

Fort Lee

Office of the Staff Judge Advocate

Legal Assistance Division



**441 First Street
Fort Lee, Virginia 23801-1507**

Appointments: (804) 765-1500
Hours of Operation: Monday, Tuesday, Wednesday & Friday – 0830 to 1630
Thursday – 1300 to 1630

No Appointment Necessary for Power of Attorney & Notary Services



LEGAL ASSISTANCE SERVICES
under AR 27-3

Name Changes
Consumer Affairs & Identity Theft Protection
Pro Se Civil Suit Assistance
Domestic Relations & Family Law
Immigration and Naturalization
Landlord-Tenant Relations
Wills and Estate Planning
Income Tax Assistance
Local Court Procedures
Child Support & Spousal Support
Indebtedness and Personal Finances
Paternity
Powers of Attorney (General & Special)
Financial Liability (FLIPL) Appeals and Rebuttal Statements
OER and NCOER Appeals
Military Administrative Appeals
Complaints Under UCMJ Article 138 and 139
Guardianship and/or Custody
Separation Agreements
Contracts
Real Estate Transactions
Off-Post Lawyer Referrals
On-Post and Off-Post Agency Referrals
Casualty Assistance

***Note: The Legal Assistance Division does not provide representation for civil, criminal, or military criminal charges incurred either on or off post. Soldiers who have been charged under the UCMJ or facing separation should contact Trial Defense Services (804) 765-2290.**

A WORD FROM THE DIVISION CHIEF

The Fort Lee Legal Assistance (LA) staff strives to provide each client with friendly, professional, up-to-date, effective, competent and comprehensive legal advice, document preparation and counsel. The Fort Lee Legal Assistance Office (LAO) is here to serve the Fort Lee community.

This office is a multiple winner of the Chief of Staff Award of Excellence in Legal Assistance, a distinction awarded by the Army Chief of Staff and The Judge Advocate General. The Fort Lee Legal Assistance Office is also the proud recipient of the TRADOC Community of Excellence Award in Legal Assistance. We are proud of the excellent civil law services we provide and have been recognized as the best.

Our door is always open to those who are satisfied or dissatisfied with the services they receive. I appreciate client comments. Suggestions for improvement are always welcome.

Rhonda J. S. Mitchell
Attorney at Law
Chief, Legal Assistance Division





**OFFICE OF THE STAFF JUDGE ADVOCATE
LEGAL ASSISTANCE DIVISION
441 FIRST STREET
FORT LEE, VIRGINIA 23801-1507**

WEEKLY HOURS OF OPERATION

Monday, Tuesday, Wednesday & Friday
0830 to 1630

Thursday
1300-1630

**Attorney Consultation is by appointment only
No exceptions!
Call: (804) 765-1500**

**Note – Do not wait until the last minute to request an appointment.
Appointments are typically set up one week or more in advance.**

WILL EXECUTIONS
By prearranged appointment ONLY!
Monday and Wednesday afternoons at 1515

No appointment needed for:

NOTARY SERVICES
or
POWERS OF ATTORNEY

EMERGENCIES: Emergencies are handled immediately when they arise. A legal assistance attorney or the office paralegal will make the final decision as to whether or not an emergency exists. Because the client is personally affected by a legal issue, it may be difficult for the client to objectively determine whether their situation qualifies as an emergency. Therefore, a LAO attorney or paralegal is best suited to make that determination.

POWERS OF ATTORNEY

One of the most popular services offered by the LAO is the preparation and notarization of powers of attorney. Powers of attorney (POA) usually are prepared as the client waits; however, if for some reason the legal clerk is unable to prepare the power of attorney “on the spot,” the average turn-around time is 24 hours. In cases of a true emergency, powers of attorney always are prepared immediately. There are two basic types of powers of attorney, the General and the Special (i.e. limited/specific).

A General Power of Attorney is a document whereby one person designates another person as their representative to act on their behalf, in all circumstances, as if they were that other person. A General POA legally enables the designated person to sign contracts, access bank accounts, buy and sell personal property, secure loans or credit, and otherwise obligate the person granting the power of attorney. Some financial institutions will not accept General POAs and will require a customer to submit a separate and specific POA or similar form specifically for that institution. As a general rule, General POAs should only be utilized under the most serious and stringent conditions. Special POAs are usually sufficient in most applicable circumstances.

A Special Power of Attorney designates a representative to act on a person’s behalf in specific, limited circumstances. An example would be to designate someone to drive a soldier’s car while he is deployed, obtain needed repairs or service, make the loan payments on the car, pay insurance premiums, and renew the vehicle registration using the soldier’s funds. Note: In many cases these same activities can be engaged in if the soldier simply adds the designated person onto the various accounts concerned.

LEGAL ASSISTANCE OPERATIONS

The Legal Assistance Staff: The LA Staff is small but productive. Normally, the LAO is staffed with two Virginia licensed attorneys, one paralegal and two legal clerks. Although a small office, the Fort Lee Legal Assistance staff helps between 20,000 and 25,000 eligible personnel receive legal assistance each year.

