

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(ii) Inform commanders worldwide by electrical message that the debt processing privilege of a specific creditor has been revoked.

(iii) Inform the creditor that his or her debt processing privilege has been revoked and state the reasons for this action.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

(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.

Department of the Army, DoD

Pt. 513, App. B

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 Pater-
nity.

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 low-
est interest rate of the State or States in
which the company is chartered or does busi-
ness 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 ex-
ceed 20 percent of the obligation found due.
No attorney fees shall be authorized if the
attorney is a salaried employee of the hold-
er.

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 subse-
quent holder of the obligation, provided that
the holder had actual knowledge of the de-
fense 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 obliga-
tion beyond State or national boundaries if
the military member or family moves be-
yond such boundaries under military orders
and notifies the creditor, in advance of the
removal, of the new address where the secu-
rity will be located. Removal of the security
shall not accelerate payment of the obliga-
tion.

B-5. No late charge shall be made in excess
of 5 percent of the late payment, or \$5 which-
ever is the lesser amount, or as provided by
law or applicable regulatory agency deter-
mination. 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.