

LEGAL ISSUES OF PERSONAL FINANCIAL MANAGEMENT

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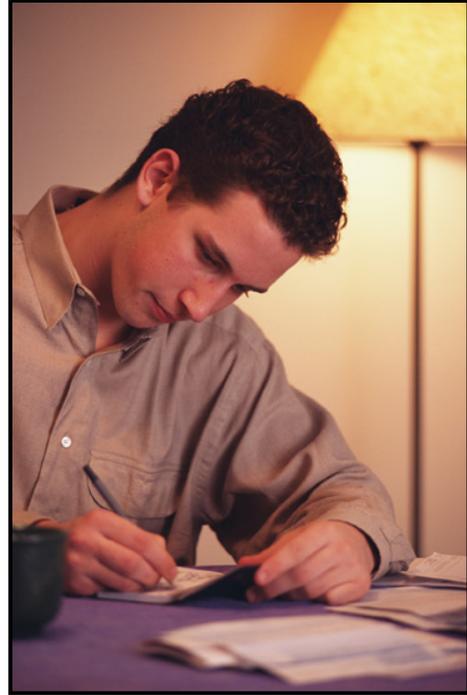
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LEGAL ISSUES OF PERSONAL FINANCIAL MANAGEMENT



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The following information is not intended to be a substitute for legal advice, rather, it is intended to inform you of some of the typical issues that may arise in relation to your personal finances, and highlight some of your legal rights. If you have specific situations that require the advice of an attorney, please contact NLSO for an appointment.

Six areas where Navy lawyers and financial counselors typically see service members and their families having concerns. They are:

- Domestic Relations
- Contracts
- Landlord/Tenant Transactions
- Warranties
- The Soldiers' and Sailors' Civil Relief Act
- Credit, Collection and Bankruptcy Laws

Domestic Relations

When we talk about domestic relations we are referring to a wide range of issues, concerns, rights and responsibilities regarding marriage, separation, divorce and children. Even though some of you, maybe many of you, are not married, there is a pretty good possibility that you need to know some of this information, if not for yourself, perhaps to help send another in the right direction.

Divorce: Divorce is driven by state law. Traditionally, divorces are based on “fault” grounds, such as adultery, desertion, or spousal abuse. In some states, however, fault divorces have been abolished entirely and statutes have been passed providing for divorce based on either fault or no-fault grounds. The time required to obtain a divorce and the expense involved will vary greatly, depending upon whether the service member proceeds with a fault or no-fault divorce.

State law varies further concerning jurisdiction for purposes of obtaining a divorce. The state of domicile of either party traditionally has been the basis for jurisdiction. Nearly every state also imposes a residency requirement. The service member must meet both the domiciliary and residency requirements of the state in which the divorce is sought in order to meet jurisdiction requirements. NOTE: Beware of divorces obtained in foreign countries. They may not be recognized as valid in the United States.

Division of Marital Property: Whenever there is a divorce, the parties will either mutually agree or obtain by court decree, a division of marital property. “Marital property” generally means those items acquired by the parties during the marriage. The Uniformed Services Former Spouse Protection Act allows state courts to divide federal retirement pay as marital property. The military does not decide how much retirement to pay in a divorce, state courts decide that. A former spouse can get some portion of retired pay after as little as one year of marriage. The 20/20/20 and 20/20/15 guidelines you may have heard about apply to other benefits (commissary and healthcare benefits, for example), and the “10” year rule applies to receiving payments directly from DFAS, but not to amounts that may be awarded.

Marital debts are also subject to division via mutual agreement or court decree. Prior to such an agreement or court decree, both parties are still equally responsible for joint debts. Each party can protect themselves to some extent by closing any joint credit or checking accounts and notifying all creditors of their wishes regarding future charges. Note that if a debt is under the name of Spouse A, and mutual agreement or court decree says Spouse B must pay the debt, if Spouse B does not pay the debt Spouse A is still liable for the debt according to the creditor. Creditors will always seek repayment from the party who has legal liability for a debt based on the contract (not the court decree). The creditors are never a party to your divorce. If both names are on the contract, creditors can and will go after either or both, regardless of court decree or mutual agreement.

