.

(f) *Banks and credit unions.* (1) Banks and credit unions located on military bases must apply Department of Defense (DOD) Standards of Fairness (app B) before making loans or credit agreements. Banks and credit unions that do not meet this requirement will be denied help in processing debt complaints.

(2) If soldiers are referred to off-base branches of an on-post bank or credit union, the branches also must comply with the Standards of Fairness before making loans or credit agreements.

(3) Interest rates and service charges for loans made by oversea military banking facilities are set by DOD.

(g) *Fair Debt Collection Practices Act (section 1692, title 15, United States Code (15 U.S.C. 1692)).* (1) A debt collector may not contact any person other than the soldier, his or her lawyer or legal counsel, or the creditor about any debt collection. The debt collector, however, may contact the employer if he or she has a written and signed consent from the soldier, or a court order permitting contact. The written consent must include the debt collector's name. It is illegal for debt collectors to use another name when collecting debts.

(2) Debt collectors who have obtained the needed written consent or court order and who have followed §513.4 will have their debt complaints processed.

(3) Creditors who collect only on their own behalf are exempt from the Act.

(h) *Individual repayment plan of the Bankruptcy Act.* Chapter XIII of the Bankruptcy Act (11 U.S.C. 1301, et seq.) provides for the protection and relief of individuals with a regular income. It also sets rules for paying debts under the supervision of U.S. Federal District Courts. Care must be taken not to confuse "bankruptcy" and "individual repayment plans" in order not to infringe on the rights of the soldier.

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(i) *Locator service.* (1) Installations will honor requests for central locator service by a banking office (AR 210-135) or credit union (AR 210-24) located on a military installation. This service will be free when banking offices and credit unions cite AR 37-60. This service will be used to locate persons for settling accounts, checks that did not clear, and delinquent loans. The U.S. Army Finance and Accounting Center (USAFAC), Indianapolis, IN 46249-1016, will assist these banking offices and credit unions to locate soldiers who cannot be located locally.

(2) Current military addresses for all soldiers may be obtained by writing the Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249-5301. All requests must include the soldier's full name, rank, and social security number (SSN). They should include the date and place of birth if the SSN is not known. A check or money order for \$3.50 payable to the Treasurer of the United States must be enclosed with each request. (See AR 37-60.)

(3) A debt collector should not write to the U.S. Army Enlisted Records and Evaluation Center (USAEREC) if he or she knows the soldier is represented by a civilian lawyer or military legal counsel. However, the debt collector may write to USAEREC if he or she—

(i) Does not know or cannot easily find out the name and address of the lawyer or legal counsel.

(ii) Does not receive a response from the lawyer or legal counsel.

(4) If a debt collector writes to USAEREC, a postcard cannot be used. Also, the request cannot state that the locator service is being sought in order to collect a debt. These actions would violate the Fair Debt Collection Practices Act (§513.1(g)).

[51 FR 7269, Mar. 3, 1986; 51 FR 8824, Mar. 14, 1986, as amended at 51 FR 17961, May 16, 1986]

§513.2 Administrative procedures for processing complaints.

(a) *Commander's actions.* Upon receipt of a debt complaint, the commander will—

(1) Review the case to ensure that the terms of this regulation have been met.

(2) Consult the SJA if needed.

(3) Take the following actions:

(i) If any of the terms of §513.4(c) have not been met by the creditor, return the complaint. Tell the writer that no action will be taken until those terms are met.

(ii) Upon receipt of subsequent inquiries from USACFSC, Members of Congress, or any other source, inform the writer that—

(A) The creditor has been told that his or her request lacked data or documentation.

(B) The commander regrets that he or she cannot process the complaint until the creditor supplies the necessary data.

(C) A reply previously has been made to the creditor. Enclose a copy of the reply.

(iii) If the creditor refuses or repeatedly fails to comply with any of these requirements, refer the complete case through channels to the Commander, USACFSC, ATTN: DACF-IS-PA, ALEX VA 22231-0522. If it is believed the creditor's debt processing privileges should be revoked, include a recommendation stating the reasons.