Eligibility for Legal Assistance Service: **No legal assistance advice is given by telephone unless a previous attorney-client relationship has been established.** To receive services from the LAO, a valid military identification card must be presented to the legal clerk. The identification card must be either an active duty, retired or family member identification card. In most cases, reservists must wait until they are on active duty to receive services. They must then produce a copy of their military orders and a valid reserve identification card. Civilian personnel who are being deployed overseas in support of military operations are eligible for limited legal assistance services. Civilian personnel that have been either recommended for liability or have been held financially responsible for lost, stolen, or damaged government property also qualify for limited legal assistance services. No Legal Assistance is available to soldiers who have elected one of the “early-out” incentives.

ON-GOING PROGRAMS

Incomer's Orientation:

Legal Assistance information and preventive law flyers are provided to all soldiers in-processing into the Fort Lee community. These flyers contain valuable information about LA services and laws peculiar to the Commonwealth of Virginia.

Civilian Personnel Retirement Briefings:

At request of the Fort Lee Civilian Advisory Center (CPAC), civilian personnel who are scheduled to retire from government service are briefed on several legal issues. This briefing emphasizes the importance of wills and powers of attorney. It also includes information regarding divorce in Virginia and how such an event could affect civilian government retirement pay and benefits.

Military Personnel Retirement Briefings:

When requested by the Retirement Services Section of the Office of the Adjutant General, a thirty-minute briefing is given to all military personnel who are in the process of retiring. This briefing is usually given on a quarterly basis. Military personnel are advised of their continuing benefits, privileges, and entitlements to LA services as members of the retired military force. The importance of wills is emphasized. Information also is provided about the Uniformed Services Former Spouses Protection Act.



RETIREMENT
BECAUSE YOU'VE GIVEN SO MUCH OF YOURSELF TO THE COMPANY THAT
YOU DON'T HAVE ANYTHING LEFT WE CAN USE.
www.despair.com

A black and white advertisement. At the top, a rocket ship is shown on a beach, with its reflection in the water. The rocket is oriented horizontally, with its nose pointing to the left. The background is dark, making the white rocket and its reflection stand out. Below the image, the word "RETIREMENT" is written in a large, bold, serif font. Underneath that, in a smaller, all-caps sans-serif font, is the text: "BECAUSE YOU'VE GIVEN SO MUCH OF YOURSELF TO THE COMPANY THAT YOU DON'T HAVE ANYTHING LEFT WE CAN USE." At the bottom right, the website address "www.despair.com" is written in a small font.

Child Care Briefings:

This quarterly briefing is given when requested by the Child Development Services office. The LA attorney provides counseling to potential child care providers on the responsibilities and duties of a child care provider pursuant to AR 608-10 as well as state and local laws. Additionally, guidance is given in the area of child care contracts.

Preventive Law Articles:

The LAO publishes numerous articles in the installation newspaper. Subjects covered in these articles include child support enforcement, landlord-tenant relationship, consumer affairs, the VITA program, tax preparation, divorce, wills and estates. Changes in hours of operation are listed in the installation newspaper, as well.

The In-Court Representation Program:

At present, Fort Lee is the only office in Virginia with an approved in-court representation program. Coordination to establish this program was made through the local bar associations, the local judiciary, the local legal aid society, and the Department of the Army Judge Advocate General's Office. This program allows the Virginia-licensed LA attorneys to represent eligible military clients in the local courts. Clients must meet certain economic criteria and be approved by the Chief of the Legal Assistance Division to qualify for assistance under this program. As a general rule, active duty military between the grades of E-1 and E-4 who have no other source of income other than their military salaries will qualify for representation under program. This office is particularly interested in representing service members who have received "unfair" treatment by local merchants (consumer law problems). The number of cases handled at any given time under this program is strictly monitored by the Chief, Legal Assistance Division, who serves as approval authority for all applications received for in-court representation. Personnel shortages, mission requirements, and monetary constraints weigh heavily on the decision to accept or reject an application for in-court representation.

Fort Lee Lawyer Referral Services:

The lawyer referral list is given to clients that are in need of services that cannot be handled through the LAO. This list is composed of a host of area attorneys or firms and should not be construed as an endorsement of any one attorney or firm. If an attorney or firm's name does not appear on the Lawyer Referral List, this should not be construed as a non-endorsement of that attorney or firm. LA Attorneys also can provide out-of-state lawyer referrals using various in-office research resources such as the reserve referral book and the Martindale-Hubbard Law Directory.

The Preventive Law Program:

The LAO routinely publishes legal-advice articles in local media sources. These articles tend to cover topics such as how soldiers and their families can avoid situations that might result in legal nightmares and how they can avoid entering into transactions that may not be in their interests. Preventive law also is designed to keep the Fort Lee community informed of changes in the law, and how these changes may affect people's individual rights. Handouts on various preventive law issues are located in the LA waiting area.

Overseas Briefings:

The Army Community Services office sponsors a monthly briefing for those soldiers and their families who are scheduled to move overseas. An LA attorney briefs soldiers and their families on subjects such as wills, powers of attorney, the Status of Forces Agreement, claims, sales taxes, federal income tax responsibilities, life insurance and the Soldiers' and Sailors' Civil Relief Act.