Separation agreements, which provide for the division of marital property and debts as well as for spousal and child support, are complex and important documents and should *always* be reviewed by an attorney prior to signing. These agreements can become part or all of the divorce decree and are enforceable by the court against the party breaching any of the terms.

TOP TIPS if you think you are heading for separation or divorce

- **Organize your documents**
 - Review credit report for discrepancies and/or unknown accounts. Check with all three major credit bureaus both before your divorce and six months after.

- Retitle property to reflect any changes in ownership.
- Wills, powers of attorney, and beneficiary declarations should be changed when the intentions of the parties change.
- Set new goals.
- Close all joint accounts.
- Create a new financial plan.
- Seek legal assistance in drafting separation agreement. Be aware that NLSO cannot represent both parties.
- Get a court order.
- Retrieve and revoke any Powers of Attorney (PAO). Notice must be provided to any party who may have entered into agreements under the PAO that the authority has been terminated.

Spousal and Child Support: All states have laws governing spousal/child support. Generally, an action can be brought in court at any time during the marriage if the spouse with the greater income fails to adequately support the other spouse. It is not a requirement that a divorce action be pending. The parties can mutually agree, in writing, to the level of support that will be provided by one spouse to the other.

Most states provide for specific dollar amounts of child support, based on the number of children and gross income of *both* parents. If parties can't agree, the court will impose the statutory amount.

Non-Support: The Navy's official stance on non-support is found in the MILPERSMAN Article 1754.030 "The Navy will not act as a haven for personnel who disregard or evade obligations to their legal family members. "All members shall provide adequate and continuous support for their lawful family members and fully comply with the provisions of separation agreements and valid court orders." In many states, the failure to support one's legal dependents is a criminal offense. The military recognizes a service member's moral and legal obligations to support family members and uses its resources to ensure that this obligation is met.

The Navy provides counseling services to family members and requires commands to counsel service members when a non-support complaint is received. The Navy, however, does not possess the direct authority to force the service member to provide support by allotment or other means. The MILPERSMAN provides guidelines for child support that can be used in the **absence of a court order or mutual agreement**. State law will take precedence over Navy guidelines — **they are guidelines only:**

- Spouse only: 1/3 gross pay

- Spouse and one minor child: 1/2 gross pay
- Spouse and two or more children: 3/5 gross pay
- One minor child: 1/6 gross pay
- Two minor children: 1/4 gross pay
- Three minor children: 1/3 gross pay

“Gross pay will include basic pay and basic allowance for housing if entitled, but does not include hazardous duty pay, incentive pay, or basic allowance for subsistence.”

The DoD Pay Manual Section 30236 states that when a member is receiving BAH w/dependents, the money is to be used for the support of dependents. Non-support while receiving BAH/D can result in recoupment, and in some cases disciplinary action as severe as court martial.

Where support payments are in arrears, the service member may find that a court order for support payments has been turned into a judgment (a legal decision, order or decree), which can result in garnishment and/or involuntary allotment. In a garnishment, a debtor's wages are used to pay a debt by court order. Therefore, if a member's pay is garnished for support payment in arrears, money is automatically taken out of the paycheck and used to pay the arrearage. The arrearage must be for two months or more for a garnishment to result.

In particularly severe cases of non-support the command may take disciplinary action ranging from NJP to discharge. Non-support, as well as a fraudulent claim or receipt of BAH/D can be the basis for such action. The service member's best bet is to determine the amount of support owed and set up an allotment to pay it. If it is not paid by allotment, checks are preferred over money orders for the sake of record keeping. Copies of all documents (including checks) should be retained in case needed in the future.

Who are my children? Your children are determined as follows:

- Born while you are married.
- Adopted, even after divorce.
- Born out of wedlock with paternity test.
- Does not include stepchildren.