(iv) If the soldier was not given full disclosure information when the debt was incurred, refer him or her to the SJA office. The SJA office will advise if the soldier has a right to file suit against the creditor. The soldier may be entitled to twice the amount of the finance charge, for a minimum of \$100 up to a maximum of \$1,000, plus court costs and lawyer fees. This does not apply to debts incurred before 30 June 1969.

(v) If in doubt as to the legality of the contract, consult the SJA. This action is to ensure that the contract terms do not violate Federal and State laws.

(vi) Accept as valid proof, claims based on court judgments, orders, or decrees.

(vii) If the debt or the amount of the debt is disputed or denied by the soldier, reply directly to the creditor. Tell him or her that Army policy requires that disputed debts be settled by civil courts. Do not, in the reply, try to judge or settle any disputed debts, or admit or deny the validity of the claim.

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(viii) If the creditor has met all the requirements discussed in §513.4, interview the soldier.

(A) Ensure that the soldier is properly advised of his or her rights under the Privacy Act of 1974. DA Form 4817-R (Consent/Nonconsent To Disclose Personal Information) will be completed.

(B) Notify the soldier of the debt complaint.

(C) Explain that the Army requires that soldiers pay their debts promptly. Failure to do so damages credit reputations and affects the Army's public image. Also, explain that the willful failure to resolve unpaid debts may result in administrative or punitive actions as described in §513.3.

(D) Tell the soldier of his or her legal rights and duties. If appropriate, advise the soldier of his or her rights under article 31, UCMJ. Also, inform the soldier that counseling service is available under the Legal Assistance Program (AR 27-3).

(E) Review all available facts including the soldier's defenses, rights, and counterclaims.

(F) Urge the soldier to seek budget counseling and consumer protection advice, if proper. These services may be obtained from on-post credit unions, Army Community Service Program Counselors (AR 608-1), or through financial management seminars or workshops.

(G) Help the soldier in settling or in liquidating the debt. Give the soldier a copy of DA Pam 360-520 if proper. Answer any questions that he or she might have.

(H) Have the soldier sign a statement allowing or forbidding release of information to the claimant (DA Form 4817-R). AR 340-17 and AR 340-21, paragraph 3-3 govern this.

(I) Ask the soldier about his or her intentions. Give the soldier the chance to furnish a voluntarily signed statement admitting or denying the complaint or declining to do either.

(ix) Advise the claimant promptly that the soldier has been told of the complaint.

(x) Summarize the soldier's intentions if the soldier allows release of the information.

(xi) If proper, advise the claimant that indebtedness disputes must be resolved in a civil court of competent jurisdiction.

(xii) Ask the claimant to write, if necessary, directly to the soldier or his or her commander.

(xiii) Retain the statement allowing or forbidding release of information to the claimant with the case file for future reference. (See §513.3)

(xiv) Monitor actions closely to ensure promises made to claimants are being met.

(xv) Consider administrative or punitive action, if proper (See §§513.1(e)(7) and 513.3.)

(xvi) Inform the first level field grade commander of instances of soldiers' repeated failure to pay their debts. Also, point out actions taken or contemplated to correct the situation.

(b) *Procedures for routing debt complaints.* (1) Send debt complaints through proper channels to the soldier's commander for action.

(2) If the soldier is a patient attached to a medical holding detachment (MHD), the complaint will be sent there for action. The commander of the MHD will take action per this regulation.

(3) The command receiving the complaint will acknowledge the letter and tell the writer of the referral. DA Form 209 (Delay, Referral, or Follow-Up Notice) may be used for this purpose.

(4) All correspondence to the President, received from outside of DOD, will be processed per AR 1-9.

(5) Send complaints to the soldier's new duty station if the soldier has been reassigned. Advise the claimant of the soldier's reporting date and the unit address to which correspondence should be sent.

