



KAISERSLAUTERN LEGAL INFORMER

FIRST IN SUPPORT

Summer 2005

The Kaiserslautern Legal Services Center 483-8848

The Legal Services Center is located in Building 3210, right across from the Kleber shoppette.

The Kaiserslautern Legal Services Center would like to welcome the newest members of our staff, Mr. Joerg Modellmog and Captain Desiree Helmick. Mr. Modellmog is our new German Attorney Advisor and CPT Helmick is the new Chief of Legal Assistance.

Officer in Charge
483-7711

Claims
483-8414/8862

Legal Assistance
483-8848

Tax Assistance
483-7688

TAX SEASON CONTINUES

Haven't filed your 2004 tax return yet? Free tax help is still available at the Kaiserslautern Legal Services Center's Tax Center, located in Building 3210 on Kleber Kaserne.

The Tax Center is open Monday thru Friday, by appointment. Often times same day appointments are available.

You can start the process by gathering up

your W2s, 1099s, and Social Security Cards for everyone in your family. If you kept a copy of the last tax return you filed, bring that along, too.

We recommend that you file your taxes as soon as possible, even if you have an extension due to a recent deployment. If you come see us before October 15, 2005, we may still be able to electronically file your 2004 federal income tax return, and speed up the direct deposit of any refund you

may have coming to you.

Help is also available with state and prior year tax returns. We also help taxpayers amend tax returns and respond to notices they receive from the IRS and from state tax authorities.

If you wish to make an appointment, please call DSN 483-7688 or Commercial 0631-411-7688.

Take advantage of this valuable free service!

PREPARING FOR A MOVE?

Some Helpful Hints for Household Goods Claims

Moving is a part of military life and unfortunately, it can sometimes be accompanied by damage or loss of items shipped during the move.

If you are preparing for your next move, there are certain things you should know to avoid out of pocket losses due to limitations in the claims system.

Three important considerations for you to remember up front:

(1) By law, the

maximum amount that a Claims Office can pay for any loss or damage to personal property arising from a single incident is \$40,000.

(2) Within this \$40,000 limitation, there are maximum amounts allowable for certain items. For example: if you own a stereo system worth \$5,000 and it is lost in shipment, the most we can pay is \$4,000. Please consider these limits in deciding if you need to purchase insurance for

your personal property.

(3) The claims system is not a substitute for private insurance. The Claims Office usually can only pay the depreciated replacement or repair cost of your lost and damaged items. Some insurance companies provide full replacement cost protection. Each insurance policy is different, so find out if private insurance coverage is right for you and satisfies your needs before your move.

Continued



PREPARING FOR A MOVE? (cont'd)

Some simple “do’s and don’ts” for your move:

- Do not ship your proof of ownership documents, e.g., purchase receipts, prior appraisals, pictures, etc.
- Separate items, such as expensive jewelry, that you will hand carry with you to your next duty station.
- If you own many items such as expensive comic books, baseball cards, or compact disks (CDs), separately inventory each item before shipment.
- Take pictures of household property before the move. This will help prove you owned/shipped the items.
- Pay attention to your inventory your carrier prepares. It lists your personal property and you will be required to sign it before the driver leaves. The inventory should be legible and should accurately list your household goods, particularly high value items.
- Ensure the content of cartons accurately identifies the property; e.g., if a box contains crystal make sure the inventory says "crystal" not "kitchen items."
- Furniture items usually reflect the condition of the property by codes; these codes are called "exception symbols" and "location symbols." There is an explanation for these symbols at the top of each inventory page. Check the string of symbols listed for each item closely (this is how the packers show pre-existing damage). For example, "BR 2-4-5-3" means "broken, bottom front left corner." A good inventory shows what condition the item was in at the time of pickup.
- Do not sign anything until you have read, understood, and agree with it. The carrier must provide you a legible copy of everything you sign. Never sign a blank, incomplete, or illegible form or a form you cannot clearly understand.

Arrival at your new home:

Upon arriving at your new location and receiving your goods, you need to understand the 70-day rule for providing the carrier notice of any loss or damage in shipment. If you do not, be prepared to lose money.