If you are not the parent of a child, beware of anything that can be construed by the court as evidence of paternity, such as sending money

to take care of the child. Do not acknowledge paternity in any manner whatsoever until you are sure the child belongs to you. **When in doubt, have a paternity test performed.**

TOP TIPS if you are responsible for child support:

- If you are responsible for child support, pay it, and keep a record of all payments made.
- If paternity is in question, get a paternity test. Refrain from taking any action that can be construed as child support, it may be considered to establish paternity.
- If you are due child support and it is not being paid, visit your local child support enforcement office and seek assistance from NLSO.
- An involuntary allotment for back child support will take priority over all other debts save those owed to the government.

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Credit Contracts: A credit contract, or note, is a legal document that names the borrower and lender and the terms of the loan agreement. These terms are the amount borrowed, interest rate, finance charge, time for making payments, amount of each payment, and the effect of missing a payment. The Federal Truth in Lending Act requires that other important credit terms, such as the annual percentage rates and the finance charge be included in any consumer contract.

Clauses: There are several key clauses to look for in the “fine print” of a consumer credit contract that refer to the rights and responsibilities of the creditor and debtor if payments are missed. Remember, the “big print giveth, and the fine print taketh away.”

- **Security Clause:** This clause itemizes the property that the creditor may claim as collateral if the member does not pay the loan as agreed. The item purchased may be the collateral, as well as any other items the member may have pledged in order to obtain the loan.
- **Attorney’s Fee Clause:** States that the member is responsible for paying the creditor’s attorney’s fees if the creditor sues the member for non-payment.
- **Repossession Clause:** States that if the item purchased is repossessed, the service member is still responsible for paying any outstanding balance on the loan if the creditor does not receive enough money when the collateral is sold to pay off the loan, as well as other charges related to the repossession.
- **Late Fee Clause:** States when and how the creditor will charge the service member late fees if payments are not made as agreed.

- **Acceleration Clause:** States that if the debtor defaults on the loan, the creditor can demand payment of the outstanding balance. A default can be only *one* payment on a loan.

Cancellation of Contracts: Generally, a contract is presumed binding on both parties and cannot be canceled by one party without the express permission of the other party. Some contracts, however, contain various “cooling off ” provisions that allow the purchaser to cancel the contract within a specified period of time. While negotiating the contract, purchaser should inquire as to whether there are any applicable cancellation provisions. Make sure they are in writing in the body of the contract itself. State law may also govern the cancellation of various contracts (time-shares, health clubs, etc.).

TOP TIPS if you are going to negotiate and/or sign a contract:

- Read the fine print.
- Get everything in writing—no verbal promises.
- Understand all the terms of the contract– ask questions.
- Before signing any contract, but especially one for a vehicle purchase, take a copy of the unsigned contract to NLSO to have an attorney check it out.
- Be sure the whole contract is filled in—leave no blanks.
- A contract is presumed legally binding on both parties. If the seller wants to cancel the existing contract, change some of the terms (such as the interest rate) and sign a new one, you have the right to stay with the original contract if signed by both parties.
- Cancellation of a contract may require the agreement of both parties. Get it in writing, and deliver it via certified mail, return receipt requested.
- Be wary of any rights you may waive regarding collection of delinquent accounts.

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Landlord/Tenant Transactions

Customary Arrangements: In many states, property may be rented either by written or oral agreement. Oral agreements are not advisable because it may be very difficult to establish the terms of the agreement and to resolve disputes. A copy of the recommended lease that favors the lessee’s interests (as a tenant and member of the military) may be obtained from the Housing Referral Office. Service members need to check in with the Housing Office prior to signing a lease in order to avoid loss of BAH. It is recommended that a counselor at the Housing Office should review all leases before signing.

Leases are generally either for a fixed term or from period-to-period, such as from month-to-month. The lease should specify the period covered by the agreement, as well as contain a provision regarding termination procedures.