Command Team Training ("The Commander's Course"):

LA attorneys provide instruction on potential legal pitfalls while in command to QM Advanced Course students and soldiers preparing to take command. The course generally covers handling complaints of non-support and paternity using AR 608-99, the usefulness of the SSCRA, how to handle creditor complaints, and the purpose of wills and powers of attorney.

Army Community of Excellence:

We at the Fort Lee LAO strive to serve our clients with excellence. This office has regularly been the recipient of the annual Chief of Staff's Award for Excellence in Legal Assistance. To ensure this tradition continues, we routinely ask clients to complete surveys regarding the services they received from this office. Client suggestions for improvements are encouraged and implemented whenever practicable.

SRPs, PORs, POMs and EDREs:

The LAO is responsible for setting up a site during Soldier Readiness Processing and other mobilizations to prepare troops for legal issues that come up during mobilization and deployment. Situations that involve major troop movement significantly involve LA assets and sometimes require that normal office operations be completely shut-down in support of troop-movement or exercises. It is important that our troops be provided the opportunity to obtain wills and powers of attorney prior to their actual mobilization and deployment. This office is responsible for that mission.



VOLUNTEER INCOME TAX ASSISTANCE PROGRAM (VITA)



In cooperation with Fort Lee Army Community Services (ACS), the Legal Assistance office provides tax preparation assistance to soldiers and their families. Over 18,000 individuals are assisted with their taxes annually through this program. The VITA program has been a huge success at Fort Lee. Unit tax advisors, ACS volunteers and all staff attorneys have assisted in making this program a huge success. Unit and volunteer tax assistants are given three full days of training by representatives from the Internal Revenue Service and the Virginia Department of Taxation. The Tax Assistance Center is located in building number 5209 on the corner of A Ave and 21st Street. The hours of operation are announced each year prior to the Center's opening.

VITA volunteers are available to assist clients Monday through Friday during the tax season and every Wednesday on an appointment basis during the off-season. The tax season generally begins in mid-January and ends in May. Preparations for each tax year usually begin with an executive briefing requesting approval of the program from the Garrison Commander.

During the tax season, our paralegal serves as the VITA on-site supervisor and primary electronic filer.



ELECTRONIC FILING (VITA)

Electronic filing (aka e-filing) is offered through the VITA program. This has proven a very popular service. It is made available to eligible personnel for filing of their state and federal tax returns. This service significantly reduces the waiting time for receipt of a refund. Publication of this service is generally made through daily bulletin announcements, newspaper articles and radio announcements. Electronic filing is conducted solely on an appointment basis.

Additionally, soldiers and others who choose Electronic Filing through the Fort Lee VITA Program can count on receiving a prompt refund by direct deposit to their bank account, while avoiding the enormous fees charged by commercial tax preparers. Those interested in receiving the maximum refund amount should consider that gimmicks such as the "Refund Anticipation Loan" offered by many tax professionals actually cost the taxpayer a large portion of their refund.

While the supposed benefit is that the taxpayer can receive their refund almost immediately, the tax preparer's additional fee essentially amounts to an extremely high interest, short term loan. Such a loan is similar to the unethical and usurious loans provided by notorious 'pay-day lenders' that often take advantage of soldiers. This is a high price to pay when compared to the meager benefit of having a smaller refund a few days earlier. Eligible personnel are highly encouraged to contact VITA through the LAO as soon as they receive their W-2.



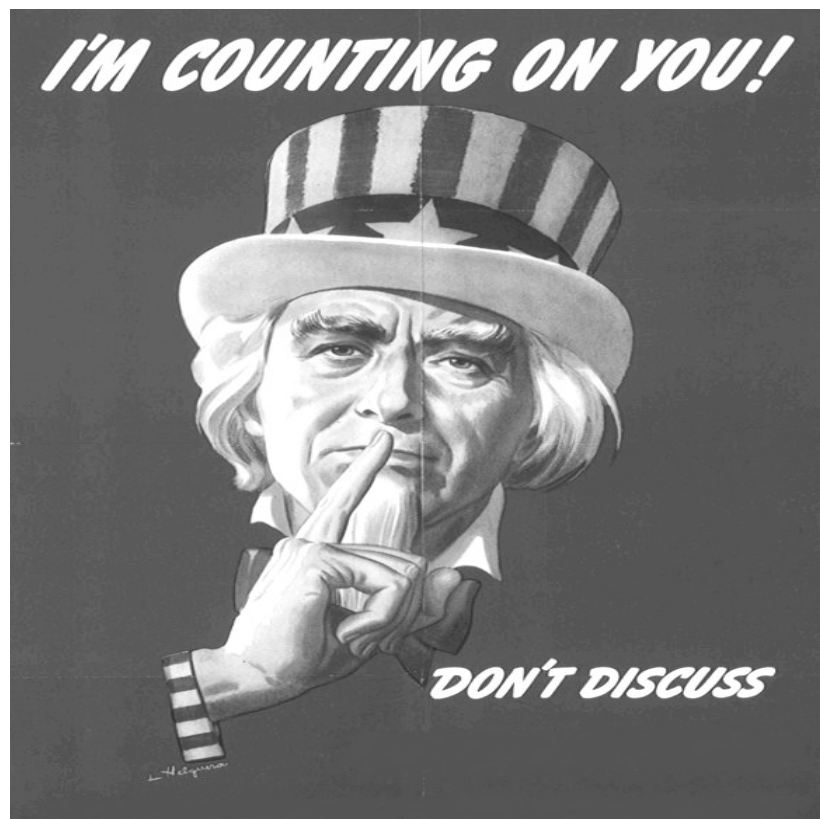
A Word About CONFIDENTIALITY

The LA staff is bound by rules governing confidentiality and the attorney-client privilege. Information obtained during the attorney-client interview is **strictly confidential**.

