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APPENDIX D TO PART 113—SAMPLE DD FORM 2654, ''INVOLUNTARY ALLOTMENT NOTICE AND PROCESSING''

Appendix D to Part 113

INVOLUNTARY ALLOTMENT NOTICE AND PROCESSING

PRIVACY ACT STATEMENT

AUTHORITY: 5 USC 5520a, EO 9397.

PRINCIPAL PURPOSE: To notify a member of the Armed Services or the Coast Guard of an involuntary allotment application against the member's disposable pay; to provide the member an opportunity to respond to the involuntary allotment application; and to provide for action by the member's commander to forward the member's response to the Defense Finance and Accounting Service (or the Coast Guard Pay and Personnel Center) and, as appropriate, to make determinations concerning exigencies of military duty; and to provide for appeals of exigency determinations.

ROUTINE USES: None.

DISCLOSURE: Voluntary for the member; however, failure to provide a response may result in the involuntary allotment of the member's disposable pay.

INSTRUCTIONS

1. These instructions govern notice and processing of an application for an involuntary allotment from the pay of a member of the Armed Forces or the Coast Guard under 5 USC 5520a.

2. Section I, item 1 is to be completed by the designated Defense Finance and Accounting Service (DFAS) (or Coast Guard Pay and Personnel Center) representative. After completing this section, the representative will mail the form, along with two copies of the DD Form 2653, "Involuntary Allotment Application" and associated paperwork, to the commander of the member identified, and one copy to the member.

3. Upon receipt, the commander will determine if the member identified in Section I is in his or her unit. If the member is no longer assigned or available, or, after receiving the notice required by Section III, requests an extension to respond that is granted, the commander will complete Section II. If the member is no longer available under Section II, item 3, the commander will return the entire form and application package to DFAS (or the Coast Guard Pay and Personnel Center); if an extension is authorized under Section II, item 4, that will cause the member's response to be received by DFAS (or the Coast Guard Pay and Personnel Center) later than the date the response is due, then the commander must immediately provide a copy of Sections I and II to DFAS (or the Coast Guard Pay and Personnel Center). The address for mailing is: "DFAS, Cleveland Center, Code L, PO Box 998002, Cleveland, OH 44199-8002" (or other address as specified by DFAS). For the Coast Guard, the address is: "Coast Guard Pay and Personnel Center (LGL), 444 S.E. Quincy Street, Topeka, KS 66683-3591." If the member is assigned, the commander will provide the member a complete copy of DD Form 2653, "Involuntary Allotment Application," and counsel the member in accordance with Section III, items 7a - g.

4. After counseling, the commander will complete Section III, item 8, and the member will complete Section III, item 9. The commander will then make and retain one copy of the form with Section III completed. After obtaining a copy, the commander will provide the member the signed original and advise the member to complete Section IV prior to the date the commander specifies that the member's response is due.

5. The member will complete Section IV and return the original form and accompanying evidence or additional matters, if any, to the commander on or before the due date as specified by the commander.

6. Following receipt of the member's response, the commander will complete Section V and forward the original form, to include any additional evidence or other matters from the member, to DFAS (or the Coast Guard Pay and Personnel Center) at the address listed in paragraph 3 above. Note, if the member fails to respond by the due date, the commander will complete Section V on a copy of the DD Form 2654 previously retained in accordance with the instructions in paragraph 4 above, and forward the form to DFAS (or the Coast Guard Pay and Personnel Center).

7. Within 5 working days from the date of forwarding to DFAS (or the Coast Guard Pay and Personnel Center), the commander will provide the member a copy of the completed DD Form 2654.