Beware of lease provisions that provide for an automatic renewal of the lease term unless proper notice is provided. Get a receipt for the notice to prove it was provided.

Military Clauses: A statutory military clause has been enacted in some states. There is no federal statute requiring a general federal military clause in all service members' leases. A military clause generally permits the service member to cancel the lease upon receipt of PCS orders, an order to move into government quarters, or discharge from military service. Make sure that your lease has a military clause. Note that some state laws may allow landlords to charge tenants a penalty for terminating a lease early using the military clause.

Insurance: Normally the landlord is not responsible for loss of the tenant's personal property unless the landlord's negligence caused the loss. Tenants should therefore have a form of renter's insurance to protect their personal property. Tenants should also obtain insurance covering liability to third parties on the property. Note that in most states the landlord is not responsible for the physical safety of the tenant from other than structural property. Criminal acts by non-tenants alone are not a basis for the termination of a lease unless personal physical protection is specifically provided for in the lease.

Security Deposits: State law varies regarding the reasons a landlord may retain the deposit. The deposit generally may not be retained for normal wear and tear charges, such as replacing carpeting and repainting. The length of time within which the landlord must either refund the deposit or advise why any portion is being withheld also varies among states. Triple damages may be awarded for judicial finding of failure to comply with statutes regulating the return of the security deposit.

TOP TIPS for Landlord/Tenant Transactions:

- Get a written lease — do not accept oral promises.
- Ensure there is a military clause in the lease.
- Get renters insurance to protect your property, whether you are renting or living in government quarters.
- Thoroughly inspect the property before moving in and note *in writing* any discrepancies. Retain list for when you vacate. Take photographs or videotape the premises for your records.
- Be cautious about withholding rent or violating lease provisions over disputes with the landlord; your actions may place you in breach of the contract. Strict compliance with the law is required to use rent escrow or rent withholding.

- See NLSO with concerns about your lease.

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Warranties vary in the amount of coverage provided. Warranties apply to all types of property, for example, automobiles, appliances, houses, etc.

Implied Warranties: The Magnuson-Moss Act of 1975, a federal law, gives these warranties on all products and services whether the warranty is written or not. Look to state law for additional statutes providing warranties, such as automobile and lemon laws.

- **Warranty of Merchantability:** Means that the dealer promises that the product will do what it is supposed to do, i.e., a car will run, and a toaster will toast.
- **Warranty of Fitness for a Particular Purpose:** This applies when you buy a product on the seller's advice that it is suitable for a particular purpose, i.e., seller said that a certain sleeping bag is suitable for zero degree weather.

Expressed Warranties: Written or oral warranties supplied by a manufacturer or sellers are usually one of the following:

- **“As Is”** – no warranty is given as to the condition or workability of the product. The seller has no liability for faulty goods.
- **“Limited”** – the seller or manufacturer will only provide a warranty on specific things, e.g., pay for all parts within the first year but not the cost of labor.
- **“Full”** – the seller or manufacturer guarantees completely the condition, parts and labor for the product for a specific period of time.

Service Contracts: Although often called “extended warranties,” service contracts are not warranties. Warranties are included in the price of goods and services but service contracts will cost extra money. To decide whether to buy a service contract in addition to the warranty, consider:

- Whether the service contract covers repairs that you would get for free under the warranty.
- Whether the product is likely to need repairs and the potential costs. (Consult Consumer Reports or other consumer resources for repair history.)



- How long the service contract is in effect.
- The long-term cost of the extended warranty, especially if you are financing it.
- The reputation of the company offering the service contract.

TOP TIPS for Warranties:

- Read any warranty and know what is covered.
- Seriously scrutinize any offers of extended warranties — service contracts. Service contracts are written like insurance policies and frequently have exclusions, limitations or conditions that reduce or eliminate the general coverage and protection stated in the agreement.
- Inspect anything you are going to purchase “As Is.” What you see is what you get, and what you *don't* see is what you get (especially when it comes to used cars).
- When something goes wrong with an item, take action while the warranty is in effect. As in all business transactions, elements of proof are very important. Always communicate in writing or follow up on phone calls with letters.