LA attorneys also are bound by those rules governing the ethical conduct of attorneys. For example, it is unethical for an attorney to advise or assist both husband and wife in a domestic dispute. Only one can receive services through the Fort Lee LAO.

The other party must seek assistance through another installation's LA office or retain off-post civilian counsel. The same rule is followed when two or more individuals are involved in a non-domestic dispute.

There are no exceptions to this policy.



The following are a series of preventive law articles we hope our clients will find helpful:

Divorce in Virginia

Separation Agreements

*** The Servicemembers' Civil Relief Act (SCRA)***

Debt Collectors and the Fair Debt Collection Practices Act

How to File a Consumer Complaint

Paternity

Virginia's Lemon Law for New Cars

Personal Property Taxes in Virginia

Comprehending Contracts

Predatory 'Payday' Lending

Fighting Identity Theft

Immigration Through Military Service



OFFICE OF THE COMMISSIONER OF INCOME TAX - III, THANE
QURESH HANSON, 3rd FLOOR, CORDEALE ROAD, NAUPADA, THANE (W) - 400 602.
NATHINCIT-1198-0571/LET/2007-08 Date: 26/09/07

The Trustee
Lord's Educational Trust,
12-D, Regency Apartment,
Sacha Nagar, Chhatrapati Shivaji Road, Virar(W)

Sr,
Sub: Exemption certificate under section 80G(3) of the
Income Tax Act, 1961.
Ref: Your application dt. 05.02.2007, received in this office
on dt. 06.02.2007.

Donations made to the, Lord's Educational Trust, 12-D, Regency
Apartment, Sacha Nagar, Chhatrapati Shivaji Road, Virar(W), shall be eligible to the
benefit of deduction under section 80G of the Income Tax Act, 1961, at the hands of the
doctors subject to the limits and conditions prescribed therein.

2. This certificate is valid from dt. 05.10.07 to 31.3.10.
Yours faithfully,
(K. K. Sharma)
Commissioner of Income-Tax III,
Thane.

NOTES:
1. Receipt issued BY the donors should bear the number and date of this order.
2. Statements of accounts of Income & Expenditure should be submitted annually to the
ITO Ward 4(3), Thane, and any deviation from this may result in withdrawal
/non-renewal of this certificate.
3. If further renewal is required, an application in Form No. ITC be made to this office
along with the statements of accounts for the last 3 years and certificate in 13(1)(c) of
the I. T. Act, 1961 signed by the trustee along with list of donors of amount above
Rs 500 for the last 3 years before the date of expiry of the current certificate.

(R. S. Varadani)
Asst. Commissioner of Income-tax (HQ) (Admin),
For Commissioner of Income Tax III, Thane

Copy to - 1. The ITO, Ward 4(3), Thane. He is requested to verify and satisfy himself
with reference to the Board's Instruction No. 38 F.10.2003-IT(A) dated 18.4.2003 that
the annual statements that will be submitted by the trust conform to fulfill the conditions
laid down in section 80G of the I. T. Act, 1961.
2. The Asst. CIT, Rung-4, Thane

ACT (HQ) (Admin), For CIT-III, Thane



Divorce and Virginia Law

Under Virginia law the general rule is that parties must be separated for **12 consecutive months** before a divorce will be granted. However, if the couple has no children born of the marriage or to them as a couple, and if they executed a settlement (separation) agreement, a divorce may be granted after **6 months** of consecutive separation.



Separation Agreements

In Virginia there is no “legal separation” or “separation papers” to be filed with state or local authorities. Husband and Wife become legally separated **only** when one of the parties to the marriage physically moves out of the marital home.

A married client that has separated from their spouse may obtain a Separation Agreement from the Legal Assistance Division. A Separation Agreement is a legally binding contract between Husband and Wife that sets forth how the parties have agreed to share custody of their children and child and spousal support, as well as divide their property and assets. An Agreement becomes effective only when signed and notarized by both parties. Therefore, Husband and Wife must arrive at a fairly complete understanding and agreement on what they are both willing to do in terms of custody, property, and financial issues before a Separation Agreement can be properly drafted.

The key thing to keep in mind is that neither party controls the content of the agreement, as the other spouse may simply refuse to sign if they feel the terms of the agreement are unfair. Neither party is likely to get everything that they want nor is there reason to draft an agreement that skews all or most of the benefits to one party. Thus eligible persons desiring to enter into a Separation Agreement are highly encouraged to have a frank and complete discussion of all relevant family and financial issues prior to seeking legal assistance in drafting a Separation Agreement.