(6) See §513.5 for procedures governing processing of claims for non-active duty or discharged personnel.

(c) *Processing debt complaints based on dishonored checks.* (1) Writing checks against an account with no or not enough funds is a serious matter. It may be a misdemeanor or a felony. This depends on the amount of the check and the laws or statutes of the jurisdiction where the check is presented for payment. The soldier is responsible for making sure that money

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is in his or her bank account to cover checks written on that account. Writing bad checks may result in disciplinary or administrative action. Whether or not such action is taken, a dishonored check for not enough funds remains proof of an indebtedness except as provided in §513.1(e)(8).

(2) Commanders must answer all check complaints, other than those discussed in §513.2(c)(3), even if such complaints concerns checks errors caused by oversight or negligence. (AR 210-60 outlines ways for handling dishonored checks written on Army installations and in Army facilities.)

(3) Checks made good within 5 days of notice do not require any action if the complaint is based on—

- (i) Bank or Government error.
- (ii) Failure to date the check.
- (iii) Inconsistent or not legible amounts shown on the check.
- (iv) Lack of legible signature.

(4) Bad checks written by family members are not processed under this regulation except in the following instance. The SJA finds that these checks stand for debts for which the soldier may be held personally liable under Federal or State laws (for example, checks written for necessities such as rent, utilities, or food).

(d) *Inquiries from USACFSC or DA officials.* The commander must—

(1) Give USACFSC or DA officials complete data on all inquiries.

(2) Seek the advice of the SJA before replying to a court order if necessary.

(3) State “not applicable” to items that do not apply.

(4) If applicable, advise USACFSC or DA officials—

(i) Whether the soldier acknowledges the debt.

(ii) Of the corrective action taken (to include the amounts and dates payments will be made).

(iii) Of the method of payment (for example, personal check).

(iv) Whether the soldier allowed or forbade release of the information given. (See DA Form 4817-R.)

(v) Whether the soldier is following the terms of a court order.

(vi) Whether the soldier’s actions follow Army policy as stated in this regulation.

(vii) In the reply, include your name, unit address, and your automatic voice network (AUTOVON) number. If no AUTOVON Number is available, include a commercial or other number where the unit can be reached.

(5) Return to USACFSC or DA officials inquiries received after the soldier has been transferred. Include a copy of his or her permanent change of station orders.

[51 FR 7270, Mar. 3, 1986; 51 FR 8824, Mar. 14, 1986]

§513.3 Administrative and punitive actions.

(a) *Considerations.* Commanders will not tolerate irresponsibility, neglect, dishonesty, or evasiveness. Failure to pay debts promptly and honorably may require disciplinary or administrative action. If a soldier is not trying to resolve unpaid debts promptly or complaints of repeated failure to pay debts are received, commanders will consider—

(1) Making it a matter of permanent record (§513.3(b)).

(2) Denial of reenlistment (enlisted members) (AR 601-280).

(3) Administrative separation from the Service (AR 635-100 or AR 635-200).

(4) Punishment under the UCMJ. (See §513.1(e)(7).)

(b) *Official personnel files.* (1) The Army requires that all-inclusive information of the qualifications of its soldiers be on file. This prevents selection of soldiers for positions of leadership, trust, and responsibility whose qualifications are questionable.

(2) Documents/records created or received in connection with debt complaints will be filed per AR 600-37 and the Army Functional Files System (AR 340-2 and AR 340-18).

(3) The soldier may show his or her negligence, disregard, or unwillingness to resolve the matter by repeatedly failing to pay his or her debts. In these cases, the commander will decide whether to place a letter of reprimand, admonition, or censure in the soldier’s official personnel files. AR 600-37, chapter 2, governs action taken to file unfavorable information.

(4) If information does not merit filing in the soldier’s official personnel files, the commander will—

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- (i) Continue to monitor the situation.
- (ii) Furnish further guidance and help.
- (iii) Consider later action (§513.3(b)(3)) if warranted by further evidence.