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Soldiers' and Sailors' Civil Relief Act (SSCRA)

The **Soldiers' and Sailors' Civil Relief Act of 1940** provides some limited protection to persons on active duty in the armed forces. It was designed in part to relieve service members from worry over their inability to meet their civil obligations. Under the Act, enforcement of certain civil liabilities can be temporarily suspended if their ability to meet their obligations has been impaired by reasons of their military service. The following are a few provisions in the SSCRA:

- Right to request stay of default judgments when military service hinders appearance in court to properly represent oneself. You must tell the court, or at a minimum the opposing attorney, that you are in the military and subject to the SSCRA. Note that if you use a lawyer you may be waiving your right because a lawyer is viewed as “going to court,” which keeps you from being able to invoke the SSCRA. A letter from the command requesting the stay supports the military need and adds credibility to the servicemember's request.
- Exemption from paying state income taxes on military pay earned in states that are not the legal residences of service members.
- Exemption from paying personal property taxes in any state except state of legal residence. However, the Act does not relieve the service member's spouse from paying the tax on his/her personal property to the state where residing.

- A reduction of interest rates in excess of six percent (6%) on installment contracts entered into prior to joining the Armed Forces, *under certain circumstances*.
- The requirement that creditors obtain a court order prior to repossessing real or personal property purchased prior to entering the armed forces or being recalled to active duty as a reservist.



The Act does NOT:

- Help the service member rescind a rental or purchase agreement entered into after entry onto active duty.
- Exempt the service member from the payment of local real estate taxes.
- Assist the service member in avoiding or postponing court action resulting from civilian criminal charges — civil only.
- Cover Federal Student Loans.

TOP TIPS for Using the Soldiers’ and Sailors’ Civil Relief Act:

- If you think you have a defense under the SSCRA, consult a NLSO attorney.

[Top](#) **Credit, Collection and Bankruptcy Laws**

There are many laws that have been enacted by the federal government to provide consumers with certain rights regarding credit and collections. Here are some of the major laws that you need to be aware of:

- **Federal Truth in Lending Act:** The purpose of the Act is to protect consumers by requiring lenders to provide a “meaningful disclosure of all credit terms.” For closed-end credit transactions (one time purchase or loan for a set amount payable over time), disclosures include the identity of the creditor, amount financed, annual percentage rate, finance charge, total of payments, payment schedule, and penalties. For open-end credit transactions (line of credit for multiple purchases payable over time), disclosures include annual percentage rate, method of determining finance charge and balance upon which finance charge is imposed, security interests and statement of billing rights. By having this information, consumers will be better able to comparison shop for the best terms and rates. The Act does *not* regulate the amount that lenders may charge for credit. How much can a lender legally charge for credit? (Also contains some cooling-off provisions for some home equity loans.)

- **Fair Credit Billing Act:** The purpose of this Act is to help consumers resolve disputes with creditors over billing errors, including transactions by unauthorized users, and to ensure fair handling of credit accounts. “Billing errors” (mistakes) include charges made by an unauthorized user, charges for goods or services not accepted by the consumer, computation errors, and charges for the wrong amount or on the wrong date. The creditor will investigate the allegation of unauthorized use and if they find it valid the maximum liability is \$50.00. See the Electronic Funds Transfer Act for contracting regulations.

- **Electronic Funds Transfer Act:** Adopted to provide protection to EFT users. Impacts the use of many point of sale (POS) transfers, ATM transfers, direct deposit or withdrawal of funds, transfers initiated by telephone, debit cards, and credit cards used as debit cards. A major tenet of this Act regards cardholder liability for unauthorized transfers. Consumers are liable for only the first \$50.00 of unauthorized use if they notify the company within *two* business days of discovering the loss or theft. If the consumer notifies the issuer between two and 60 days after the loss or theft, liability rises to \$500. If the consumer fails to notify the issuer within 60 days, the liability can be unlimited (notification can be oral or written). Note how this differs from liability for unauthorized use of a credit card under the Fair Credit Billing Act of the Truth in Lending Act.