The Servicemember's Civil Relief Act (SCRA)

Basic Facts: The Servicemember's Civil Relief Act (SCRA) replaces the Soldiers and Sailors' Civil Relief Act (SSCRA). President George W. Bush signed the SCRA into law on December 19, 2003.

The SCRA was passed by Congress to provide protection for individuals entering or called to active duty in the military services. The protections offered by the SCRA apply to active duty, reserve and National Guard (serving in Title 10 or Title 32 status) service members, and they begin on the date of entering active duty. SCRA protections generally terminate upon the date of discharge from active duty.

Lease Termination: The SCRA contains provisions for terminating both premises leases (e.g. your house, apartment or place of business) and motor vehicle leases.

Residential Leases

To terminate a *residential lease*, the soldier must submit TWO items to his landlord:

- A written request for termination of the lease, explaining that he must terminate the lease due to military orders that either activate, PCS or deploy the soldier *for 90 days or more*; and
- A copy of the soldier's orders.

Motor Vehicle Leases

To terminate a *motor vehicle lease*, the servicemember also must submit a written request for termination and give a copy of his orders to the lessor. Unlike when terminating a residential lease, for vehicle-lease termination the orders must specify that the soldier will be activated or deployed *for 180 days or more*, or PCS'd to OCONOS.

Once the soldier has submitted these documents, he has *15 days to return the vehicle* to the lessor.

The effective date of termination depends on the type of lease. For residential leases, termination becomes effective 30 days after the date on which the first rental payment following notice of termination is due. Thus, if a soldier's rent is due on the first of each month, and he submits his paperwork to his landlord on August 5, then the first payment date following termination is September 1. Termination takes effect 30 days later, on October 1.

For motor vehicle leases, termination takes effect on the date that all requirements have been met (i.e. letter of termination delivered, copy of orders delivered, vehicle returned).

For all other leases, termination occurs on the last day of the month following the month in which proper notice was delivered. If proper notice was given on April 15, for example, then lease termination would occur on the last day of the month following, or May 31.

SCRA (cont'd.)



evicted from leased housing. To be eligible for relief, a soldier must meet three criteria:

- The premises were occupied as a dwelling by the servicemember and/or his dependents;
- Military service materially affected the soldier's or dependents' ability to pay rent; and
- The rent does not exceed \$2,465 per month for 2004 (This number changes each year based on a rent-ceiling formula provided by the SCRA).

Eviction from Leased

Housing: The SCRA also provides soldiers with some protection against being

If a soldier can demonstrate he meets the above criteria, the SCRA allows for a stay of eviction proceedings for up to three months following his discharge. Anyone taking part in an eviction in violation of the SCRA may be punished with up to a year in jail and a fine. This protection applies to soldiers regardless of whether they began renting a dwelling before or after entry into active duty.

SCRA 6 % Maximum Interest Rate Protection:

Another provision of the SCRA that soldiers should be aware of is the maximum interest rate. While on active duty, soldiers may not be charged more than **6 percent interest** per year on any debts incurred *prior* to entering military service by servicemen individually or by soldiers and their spouses jointly. Typically, the 6 percent interest rate applies to all commercial financial obligations, such as home mortgages, credit card debt and automobile loans.

This benefit is not absolute, however. It does not apply to non-commercial obligations and liabilities, such as a

settlement with a former spouse. It also does not apply to government subsidized student loans (GSL). Moreover, a creditor may have it taken away if the creditor goes to court and convinces a judge that the soldier's ability to pay a greater rate of interest is not materially affected by his military service.

Most creditors will abide by the SCRA and automatically lower a servicemen's interest rate to 6 percent when asked. However, it is the responsibility of the individual soldier to inform his creditors that he has been called to active duty. Soldiers who want to enjoy the 6 percent interest rate, therefore, should request the lower rate by informing their creditors in writing about their active duty status. They should include a copy of their orders as well.

\$\$\$
\$\$\$

The Fair Debt Collection Practices Act (FDCPA)

Basic Facts: Creditors frequently contact commanders and supervisors regarding debts owed by federal government employees working under them. To curb abuses by overzealous creditors and debt collectors, Congress, in 1962, passed the Fair Debt Collection Practices Act (FDCPA). This law was passed to accomplish the following:

- To eliminate abusive debt collection practices;
- To ensure that those collectors who refrain from using abusive debt collection practices are not competitively disadvantaged; and
- To promote consistent state action to protect consumers against debt collection abuses.

The FDCPA prohibits debt collectors from contacting third parties and some debtors. It requires validation of debts and provides a means by which consumers can stop debt collectors from communicating directly with them.

Advice for Commanders: When contacted by someone seeking payment of a debt, first determine whether that person can be classified as a "debt collector" under the definition provided in the FDCPA. Namely, ask whether the person in question is a representative of an organization in the business of collecting debts for others. If so, that person is a debt collector and may contact third parties regarding debts **ONLY** if **ONE** of the following circumstances is present:

- The debtor has consented to such contact, or
- The debt collector has obtained a court order permitting such contact.