§513.4 Conditions creditors must meet before getting help in debt processing.

(a) *Statutory and other regulatory requirements.* (1) The Truth-in-Lending Act, Pub. L. 90-321 (15 U.S.C. 1601), lists the general disclosure rules that must be met by creditors. It does not cover private parties who extend credit only rarely to help a person. (See §513.4(f)(1)).

(2) Federal Reserve Board Regulation Z (12 CFR part 226) lists specific disclosure rules for all credit transactions under the Truth-in-Lending Act.

(3) Certain States have rules that may apply to credit transactions in lieu of Federal Reserve Board Regulation Z. However, the Federal Reserve Board must first decide if the State sets largely the same rules and enforcement measures. States currently exempted from Regulation Z are Connecticut, Maine, Massachusetts, Oklahoma, and Wyoming.

(4) DOD Standards of Fairness (app B) define fair and just dealings with soldiers. DA Pam 360-520, chapter 4, contains simplified explanations of these standards. Note that certain debt complaints are exempt (§513.4(f)).

(5) Certificate of Compliance certifies the creditor has complied with the full disclosure requirements of Federal or State laws and regulations, State laws regarding contact with the employer of the debtor, and the application of the Standards of Fairness to the consumer credit transaction.

(6) Full disclosure information shows what the soldier should know about contract terms.

(7) The Fair Debt Collection Practices Act contains other conditions a creditor must meet. (See §513.1(g)).

(b) *State laws.* Florida, Louisiana, Maryland, Massachusetts, New York, North Carolina, and Wisconsin have passed laws that forbid creditors from contacting employers. This includes commanders, unless certain conditions are met. These conditions are the re-

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duction of a debt to court judgment or the written permission of a debtor. The judgment must conform to the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. app, section 501 *et seq.*, (1970)) if applicable. (See DA Pam 27-166.) Other States may enact similar laws; if they do, the same conditions will apply. Creditors wanting to make use of the debt processing privilege must first certify their compliance with the relevant State's law about contact with an employer. These laws, however, do not apply if the debtor is located in a State that has not passed such a law.

(c) *Debt processing.* (1) Creditors, other than private parties described in 513.4(f)(1), must send—

(i) A signed copy of the Certificate of Compliance with DOD Standards of Fairness (app B) showing compliance with one of the following:

(A) The Truth-in-Lending Act.

(B) Federal Reserve Board Regulation Z.

(C) State regulations.

(ii) A true copy of the signed contract.

(iii) The general and specific disclosure information given the soldier before signing the contract.

(iv) A copy of a judgment or written permission from the soldier allowing the creditor to contact his or her employer about the debt, if applicable. (See §513.4(b)).

(v) Photocopies of actual correspondence or documentary proof showing that every effort has been made to get payment by direct contact with the soldier. The creditor must give the soldier a chance to answer each inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.)

(2) Foreign-owned companies having debt complaints must send—

(i) A true copy of the terms of the debt.

(ii) A certification that they have met the DOD Standards of Fairness.

(iii) An English translation of the above (if not already in English).

(iv) Documentation as in §§513.4(c)(1) (iv) and (v).

(3) Creditors not subject to Regulation Z, such as public utility companies, will send a certification with

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their request. It must state that no interest, finance charge, or other fee exceeds that permitted by the laws of the State in which the service was requested.

(4) Creditors not subject to the Truth-in-Lending Act must send—

(i) Legible copies of actual correspondence. (See §513.4(c)(1)(v)).

(ii) Documentary proof showing that every effort has been made to get the payment by direct contact with the soldier.

(5) Creditors who have followed these terms may contact the soldier's commander for help. If the commander is contacted, the creditor must give the commander a chance to answer the inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.) If unsuccessful, after reasonable efforts to collect the debt, creditors may request help from USACFSC. In such cases, the information must be the same as that sent the commander. (See §513.4(c)(6)). The request should be sent to the Commander, USACFSC, ATTN: DACF-IS-PA, ALEX VA 22331-0522.

(6) All requests for help must include—

(i) The soldier's full name, rank, and SSN.

(ii) Date and place of birth, if SSN is not known.

(iii) The amount and date of the original debt.

(iv) The terms of payment.

(v) The balance due.

(vi) Documents described in §513.4(c)(1) through (4) which apply.

(7) Separate letters should be written on each account for prompt and efficient processing.

(8) Letters lacking data will be returned for added documents.

(d) *Debt complaints returned to creditors without action.* Requests for help in processing debt complaints will be returned without action with an explanation if—

(1) Creditors did not enclose the following:

(i) Documents showing compliance with the Truth-in-Lending Act, Federal Reserve Board Regulation Z, or State regulation.

(ii) Signed copies of the Certificate of Compliance with DOD Standards of Fairness.

(iii) A completed copy of form with the Full Disclosure Information. (See §513.4(a)(6).)

(iv) Signed copies of the contract.

(v) Legible copies of actual correspondence or documentary proof showing that every effort has been made to get the payment by direct contact with the soldier. (See §513.4(c)(1)(v).)

(2) The soldier is located in a State whose laws forbid creditors from contacting employers.

(3) The claim is obviously false or misleading.

(4) The finance charge does not conform to the State law where the contract is signed.

(5) A U.S. company operating overseas exceeds the lowest interest rate of the State or States where chartered or doing business in the United States.

(6) The contract or loan agreement provides that the debtor must pay the creditor's attorney fees, unless the following limitations in §513.4(d)(6) (i) through (iii) are included. No attorney's fee may be charged for services done by a salaried employee of the creditor.

(i) The fees will have to be paid only in the event of a default by the soldier.

(ii) The fees will have to be paid only if a lawsuit is filed.

(iii) The fees will not exceed 20 percent of the amount found due.

(7) A penalty for prepayment has been charged.

(8) A charge has been made for an insurance premium without satisfactory proof of—

(i) A policy or insurance certificate having been issued.

(ii) Delivery of a policy or certificate to the soldier within 30 days of issuance.

(9) The late charge is in excess of 5 percent of the late payment, or \$5, whichever is the lesser amount. Only one late charge may be made for any late installment. Late charges will not be made where an allotment has been timely filed, but payment has been delayed.

(10) The creditor has not given the soldier a chance to answer a previous

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inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.)

(11) The claimant is a debt collector without a court order or a signed letter of consent by the soldier. (See §513.1(g).)

(12) The debt is covered by an order of a bankruptcy court.

(e) *Cancellation of debt processing privilege.* (1) Creditors who refuse or fail repeatedly to follow these terms will be referred through channels to the Commander, USACFSC, Attn: DACF-IS-PA, Alex, Va 22331-0522, by the commander.

(2) The CG, USACFSC will—

(i) Cancel debt processing privileges if the queries clearly show that the creditor is—

(A) Not conforming with this regulation.

(B) Trying to make unreasonable use of the debt processing privilege.

(C) Trying to use the Army as a collection agency.

(ii) Inform commanders worldwide by electrical message that the debt processing privilege of a specific creditor has been revoked.

(iii) Inform the creditor that his or her debt processing privilege has been revoked and state the reasons for this action.

(f) *Exemptions from Full Disclosure and Standards of Fairness.* The debt complaints discussed below are exempt from the Full Disclosure and Standards of Fairness. This does not prevent the debtor from questioning service charges and negotiating a fair and reasonable settlement.

(1) Claims from private parties selling personal items (for example, car, furniture, appliances) on a one-time basis.

(2) Claims from companies or individuals giving services in which credit is given only to help the soldier (for example, utilities, milk, laundry, medical, and related services).

(3) Claims by endorsers, comakers, or lenders who intend only to help the soldier in getting credit. These claims, however, may not benefit the above through receipt of interest or otherwise.