- **Fair Debt Collections Practices Act:** The purpose of this Act is to eliminate abusive debt collection practices, ensure that those collectors who refrain from using abusive debt collection practices are not completely disadvantaged, and promote consistent state action to protect consumers against debt collection abuses. This Act applies to “debt collectors,” a business for which the principle purpose is the collection of any debts, or who regularly collect debts owed to others. **Debt collectors may not:**
 - Harass, oppress, or abuse any person by making threats of violence, using obscene or profane language or by repeatedly using the telephone to annoy.
 - Call before 8:00 a.m. or after 9:00 p.m.
 - Make any false statements when collecting a debt.
 - Engage in unfair practices in attempting to collect a debt by depositing a post-dated check before the date on the check or by taking a debtor’s property unless done legally.

Debtors have the right to notify a debt collector in writing to have no further contact with them. The law allows the collector one final contact, usually to invoke a specific remedy. If the collector continues to contact the debtor after a written request has been made to cease all contact, the debtor has the right to report the violation to the Federal Trade Commission for action. In cases like these the members should seek assistance from NLSO.

- **Fair Credit Reporting Act:** The purpose of this Act is to ensure that consumer credit reporting agencies furnish correct and complete information to businesses for use in evaluating applications for credit, insurance or employment. Have you seen your credit report in the last twelve months? Mistakes do occur, and you are wise to check your report periodically and correct any erroneous information. Among other things, this Act gives you the right to see your credit bureau file and to dispute the completeness or accuracy of the report. It also requires disclosure to you of the name and address of any credit-reporting agency that supplied information about you. Further, it gives you the right to put a 100-word statement on your credit report.
- **Equal Credit Opportunity Act:** Provides for credit being granted to all consumers in a fair and equitable manner. Prohibits discrimination based on sex, marital status, race, national origin, religion, age or the receipt of public assistance. Prohibits women from having to reapply for credit due to separation or divorce. A person can still be denied credit if they fall into one of these categories *but* a poor credit history is the only allowable reason for denial of credit.

[Top](#) **Letters of Indebtedness**

Often when service members become delinquent on their debts a creditor will correspond with the command requesting assistance in collection of the debt. These are referred to as Letters of Indebtedness. The creditor is hoping that the Command will apply some ‘official’ pressure to get the member to pay the debt. Many of these letters are not legal, and no action is required. However, legal or not, a letter of indebtedness gives a signal to the command that a member may be having financial difficulties. If left “untreated,” these difficulties can result in further collection efforts, garnishments, or even bankruptcy. They are usually referred to the Command Financial Specialist or a Legal Officer for action, and the member can anticipate some inquiry into the nature of the letter and the status of the debt.

Bankruptcy

Bankruptcy is a legal proceeding provided by federal law, in which people who cannot pay their bills can get a fresh financial start. All bankruptcy cases are handled in federal court. Filing for bankruptcy immediately stops all creditors from seeking to collect debts from you (called an “automatic stay”), at least until your debts are sorted out according to the laws. There are two types of bankruptcy typically filed by individuals, **Chapter 7**, which is a straight liquidation of assets to pay debts, and **Chapter 13**, which is a court-ordered plan to pay debts.

There are both positive and negative aspects of bankruptcy. **On the positive side, bankruptcy can:**

- Eliminate the legal obligation to pay most or all of your debts.
- Stop foreclosure on your house or mobile home and allow you an opportunity to catch up on missed payments.

- Prevent repossession of a car or other property, or force the creditor to return property even after it has been repossessed.
- Stop wage garnishment, debt collection harassment, and similar creditor actions.
- Restore or prevent termination of utility services.
- Allow you to challenge the claims of creditors who have committed fraud or who are otherwise trying to collect more than you really owe.