Creditors vs. Debt Collectors: Note that debt collectors and creditors are two completely different entities as far as the FDCPA is concerned. Creditors are the organizations to whom a debt is owed, such as phone companies or credit card companies. Debt collectors are hired by creditors to recover the money owed them.

Creditors are entitled to contact third parties for assistance unless state law precludes such contact. To date, Florida, Louisiana, Maryland, Massachusetts, New York, North Carolina and Wisconsin have enacted laws forbidding creditors from contacting third parties.

If a creditor has obtained a judgment through the court against a soldier, and if the debt has been validated, then the soldier may be charged under the Uniform Code of Military Justice (UCMJ). Other federal employees can, in some circumstances, be counseled for their failure to pay debts if their financial problems are interfering with their job performances or other office functions.

Advice on extremely old debts: If a debt collector contacts you about a debt that you believe was either paid off or written off years ago, be careful. Admitting to the debt may expose you to new liability. If you get a collection call, request the name of the original creditor and the date of default without specifically admitting or denying the debt. The state statute of limitations *may* have made the debt invalid.

How to File a Consumer Complaint

If you have a consumer complaint, contact the state Division of Consumer Affairs (DCA) to request a complaint form. The DCA investigates cases involving alleged violations of consumer laws. They respond to inquires and complaints regarding harmful or potentially harmful products. DCA also investigates and mediates consumer complaints in an attempt to obtain fair and equitable settlement for both parties involved in the dispute.

All complaints must be received in writing by the DCA before they can be processed. For one's complaint to be effective, the following measures should be taken:

1. Contact the merchant in writing and attempt to settle the complaint yourself.
2. Obtain the complete name and address of the company, and the names of the individuals with whom you have dealt.
3. Send copies of all documents relevant to the complaint to DCA, and if possible, keep the originals for yourself. These documents should be attached to the completed complaint form.
4. Make certain that you have not left out any details of the transaction that could be in any way helpful to the investigation or mediation process.
5. Allow a minimum of 30 days for the company to respond to your complaint. If the company has not responded within 30 days, DCA will make additional attempts to contact the company and elicit a response.

Below is the address and telephone number for DCA:

State Division of Consumer Affairs
1100 Bank Street, Room 101
Richmond, Virginia 23219
(804) 786-2042



The Issue of Paternity



A child is deemed illegitimate if born of parents who are not married at the time of birth. If born after the marriage of the parties, the child is considered legitimate, even if the child was conceived prior to the marriage. Children are deemed legitimate even if born of a marriage forbidden by law (e.g. a bigamous marriage), or which was dissolved or annulled. The father of an illegitimate child cannot legally be compelled to pay child support unless either he admits to paternity in a court proceeding or legitimacy is proved in court through other means. When determining paternity, the courts will consider whether: the father allowed his name to be placed on the birth certificate as father of the child; whether he has cohabited openly with the mother of the child for an uninterrupted period of 10 months immediately preceding the child's birth; whether he has signed an affidavit of paternity admitting to being the father of the child, or whether he has allowed the common use of his child's surname.

Children that are legally adopted have the same status and rights as natural children, including rights of support and inheritance. Under Virginia law, only courts can grant an adoption. The biological parents of the child have no further rights to the child. Their ties to the child are legally and totally severed by the court. Determinations as to child support, custody, and visitation must be considered for the adopted child just as they would be for a natural child in the case of divorce or separation of the adoptive parents.

If two parties marry, and one of the parties already has a child which is not biologically the child of the other party, that child is the step-child of the non-biological party. In the event of divorce or separation, the step-parent is not obligated to provide child support for the step-child under Virginia law. Frequently the step-parent will adopt the step-child. Under these circumstances, the step-child becomes a legitimate child and the responsibility of the adoptive parents. In this case, the adoptive parent would have to provide support for the child in the event of divorce or separation just as though the child were his or her natural child.

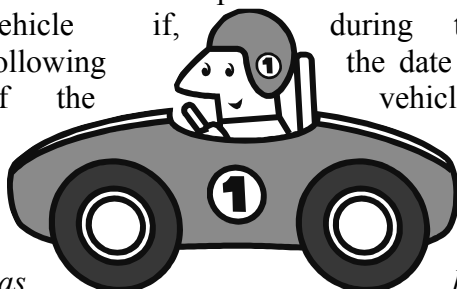
Virginia's Lemon Law for New Cars



Virginia's lemon law specifies that if a new motor vehicle does not conform to all warranties offered by your manufacturer, and the consumer reports the nonconformity to the manufacturer during the manufacturer's warranty period, the manufacturer, its agent, or its authorized dealer must make such repairs as are necessary to conform the vehicle to such warranties, even if the repairs are made after the expiration of the manufacturer's warranty period.

If, after a reasonable number of attempts, the manufacturer, its agents, or authorized dealer are unable to repair the vehicle to conform to the manufacturer's warranty, the manufacturer must replace the motor vehicle with a comparable motor vehicle acceptable to the consumer, or accept a return of the motor vehicle and refund to the consumer the full purchase price (less a reasonable allowance for the consumer's use of the vehicle up to the date he first gave notice of the nonconformity).