At the time your household goods are delivered to you by a carrier, the driver will give you a pink document called the Joint Statement of Loss or Damage at Delivery (DD Form 1840). You and the driver should list on this form all the property that has obvious damage or is missing due to the move. In most cases, listing all loss and damage before

the driver leaves is an impossibility; however, if you see that a couch or dining room table is missing at the time of delivery, please note these items on the Joint Statement at that time.

Both you and the driver will sign and date the DD Form 1840. The driver's signature indicates that his company is aware you have sustained damaged property and / or missing items. *Your signature on this form also acknowledges that you understand that you have 70 days to list any further loss and / or damage on the back of the form and take it to the nearest claims office.* Failure to do so may result in you being paid a smaller amount on a claim or losing your entire claim.

Even if you did not list any damages or losses on the Joint Statement at the time of delivery, you can still provide timely notice within the 70-day rule. On the reverse side of the Joint Statement is another form, the DD Form 1840R. This is called Notice of Loss or Damage. Any damaged or missing property not listed at the time of delivery must be listed on this reverse side form. Be as specific as you can when listing your damages. **Turn these forms in to the claims office prior to the 70th day after your household goods delivery. If you fail to give the claims office timely notice of the loss or damage, that office cannot give timely notice to the carrier. The Army will be unable to collect from the carrier. The amount of the Army's loss will be deducted from your claims award. In many cases, this will result in total forfeiture of the claim.**

If possible, bring in your inventory and GBL (Government Bill of Lading) when turning in your DD Form 1840R. You do not need estimates, or replacement costs when complying with the 70-day rule. At the time you turn in your pink copies, you will be provided with claims forms and instructions about filing your claim. **You then have two years from the date of delivery to file your claim.** Follow these simple rules and this will help us help you.

If you have any questions pertaining to claim policies, please contact your nearest military claims office. Your local claims office is located in the Kaiserslautern Legal Services Center, Building 3210, on Kleber Kaserne, DSN: 483-8414 or Commercial: 0631-411-8414.



POWERS OF ATTORNEY- THE POSITIVES AND THE PITFALLS

A Power of Attorney (POA) is a document that authorizes someone else to act as your agent. For example, you might want to authorize your friend to act as your agent to sell your car, ship your household goods or obtain medical care for your child. The “grantor” of a POA is the person who makes the POA. The “agent” is the person authorized under the POA to act for the grantor. The agent must be at least 18 years of age and should be trustworthy and mature. POAs must be notarized and can be great tools in preparing for deployments or for arranging your affairs if you know you cannot be present.

There are two types of POAs: special and general. A special (or limited) POA only allows your agent to do specified acts. For example: “I authorize my wife, Jane Doe, to register my 1997 Ford Taurus with the State of Texas when its current registration expires.” On the other hand, a general POA allows your agent to do all things that you could legally do yourself. You should be careful before granting anyone a general POA since you are allowing the agent to do virtually anything in your name and you are legally responsible for his or her acts. You should always exercise great care in selecting your agent and never utilize a general POA if a special POA will suffice.

There is no legal requirement that anyone recognize a POA, but most businesses will recognize the document. In addition, in many states there are some actions that cannot be accomplished with a POA because these actions are so personal that they cannot be delegated to another. For example, a marriage ceremony or Will execution cannot be done with a POA. There are also situations when a particular form of POA is required, and no other form will be accepted. Banks, financial institutions and the IRS, for example, usually require their own forms to be used. If the agent abuses his power, you are generally liable to third parties for all of your agent’s actions if the actions were authorized under the plain language of the POA, and the third party reasonably relied on the POA. You may be able to sue your agent for reimbursement

of the loss you incur. However, this is a time-consuming and expensive process.

To prevent improper use of your POA, you should never give a POA to anyone unless you need to. If you feel you might need a POA, have one prepared, but do not sign it or give it to your agent until you need to. Also, always put an expiration date on your POA; never make one that lasts indefinitely. We generally advise our clients to limit the duration of the POAs they give to one year, since POAs older than that are often deemed to be stale and are not accepted. However, there are situations, such as deployments in excess of one year, where POA durations in excess of one year may be warranted.