On the negative side, bankruptcy cannot:

- Eliminate certain rights of 'secured' creditors.
- Discharge certain types of debts such as child support, alimony, some student loans, criminal fines and taxes.
- Protect cosigners on your debts.
- Discharge debts that arise after bankruptcy has been filed, and in many cases debts incurred just prior to filing bankruptcy.

A bankruptcy stays on your credit report forever. It is reported to general creditors for 10 years. After the 10-year period it will be reported only to creditors with whom you seek a mortgage or loan for \$150,000 or more, an insurance policy with a value of \$150,000 or more, and employment with a salary of \$75,000 or more. Although the bankruptcy laws exist for a reason, bankruptcy is a final resort, and should only be pursued after all other options have been ruled out. Work with your CFS, FFSC Financial Education Specialist, NMCRS, and/or non-profit debt management counseling programs available at your local federal credit union or through non-profit consumer credit counseling organizations. For most military members there are alternatives to bankruptcy that allow you to live up to your legal and moral debt obligations without filing bankruptcy.

TOP TIPS for Credit, Collection and Bankruptcy Issues:

- Make sure all finance contracts include the Federal Truth In Lending information: annual percentage rate, finance charge, amount financed, total of payments.
- If wrong information is on your credit report, dispute it.
- Report any loss or theft of credit or debit cards as soon as you realize they are missing.
- If third party collection agents are harassing you, ask them to stop calling you. Seek debt management counseling.

- Avoid letters of indebtedness to the command by developing and using a personal financial plan and keeping debts payments down to an affordable level.
- Get counseling *before* talking to a bankruptcy attorney.

[Top](#) Summary

We have covered six important areas of personal finances where legal issues typically arise. Sailors and their families can avoid legal complications by being aware of and exercising their rights under the law. To help apply what we have learned, here are a few situations that are commonly seen scenarios—are they heading for trouble?

1. A service member is separated from her spouse. The spouse has custody of their one child. The member and spouse are arguing over how much child support should be paid. The service member decides not to pay anything to the spouse until there is a court decree. She continues to live in their apartment and receive BAH at the with dependents rate. Is she heading for trouble?

Yes, she needs to pay, at a minimum, the difference between BAH with dependents and BAH single (if she is authorized it).

2. A service member wakes up one Saturday morning and decides to go out and buy his dream car. While on the lot the salesperson tells the member to sign the retail installment sales contract and a Promissory note as well as a few other miscellaneous sheets of paper. He also recommends the member purchase a service contract to keep the car running smoothly. The member is late for a date and, since he trusts the salesperson he signs all the documents without reading them. Is he heading for trouble?

Yes, never sign a legal document without reading the whole thing and understanding it. Before signing, take the contract to NLSO to have it checked out. He probably doesn't need the service contract.

3. A very junior service member is having difficulty paying bills he incurred prior to joining the military. Some of the debts have interest rates as high as 20%. Is he heading for trouble?

Maybe not. The sailor may be able to get the interest rate reduced under the SSCRA. He needs to consult with NLSO, and also seek debt management counseling from his CFS, NFSC or a local consumer credit counseling service. There may also be a Letter of Indebtedness sent to the Command.

4. A service member and her husband are moving into an apartment and sign a lease without a military clause. Are they heading for trouble?

Yes, they could owe a lot of money if they are suddenly transferred, depending on the terms of the lease. Ensure there is a military clause, and get leases checked out by NLSO or Housing before signing.

5. A service member and her husband are moving into government quarters. They think that the government will pay for any damage to personal property if there is a disaster, like fire or flood. Are they heading for trouble

Yes, if they don't have any renters insurance and a disaster should occur. Be on the safe side. For a few dollars a month it is worth it to get the coverage offered under a renter's policy.

6. A service member is buying a used car and asks the salesman for a copy of the unsigned contract to take to his legal officer prior to him signing it. Is he heading for trouble?

No, this is the right thing to do. If the salesman won't give a copy, try another dealer.