The law states it shall be presumed that a reasonable number of attempts have been undertaken to repair the vehicle if, during the eighteen months following of the date of the original delivery of the vehicle to the consumer, one of the following circumstances exists:



1. *The same problem has been subject to repair three times or more by the manufacturer, its agents, or its authorized dealers, and, the same problem continues to exist;*

2. *The problem is a serious safety defect and has been subject to repair one or more times by the manufacturer, its agent or its authorized dealer, and the same problem continues to exist; or*

3. The motor vehicle is out of service due to repair for a cumulative total of thirty days unless such repairs could not be remedied due to conditions beyond the control of the manufacture, its agent, or its authorized dealer.

It is important that you read your warranty book carefully. The warranty book outlines what is covered under the warranty and what you must do to enforce your rights under the warranty. The warranty book also will give you the manufacturer's address in case you need to give notice to the company that you are having trouble with your car. If you do not have a warranty book, get one from the dealer or the manufacturer. Review those provisions of your warranty that you require to provide notice to the dealer or the manufacturer. Keep a written log on every problem you have with your new car and bring it to the attention of the dealer and manufacturer. It is advisable to have repairs on a new car performed at an authorized dealership service center and to keep all service receipts in chronological order. Any problem that requires a second trip to the repair garage should be brought to the seller's attention by letter. Include a statement that you may seek the remedies allowed by Virginia's law if the problem is not resolved.

Do not void your manufacturer's warranty by attempting car repairs yourself or allowing unauthorized repairs to work on your vehicle.

Virginia Personal Property Taxes – WATCH OUT!!

Many military personnel may recently have received, or will soon receive, local personal property tax bills that they may not be required to pay. Each soldier must analyze his or her individual situation to determine if payment is required.

As a general rule, the soldier will not have to pay the local personal property tax if all of the following criteria are met:

1. The soldier's home of record is a state other than Virginia. (The home of record will be shown on the soldier's Leave and Earnings Statement);
2. The soldier's nonmilitary spouse does not appear as a joint owner on the title of the property being assessed. (If the spouse appears on the title, works in Virginia

and pays income tax to Virginia, taxes will have to be paid to the taxing municipality).

As an example of the general rule, let us use Soldier Smith as our taxed military person. Soldier Smith is stationed at Fort Lee and receives a bill in the mail from Chesterfield County, Virginia. Chesterfield County is taxing his 2004 Mercedes-Benz C-Class C230. Soldier Smith's Leave and Earnings statement shows North Carolina as his home of record. Soldier Smith holds title to his brand new Mercedes in his name alone. Soldier Smith should NOT have to pay taxes to Chesterfield County.



Soldier Smith should come to the Fort Lee LAO and pick up and sign an affidavit detailing his rights under the SCRA. He should also be prepared to show a copy of his Leave and Earnings (LES) statement to the Chesterfield County. Soldier Smith should either take or mail the affidavit and a copy of the LES to the Chesterfield County Commission of Revenue office.

Under our example, if Soldier Smith's wife's name had also appeared on the title to the Mercedes, and she was employed in the state of Virginia, Soldier Smith would have to pay the taxes. It is very important that the soldier analyze his or her situation carefully. The Fort Lee LAO can assist the soldier in determining whether or not he owes taxes.

Comprehending Contracts

Legal Assistance Attorneys often see clients who face large financial liabilities because they have signed away their rights in a disadvantageous contract. This is often because the client did not understand one or more terms or words stated in a contract, didn't realize what they were signing was a contract, were deceived by the other party, or had not considered the extent of the liability that they were incurring. Many soldiers also mistakenly believe that the SCRA protects them from having a contract enforced against them. In most cases, that is not true.

Other clients encounter problems in obtaining services or refunds that they may be entitled to from a commercial entity because there is no written contract or other document memorializing the agreement or business arrangement that they entered into.

Some helpful rules of thumb that may prevent some of these problems:

- NEVER sign a contract that you have not read or that contains terms that you are uncertain about.
- Have a Legal Assistance Attorney review any contract and advise you on your rights and potential liabilities before you sign.
- NEVER pay cash for expensive goods or services if the person or business cannot provide you with at least a receipt that clearly states what you are buying, how much money was received and how much is owed, the date, and the name, address, and telephone number of the business and the name & signature of the person you dealt with.
- NEVER enter into any ongoing or complex arrangement for goods or services to be provided to you without a written agreement signed by both parties.
- If an offer seems too good to be true, it is.

Predatory 'Payday' Lending

The predatory lending/payday loan/personal cash advance industry is big business in localities near military installations. These storefront businesses provide short term loans for a flat fee (based upon the amount borrowed), often guaranteed by collateral such as the title to the borrower's car. Typically the term of the loan can be renewed ("rolled

over”) by the borrower, causing them to incur more lending fees. These compounded fees result in exorbitantly high interest rates, sometimes exceeding 600%!

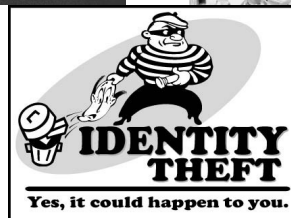
Beware, the SCRA provides NO PROTECTION on such loans because the charges are fee-based, so lenders do not technically charge interest on the original loan.