SECTION I - NOTIFICATION OF APPLICATION FOR INVOLUNTARY ALLOTMENT

1. MEMBER IDENTIFICATION

a. NAME *(Last, First, Middle Initial)*	b. SSN	c. RANK	d. BRANCH OF SERVICE

2. DATE RESPONSE DUE *(If not received by this date, an involuntary allotment may be automatically processed.)*

SECTION II - COMMANDER'S DETERMINATION OF MEMBER'S AVAILABILITY AND EXTENSIONS TO RESPOND

3. MEMBER AVAILABILITY

On _____ *(date - YYMMDD)*, I received this form and an application for an involuntary allotment from the pay of the member identified. The above named member is not available for purposes of processing an involuntary allotment because the member is as indicated below. Official documentation supporting this determination is attached.

	a. Retired (Including placement on the Temporary or Permanent Disabled Retired List).
	b. In a prisoner of war status.
	c. In a missing in action status.
	d. Not assigned or attached to this unit or organization.

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SECTION II *(Continued)*

4. EXTENSION

I have determined that an extension is necessary until _____ *(YYMMDD)* because the member is not available for notice and counseling or unable to respond in a timely manner *(explain in Remarks section below)*. I will notify you prior to the above date if any further extensions are necessary.

5. REMARKS

6. COMMANDER OR DESIGNEE

a. SIGNATURE	b. SIGNATURE BLOCK	c. DATE SIGNED

SECTION III - NOTICE TO MEMBER BY COMMANDER OR AUTHORIZED DESIGNEE

7. NOTICE

You are hereby notified that an application for the establishment of an involuntary allotment for the lesser of 25% of your pay subject to involuntary allotment or the maximum percentage of pay subject to garnishment proceedings under the applicable state law has been received. Along with this notice, I am providing you a copy of the entire application package.

Additionally, you are notified that:

a. You must respond within 15 calendar days from the date of this notification by either consenting to the involuntary allotment or contesting it. For good cause shown, I may grant an extension of reasonable time (normally not exceeding 30 calendar days, except during times of deployment, war, national emergency, or other similar situations) to submit a response. Additionally, if you fail to respond within the specified date (or any approved extended date), your failure to respond will be indicated in Section V of this form, which will then be sent back to the designated Defense Finance and Accounting Service (DFAS) (or Coast Guard Pay and Personnel Center) official for appropriate action.

b. You may contest this application for any of the reasons described in Section IV of this form.

c. If you contest the application, you must provide evidence (documentary or otherwise) supporting your reasons for contesting the application. Any evidence you submit may be disclosed to the applicant for this involuntary allotment.

d. You may, if reasonably available, consult with a legal assistance attorney, or a civilian attorney at no expense to the government. If a legal assistance attorney is available, you should immediately arrange for an appointment. If a legal assistance attorney is not available, you may request a reasonable delay to enable you to obtain legal assistance. If you have failed to exercise due diligence in seeking assistance, I will deny a request for delay.

e. If you contest the involuntary allotment on the grounds that exigencies of military duty caused your absence from an appearance at the judicial proceeding at which the judgment was rendered, then I will review and make the final determination on this contention. My decision will be reflected in Section V of this form which will be forwarded to the designated DFAS (or Coast Guard Pay and Personnel Center) official for appropriate action. I will consider the following when making this determination:

(1) That exigencies of military duty are defined as "a military assignment or mission essential duty that, because of its urgency, importance, duration, location, or isolation, necessitates the absence of a member of the military services from appearance at a judicial proceeding. Absence from an appearance in a judicial proceeding is normally presumed to be caused by exigencies of military duty during periods of war, national emergency, or when the member is deployed."

(2) Whether the military duties in question were of such paramount importance that they prevented making you available to attend the judicial proceedings, or rendered you unable to timely respond to process, motions, pleadings, or orders of the court.

f. If you contest the involuntary allotment on any basis other than exigencies of military duty, you must return this form and your response to me. This form, the application package, and your response will then be returned to the designated DFAS (or Coast Guard Pay and Personnel Center) official who will consider your response and determine whether to establish the involuntary allotment. The designated DFAS (or Coast Guard Pay and Personnel Center) official has decision authority on all issues other than exigencies of military duty.