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(4) Contract for the purchase, sale, or rental of real estate.

(5) Claims in which the total unpaid amount does not exceed \$50.

(6) Claims based on a revolving or open-end credit account. The account must show—

(i) The periodic interest rate and the equivalent annual rate.

(ii) The balance to which the interest is applied to compute the charge.

(7) Claims as security liens on real property (for example, a house). This does not include improvements or repairs.

(8) Attorneys representing parties under §513.4(f) (1) through (7).

§513.5 Procedures governing non-active duty or discharged personnel.

(a) *Procedures governing nonactive duty personnel.* (1) Debt complaints against former soldiers or others not on active duty will be sent to the Commander, U.S. Army Reserve Personnel Center (ARPERCEN), ATTN: DARP-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63132-5200.

(2) After ARPERCEN verifies the status, the following officials will act as prescribed below.

(i) Chief, National Guard Bureau, Wash DC 20310-2500, for soldiers of the Army National Guard.

(ii) The area commander concerned for Ready Reservists assigned to troop program units under their control. (See AR 140-1, para 1-6.)

(iii) ARPERCEN for nonunit soldiers assigned to Control Groups of the Ready Reserve, Standby Reserve, and Retired Reserve.

(3) The officials cited in §513.5(a)(2) will ensure that debt complaints are delivered to the person concerned, using military channels. When the complaint cannot be delivered through military channels, it will be sent to the last known mailing address of the person by certified mail, using PS Form 3811 (Return Receipt, Registered, Insured, and Certified Mail). It should be marked Return Receipt Requested—Deliver to Addressee Only. This form is available at U.S. post offices.

(4) After delivery of correspondence, the responsible official will advise the claimant—

(i) Of the date and method of delivery.

(ii) That the military department does not control the personal affairs of nonactive duty personnel. These personnel usually are in a civilian status and are not subject to military discipline. Therefore, the matter has been left to the person's discretion.

(iii) Of the person's mailing address only if the conditions in §513.5(c) are met.

(b) *Procedures governing discharged personnel.* (1) Debt complaints against persons who have been discharged from the service (that is, those now holding no military status) will be sent to ARPERCEN.

(2) ARPERCEN will return the correspondence, and all accompanying documentation, and advise the claimant—

(i) That the person is no longer a member of the Army or the Reserve Components.

(ii) Of the date of discharge.

(iii) That the Army no longer has control or authority over the discharged personnel. Therefore, the Army can take no further action in this matter.

(iv) Of the person's mailing address only if the conditions in §513.5(c) are met.

(c) *Conditions for disclosing mailing address.* Nonactive duty and discharged personnel's mailing addresses will not be disclosed unless—

(1) The person consents in writing to the release of his or her address.

(2) The claimant sends a court order directing the release of the address.

(3) Any other reason that does not constitute a violation of the Privacy Act of 1974.

(d) *Retired personnel.* (1) The claimant may be advised that correspondence may be sent to the retired person as follows:

(i) Place correspondence in a stamped envelope with the retired person's name typed or printed on the envelope.

(ii) Place a stamped envelope in a second envelope and mail to Commander, ARPERCEN, Attn: DARP-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63131-5200.

(2) ARPERCEN will forward the correspondence to the retired person, but

cannot release the address per provisions of the Privacy Act of 1974.

APPENDIX A TO PART 513—REFERENCES

Section I

Required Publications.

AR 340-2

Maintenance and Disposition of Records in TOE Units of the Active Army, the Army Reserve and the National Guard. (Cited in §513.3(b)(2)).

AR 340-17

Release of Information and Records from Army Files. (Cited in §513.2(a)(3)(viii)(H)).

AR 340-18

The Army Functional Files System. (Cited in §513.3(b)(2)).

AR 340-21

The Army Privacy Program. (Cited in §§513.1(d)(5)(iv) and 513.2(a)(3)(viii)(H)).