A POA always expires on the death of the grantor or of the agent named in it. If you want to terminate a POA before its stated expiration date, the safest way to do this is to retrieve all the copies and originals given to your agent, and all photocopies that may have been given to banks, realtors, merchants, landlords, etc. If that cannot be done, the next best method is to execute a Revocation of Power of Attorney and give a copy to any person that might deal with the agent named in the original POA.

You must evaluate your own particular situation to determine whether or not you need a POA and which type may be appropriate. The Kaiserslautern Legal Services Center’s Legal Assistance Office can prepare and execute a special or general POA. We also have a notary who can notarize the document. The Legal Assistance Office is open from 0900 to 1200 and 1300 to 1600 on Monday, Tuesday, Wednesday and Friday; Thursday from 1300 to 1500. You do not need an appointment to have a POA prepared. We do POAs on a walk-in basis.



**THE
KAISERSLAUTERN
LEGAL SERVICES
CENTER**

Bldg. 3210 Kleber Kaserne

Officer in Charge

CPT Marvin McBurrows

**Noncommissioned Officer
in Charge**

MSG Angela Moore

Advance Medical Directives **When You No Longer Can Decide**

We all dread losing control at the end of our lives--but most of us avoid the relatively simple planning that assures that our wishes regarding health care will be followed. Nowadays, preparing for possible end-of-life issues is simpler than ever, and is routinely part of estate planning.

At the same time you and your lawyer prepare a will or trust to take care of your property, you can execute documents that direct how you will be cared for if you are no longer able to make decisions about your life and death.

For health-care decisions, some states have family consent laws permitting other family members to make some health-care decisions on your behalf. But in most states, no one, not even your spouse, has the legal right to make any kind of decision on your behalf; they might have to file a court petition to get it, and obtaining such guardianships or conservatorships can be expensive, time-consuming, and still not accomplish your wishes. As a result, most states have adopted various forms of other legal devices to help your wishes be carried out when you are incapable of making such important decisions.

This planning is accomplished through advance directives that must be written. Remember that they're only valid if made while you are competent--not when you've entered an advanced state of, say, Alzheimer's disease. Also, state laws about how these documents must be witnessed and created vary greatly. It is a good idea to get your lawyer's help to assure they meet the requirements of your state and are in accord with your overall estate plan. As a military member or family member eligible for military legal assistance, your legal assistance attorney can prepare a military advance medical directive and health care power of attorney for you.

This article is based on an excerpt from "FROM COUNSEL," distributed by The Judge Advocate General's School through the Kaiserslautern Legal Services Center's Legal Assistance Office, located in Building 3210, Kleber Kaserne. You may contact us at DSN 483-8848 for information on this and other legal assistance questions.

The Kaiserslautern Legal Services Center is on the Web at:

<http://www.21tsc.army.mil/aer/ja/LegalAssist/Legal%20Assistance-New2.htm>

If the hyperlink does not open please cut and paste this address onto the address bar. Once you are there you will find legal information papers on diverse subjects including consumer law, estate planning, reports of surveys and family law.



Overview of the Naturalization Process

Deciding to become a U.S. citizen is an important decision in your life. If you decide to apply for naturalization, you are showing your commitment to the United States. When you are naturalized, you obtain the benefits, as well as the responsibilities, of being a U.S. citizen. For further information, see a Legal Assistance Attorney or refer to the Bureau of Citizenship and Immigration Services (BCIS) (formerly INS) booklet, "A Guide to Naturalization." You can download it from the BCIS website, www.immigration.gov. If you are a member of the Armed Forces, special rules apply to you with regard to naturalization. See your Legal Assistance Attorney for information.

Generally, if a person is born in the United States or is born to two U.S. citizen parents, that person is born a U.S. citizen. If only one parent is a U.S. citizen, a person is a U.S. citizen if: (1) the citizen parent lived at least 5 years in the U.S. prior to your birth, and (2) at least 2 of the 5 years in the U.S. were after the citizen parent's 14th birthday. Note: Children born overseas, even to two U.S. citizen parents must obtain proof of their citizenship. This is accomplished by registering the birth with the U.S. consulate or embassy in the country of the child's birth. The child will then receive a "Consular Report of Birth Abroad."