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SECTION III *(Continued)*

g. If you fail to respond to me within the time period specified (including any extensions authorized by me), I shall indicate your failure to respond in Section V of this form, and mail this form and the application package back to the designated DFAS (or Coast Guard Pay and Personnel Center) official for appropriate action.

8. COMMANDER OR DESIGNEE

a. SIGNATURE	b. SIGNATURE BLOCK	c. DATE SIGNED

9. MEMBER ACKNOWLEDGMENT

I hereby acknowledge that the commander or his or her designee has counseled me in accordance with Section III of this form; that I am being given an opportunity to review this form and the application package; I may seek legal assistance prior to responding; I have received a copy of DD Form 2653 and the entire application package for this involuntary allotment; and that I must complete Section IV of this form and return the form to my commander.

a. SIGNATURE	b. DATE SIGNED

SECTION IV - MEMBER RESPONSE

10. MEMBER WILL INITIAL IN THE APPROPRIATE SPACE(S):

	a. I acknowledge that this is a valid judgment and consent to the establishment of an involuntary allotment.
	b. I contest this Involuntary Allotment Application for the following reasons *(If contesting, you must explain the reason in item 11, "Remarks," and provide appropriate evidence to support the reason.)*:
	(1) That my rights under the Soldiers' and Sailors' Civil Relief Act were not complied with during the judicial proceeding upon which this application is based.
	(2) That exigencies of military duty caused my absence from appearance in a judicial proceeding forming the basis for the judgment upon which this application is sought.
	(3) That information contained in the application is false or erroneous in material part.
	(4) The judgment has been fully satisfied, superseded, or set aside.
	(5) The judgment has been materially amended, or partially satisfied. *(Provide evidence of the amount satisfied and the amount which remains in effect.)*
	(6) There is a legal impediment to the establishment of the involuntary allotment. *(For example, the judgment debt has been discharged in bankruptcy, or you have filed for protection from the creditor(s) under the bankruptcy laws of the United States, or the applicant is not the judgment creditor or a proper successor in interest to the creditor.)*

11. REMARKS *(Use additional sheets if necessary.)*

12. MEMBER

a. SIGNATURE	b. DATE SIGNED

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SECTION V - COMMANDER'S ACTION AND DETERMINATIONS

13. COMMANDER OR DESIGNEE WILL INITIAL IN THE APPROPRIATE SPACE:

	a. The member has completed Section IV of this form and the member's response (to include any additional submissions) is hereby forwarded for appropriate action.
	b. The member refused to respond by the authorized suspense date and this form is hereby returned without Section IV completed by the member.

14. COMPLETE ONLY IF THE MEMBER ASSERTED "EXIGENCIES OF MILITARY DUTY" AS REASON FOR CONTESTING THE INVOLUNTARY ALLOTMENT APPLICATION *(Initial in the appropriate space)*

	a. Exigencies of military duty DID NOT CAUSE the absence of the member from an appearance in the judicial proceeding upon which this Involuntary Allotment Application is sought.
	b. Exigencies of military duty CAUSED the absence of the member from an appearance in the judicial proceeding upon which this application for involuntary allotment is sought. Exigency existed due to: *(X as applicable and explain in item 15, "Remarks.")*

		(1) Deployment		(2) War		(3) National Emergency		(4) Other *(e.g., Major Exercise)*

15. REMARKS

NOTE: Commander must provide member a copy of this form within 5 days of mailing to the designated DFAS (or Coast Guard Pay and Personnel Center) official.

16. IF THE APPLICANT CHOOSES TO APPEAL MY EXIGENCY DETERMINATION, THE APPEAL MUST BE SENT TO:

a. TITLE OF APPEAL AUTHORITY			
b. STREET ADDRESS	c. CITY	d. STATE	e. ZIP CODE

17. COMMANDER OR DESIGNEE

a. SIGNATURE	b. SIGNATURE BLOCK	c. DATE SIGNED

SAMPLE

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