7. The court tells a service member that he must pay debts legally incurred by his ex-wife while they were married. The service member decides there is no way he will pay the debts. Is he headed for trouble?

Yes and no. The ex-wife is liable for the debt because it is in her name, no matter who the courts say must pay it. However, the ex-wife can sue the service member for payment of the debt under the court decree. The ex-wife can request the service member be held in contempt of court, which could result in jail time or other penalties.

8. A service member living in the barracks has fallen three months behind on court-ordered support for his estranged wife and baby son, who are living in military housing. His CO orders him to pay ½ of his gross pay each month. Is anyone headed for trouble?

Yes: The service member needs to pay the child support. Since he is behind three months he could be facing an involuntary allotment. They both need to find out how long the wife and son can live in housing. A CO cannot order a service member to pay child support under the MILPERSMAN Article—it is meant as a guideline in the absence of a court order. Since there is a court order, that will take precedence

9. A service member does not believe he is the father of a new baby, but agrees to provide financial support until “things are straightened out.” Is he headed for trouble?

Yes, the temporary support can be construed as providing child support, and used to establish paternity. Get a paternity test if paternity is in doubt.

10. A service member buys a heavy-duty steam carpet cleaner from a department store. The saleswoman tells the service member it will clean heavy-duty dirt from most carpets. The service member notes, upon using the cleaner, that it has a habit of forming small, muddy ponds in his living room. Is he headed for trouble?

No, this is probably a breach of the implied warranty — an item should do what it is supposed to do. He will probably get a new cleaner. As for the carpet?

11. A service member buys a used car marked “As Is.” When he puts the key in the ignition nothing happens. Upon further investigation he lifts the hood and notes that there is no engine. Is he headed for trouble?

Yes, since he bought it “as is,” he gets it “as is.” Always have a used car checked by a mechanic before purchasing it, especially if it is being sold “As Is” with no warranties.

12. A service member realizes she has lost her credit card. She calls the issuer right away and informs them. When she gets her next bill there is a charge of \$400 that she didn’t make. Is she headed for trouble?

Yes, Even though she reported the loss as soon as she was aware of it, the service member must WRITE to notify the creditor under the FCBA. The use of oral or telephonic communication is not effective to enforce rights under the Act.

13. A service member realizes she has lost her debit card. She doesn’t get around to calling the issuer for three days. In the meantime there was unauthorized use of the card for \$400. Is she headed for trouble?

Yes, the situation is different for debit cards. She has two days to report the loss, then she is liable for the first \$500 of unauthorized charges. She will have to pay.

14. **Bonus:** A service member gives her husband a general power of attorney to take care of business while she is deployed. Is she headed for trouble?

Could be. Although we didn’t cover powers of attorney, we’d just like to add it in here as a footnote. Beware of general powers of attorney. It gives complete control over most financial situations. If there are any marital problems, or if the husband has undisciplined spending, problems will arise. Specific power of attorney would be a better option.

[Top](#) Summary

Since we are not lawyers, we can’t be expected to be legal experts. However, a little knowledge can go a long way when it comes to your legal rights and responsibilities. While you are in the Navy you are expected to pay your just debts in a proper and timely manner. You are also expected to support your legal dependents. While you have many responsibilities, you also have many rights, some that all Americans are afforded, some that are specific to the military member (such as those under the Soldiers’ and Sailors’ Civil Relief Act). Take some time to review the “**Top Tips**” to Avoid Legal Tangles, and become familiar with your rights in the six important areas that we covered. If you need assistance with any legal issue, or aren’t sure if you even have a legal issue, seek assistance. Ready to help you, are your Navy Legal Services Office, your Command Financial Specialist and your Fleet and Family Support Center Financial Educator. There are also many resources

available in the civilian community, from the agencies that enforce our laws (such as the Federal Trade Commission) to local legal aid societies. Exercise your rights, understand the law, and you will avoid any legal tangles that may be heading your way.

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