In general, if a person desiring citizenship adheres to the following guidelines, he or she will be well on their way to becoming a citizen of the United States.

- Obtain the "Application for Naturalization" Form N-400. The application fee is \$260 + \$50 for fingerprinting (current as of April 2003).
- Read the BCIS booklet "A Guide to Naturalization."
- Complete the N-400 Naturalization application--be thorough and truthful.
- The N-400 may require additional documentation to be filed with it. Make sure you send this in— incomplete applications will not be processed and will be delayed. If you are applying on the basis of your military service, you must file a completed N-426 (Request for Certification of Military or Naval Service). The Personnel shop should be able to assist.
- Get two photographs taken for submission with your application. They must be in a specific format; see the application for instructions.
- Send your application, any necessary supporting documents, and fee to the appropriate BCIS Service Center for processing. Keep a photocopy of the entire package for yourself. You should receive a receipt from BCIS within a few weeks—keep this, as the receipt number is how BCIS will track the progress of your application.
- You will eventually receive a letter from BCIS indicating where to go for fingerprinting and an interview. Make sure you go at the time appointed. Bring any additional documents requested by BCIS. If you must reschedule, let BCIS know well in advance.
- Attend interview; answer questions about your application. Take English and U.S. civics test.
- Attend naturalization ceremony (scheduled by BCIS) to take oath of citizenship. You will return your Permanent Resident card ("green card") just before the ceremony.
- Receive your Certificate of Naturalization. Keep this document in a safe place! It is your proof of U.S. citizenship. It is also recommended you obtain a U.S. passport at the earliest opportunity; the passport will also be proof of U.S. citizenship.



GERMAN LANDLORD TENANT LAW – CHECK ON UTILITY COSTS

Have you ever wondered what your utilities bill will be at the end of the year? Why was it so surprisingly high? Furthermore, the bill is in German and you might have difficulties reading it.

Here are hints on how the utility costs work and how you can control your costs and check on them yourself without having to ask anybody else.

In the K-Town Military Community many families live off post in non-government leased housing. Unless your rental agreement calls for a flat rate, you make monthly advance payments on the utility costs.

The actual costs are settled in an annual bill, which must be presented within a 12-month period following the end of the (annual) billing year, otherwise the landlord is prevented from asking for additional amounts to cover the actual annual utility and operational costs. Likewise the tenant has 12 months, following the receipt of the landlord's list on utility and operational costs to present any objections he/she might have or else be loose the right to protest.

Depending on whether there is a plus or an amount still owed on the annual utilities and operational cost bill, the tenant will either have to pay the rest of the amount owed or be entitled to a reimbursement of any surplus. Based on the utility and operational costs for the past billing cycle, both parties can demand a modification of the advance payments.

If there had been a surplus, the tenant may demand smaller monthly advance payments, while the landlord can demand higher monthly advance payments if there had been a debt.

At the end of year the tenant should read the meters for water, electricity and gas and compare his/her readings later on with the ones on the annual utilities bill in order to verify that the correct reading has been done.

Often the public utility companies rely on telephonic transmittal of the readings and only check the meter when the tenant moves out. Sometimes there are miscommunications and typos. If the reading has been done incorrectly before, the tenant will have to pay the balance at that time, which may cause a hardship.

Furthermore, the tenant might want to try to switch off electricity to his/her quarters temporarily in order to find out if any electricity for common light areas is run through his meter, which would not be allowed.

Again, the tenant can also read the meter during the year just to check on he/she is doing consumption wise. Since you know from your past utility bill what the unit price is, you can easily control and check on your costs even before the bill is prepared.

If you are looking for more or detailed information on the German Landlord Tenant Law, please feel free to pick up one of our handouts covering that area of law or schedule an appointment with our German attorney if you still have questions concerning your specific case.

If you wish to make an appointment, please call DSN 483-8848 or Commercial 0631-411-8848.