AR 600-37

Unfavorable Information. (Cited in §513.3(b)(2) and (3)).

DA Pam 27-166

Soldiers' and Sailors' Civil Relief Act. (Cited in §513.4(b)).

DA Pam 360-520

Credit: Master or Servant. (Cited in §§513.2(a)(3)(viii)(G) and 513.4(a)(4)).

Uniform Code of Military Justice. (Cited in §§513.1(e)(7)(iv), 513.2(a)(3)(viii)(D) and 513.3(a)(4)).

Section II

Related Publications.

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 1-9

White House Liaison, Communications, and Inspections.

AR 11-2

Internal Control Systems.

AR 27-3

Legal Assistance.

AR 37-60

Pricing for Materiel and Services.

AR 140-1
USAR—Mission, Organization, and Training.

AR 210-24
Credit Unions.

AR 210-60
Control and Prevention of Abuse of Check Cashing Privileges.

AR 210-135
Banking Service on Army Installations.

AR 601-280
Army Reenlistment Program.

AR 608-1
Army Community Service Program.

AR 608-99
Family Support, Child Custody, and Paternity.

AR 635-100
Officer Personnel (Separations).

AR 635-200
Enlisted Personnel (Separations).

DODD 1344.9
Indebtedness of Military Personnel.
Federal Reserve Board Regulation Z Truth in Lending.

Section III

Prescribed Forms.

DA Form 4817-R

Consent/Nonconsent to Disclose Personal Information. (Cited in §§513.2(a)(3)(viii) (A) and (H), and 513.2(d)(4)(iv)).

Section IV

Referenced Forms.

DA Form 209

Delay, Referral, or Follow-Up Notice.

PS Form 3811

Return Receipt, Registered, Insured, and Certified Mail.

APPENDIX B TO PART 513—STANDARDS OF FAIRNESS

B-1. No finance charge contracted for, made, or received under any contract shall be in excess of the charge which could be made for such contract under the law of the place in which the contract is signed in the United States by the military member.

a. In the event a contract is signed with a U.S. company in a foreign country, the lowest interest rate of the State or States in which the company is chartered or does business shall apply.

b. However, interest rates and service charges applicable to overseas military banking facilities will be established by the Department of Defense.

B-2. No contract or loan agreement shall provide for an attorney's fee in the event of default unless suit is filed, in which event the fee provided in the contract shall not exceed 20 percent of the obligation found due. No attorney fees shall be authorized if the attorney is a salaried employee of the holder.

B-3. In loan transactions, defenses which the debtor may have against the original lender or its agent shall be good against any subsequent holder of the obligation. In credit transactions, defenses against the seller or its agent shall be good against any subsequent holder of the obligation, provided that the holder had actual knowledge of the defense or under conditions where reasonable inquiry would have apprised the holder of this fact.

B-4. The military member shall have the right to remove any security for the obligation beyond State or national boundaries if the military member or family moves beyond such boundaries under military orders and notifies the creditor, in advance of the removal, of the new address where the security will be located. Removal of the security shall not accelerate payment of the obligation.

B-5. No late charge shall be made in excess of 5 percent of the late payment, or \$5 whichever is the lesser amount, or as provided by law or applicable regulatory agency determination. Only one late charge may be made for any tardy installment. Late charges will not be levied where an allotment has been timely filed, but payment of the allotment has been delayed. Late charges by overseas banking facilities are a matter of contract with the Department of Defense. Late charges by Federal credit unions are set at 20 percent of the interest due with a minimum of not less than 5 cents.

B-6. The obligation may be paid in full at any time or through accelerated payments of any amount. There shall be no penalty for prepayment and in the event of prepayment that portion of the finance charges which has inured to the benefit of the seller of the creditor shall be prorated on the basis of the charges which would have been ratably payable had finance charges been calculated and payable as equal periodic payments over the terms of the contract and only the prorated amount to the date of prepayment shall be due. As an alternative the "Rule of 78" may be applied.

B-7. If a charge is made for loan insurance protection, it must be evidenced by delivery of a policy or certificate of insurance to the military member within 30 days.

B-8. If the loan or contract agreement provides for payments in installments, each payment, other than the down payment, shall be in equal or substantially equal amounts, and installments shall be successive and of equal or substantially equal duration.

B-9. If the security for the debt is repossessed and sold in order to satisfy or reduce the debt, the repossession and resale will be governed by the laws of the State in which the security is requested.

B-10. A contract for personal goods and services may be terminated at any time before delivery of the goods or services without charge to the purchaser. However, if goods made to the special order of the purchaser result in preproduction costs, or require preparation for delivery, such additional costs will be listed in the order form or contract.

a. No termination charge will be made in excess of this amount. Contracts for delivery at future intervals may be terminated as to the undelivered portion.

b. The purchaser shall be chargeable only for that proportion of the total cost which the goods or services delivered bear to the total goods called for by the contract. (This is in addition to the right to rescind certain credit transactions involving a security interest in real estate provided by Pub. L. 90-321, "Truth-in-Lending Act," section 125 (15 U.S.C. 1601 (1976)) and the Federal Reserve Board Regulation Z (12 CFR part 226 and §§226.3, 226.9 (1978)).

APPENDIX C TO PART 513—GLOSSARY

Section I—Abbreviations

- ARNGUS: Army National Guard of the United States
- ARPERCEN: U.S. Army Reserve Personnel Center
- AUTOVON: automatic voice network
- DA: Department of the Army
- DOD: Department of Defense
- HQDA: Headquarters, Department of the Army
- MHD: medical holding detachment
- SJA: staff judge advocate
- SSN: social security number
- UCMJ: Uniform Code of Military Justice
- USACFSC: U.S. Army Community and Family Support Center
- USAEREC: U.S. Army Enlisted Records and Evaluation Center
- USAFAC: U.S. Army Finance and Accounting Center
- USAR: U.S. Army Reserve
- U.S.C. U.S. Code

Section II—Terms

Check: A written order, usually on a standard printed form, directing a bank or credit union to pay money.

Creditor: Any person or business that offers or extends credit, or to whom or to which a debt is owed. This term includes lending institutions (such as centralized charge systems) which, although not parties to the original transactions, seek help in collecting debts.

Debt: Any legal debt acknowledged by the soldier, or in which there is no reasonable dispute as to the facts or law, or which has been reduced to judgment.

Debt collector: Any person or business that solely collects debts owed to another person or business. (A debt collector is not a creditor.)

Disputed debt: Any debt, not reduced to a judgment, in which there is a genuine dispute between the parties as to the facts or law relating to the debt which would affect the obligation the soldier to pay.

Family member: As used in this regulation, an individual who qualifies for dependency benefits under certain conditions as set by Army regulations. (For example, spouse or unmarried child, to include stepchildren, and adopted or illegitimate children.)

Judgment: Any decision given by a court of justice or other competent tribunal as a result of proceedings instituted therein. As defined, a judgment includes any administrative enforcement order (Vollstreckungsanordnung) issued by the German federal post office (Deutsche Bundespost) regarding unpaid telephone bills. Such orders come within the coverage of this regulation regardless of where the soldier is stationed.

Soldier: Commissioned and warrant officers and enlisted personnel.

[51 FR 7275, Mar. 3, 1986; 51 FR 8824, Mar. 14, 1986]

PART 516—LITIGATION

Subpart A—General

- Sec.
- 516.1 Purpose.
- 516.2 References.
- 516.3 Explanation of abbreviations and terms.
- 516.4 Responsibilities.
- 516.5 Restriction on contact with DOJ.
- 516.6 Appearance as counsel.
- 516.7 Mailing addresses.

Subpart B—Service of Process

- 516.8 General.
- 516.9 Service of criminal process within the United States.
- 516.10 Service of civil process within the United States.