Soldiers are primary targets for such usurious and unethical lending practices, based upon their regular paycheck and the fact that soldiers may face administrative actions for failing to make good on their financial obligations.

Some minor protection is available to active duty soldiers from the Military Lending Act of 2007. These protections only apply to specific lenders, loans, and borrowers and even where effective the capped interest rate is still a whopping 36%, plus any late fees or penalties. Further, the predatory lending industry is constantly adapting and changing the structure of their “emergency” loans to get around existing law.

The bottom line is this: Steer clear of short term lenders!

Fighting Identity Theft



Identity theft occurs when a criminal fraudulently uses the credit or other financial information of an innocent person. This type of “cyber crime” is on the rise and the first step to fighting it is protecting your personal financial information. Safeguard your Social Security number, shred old bills and bank statements, and physically destroy or disable the memory storage of your discarded personal computer. Be alert to scams designed to steal your personal information and check your credit report regularly (every 4 to 6 months) at **www.annualcreditreport.com**.

If you notice unexplained charges on your bank statement or credit card bill, or if you receive notice of an account that you did not open, you may have fallen victim to an identity thief. If that happens you should immediately follow the five steps listed below to protect yourself from being held liable for fraudulent charges and from further violations.

1. **Place a Fraud Alert on your credit. Do this by calling either Equifax (800) 525-6285, Experian (888) 397-3742, or TransUnion (800) 680-7289. Say you want to speak to the fraud department and place a fraud alert on your credit. Note the date and time for future reference.**
2. **If an account has been set up in your name, contact the creditor and ask to speak to the security or fraud department. Demand that the account be closed and state that you believe fraud has been committed. Ask what their dispute resolution process is and what other proof they will need to remove the account from your credit.**
3. **File a police report with your local sheriff or police department. Give the police as much information as you have, such as amounts, dates, and anyone you suspect may have stolen your identity. Make sure that they give you a report number and a copy of the report.**
4. **Fill out an Identity Theft Affidavit. The office of the Attorney General of Virginia has a link on their website (http://www.oag.state.va.us/faqs/faq_idtheft.html) to an identity theft handbook which includes a fill-in-the-blank affidavit. An affidavit provides all of the relevant information about the fraudulent accounts and about you the victim and helps to demonstrate your willingness to cooperate with the authorities in prosecuting whoever stole your identity. Have the affidavit notarized when you sign it in order to give more weight to the affidavit. Blank affidavits are available in the Legal Assistance Office without an appointment.**
5. **File a complaint with the Federal Trade Commission (FTC). This can be done either by logging on to <https://www.ftccomplaintassistant.gov/> or by calling (877) ID THEFT (438-4338). If you file online, be sure to print a copy. If you file over the telephone, ask for a case number or at the very least, note the date and time of your call.**

Once these steps have been completed, make copies of all documents related to your dispute. Unless you receive written confirmation that the creditor has found fraud and that you are cleared of all disputed charges, you must be proactive. Contact the creditor and inform them of the steps you took and get an address where you can mail copies of all of your supporting documents (affidavit, police report, etc.) and send them certified mail!

Immigration and Naturalization through Military Service



Members and certain veterans of the U.S. Armed Forces are eligible to apply for United States citizenship under special provisions of the *Immigration and Nationality Act (INA)*. In addition, U.S. Citizenship and Immigration Services (USCIS) has streamlined the application and naturalization process for military personnel serving on active-duty or recently discharged. Generally, qualifying service is in one of the following branches: Army, Navy, Air Force, Marine Corps, Coast Guard, certain reserve components of the National Guard and the Selected Reserve of the Ready Reserve.

Qualifications

A member of the U.S. Armed Forces must meet certain requirements and qualifications to become a citizen of the United States. This includes demonstrating (1) Good moral character; (2) knowledge of the English language; (3) knowledge of U.S. government and history (civics); and (4) attachment to the United States by taking an *Oath of Allegiance* to the *U.S. Constitution*.

Qualified members of the U.S. Armed Forces are exempt from other naturalization requirements, including residency and physical presence in the United States. These exceptions are listed in Sections 328 and 329 of the INA. All aspects of the naturalization process, including applications, interviews and ceremonies are available overseas to members of the U.S. Armed Forces.

An individual who obtains U.S. citizenship through his or her military service and separates from the military under “other than honorable conditions” before completing five years of honorable service may have his or her citizenship revoked.

Service in Wartime

All immigrants who have served honorably on active duty in the U.S. Armed Forces or as a member of the Selected Ready Reserve on or after September 11, 2001 are eligible to file for immediate citizenship under the special wartime provisions in Section 329 of the INA. This section also covers veterans of designated past wars and conflicts.

Service in Peacetime

Section 328 of the INA applies to all members of the U.S. Armed Forces or those already discharged from service. An individual may qualify for naturalization if he or she has (1) Served honorably for at least one year, (2) obtained lawful permanent resident status, and (3) filed an application while still in the service or within six months of separation.

How to Apply

The Military Personnel Directorate (MPD) at Soldier One Stop is the designated point-of-contact on Fort Lee to assist with filing the military naturalization application packet. Appointments can be made with an MPD representative at (804) 734-6920.

Notes:

