



ASA DIX LEGAL BRIEF

A PREVENTIVE LAW SERVICE OF THE JOINT READINESS CENTER LEGAL SECTION
UNITED STATES ARMY SUPPORT ACTIVITY DIX
KEEPING YOU INFORMED ON YOUR PERSONAL LEGAL NEEDS

FINANCIAL LIABILITY INVESTIGATION OF PROPERTY LOSS (FLIPL)

Q: COULD I BE LIABLE FOR LOST, DAMAGED, OR DESTROYED GOVERNMENT PROPERTY?

Yes, under some circumstances soldiers and civilian employees may be required to pay for Army property they lose or damage. DD Form 200, Financial Liability Investigation of Property Loss (FLIPL), is the administrative tool used by the Army to establish liability under Army Regulation (AR) 735-5. To assess financial liability, the approving authority must find: 1) the person to be held liable had a duty/responsibility to take care of the property; 2) the person failed to carry out that duty (negligence); and 3) the person's failure led to the loss (proximate cause).

Q: COULD I BE FINANCIALLY LIABLE FOR DAMAGES TO A GOVERNMENT VEHICLE INVOLVED IN AN ACCIDENT?

While drivers of government vehicles are normally held liable for damages resulting from an accident caused by the driver's negligence, AR 735-5 authorizes Approving Authorities to waive financial liability "under appropriate circumstances. The chain of command can use the FLIPL to document the loss and justify repairing the vehicle without actually having to take money from the soldier or civilian employee involved, or the approval authority can reduce the recommended amount of financial liability. Personnel should be sure to ask for the waiver in their rebuttal or request for reconsideration.

Q: HOW MUCH MONEY CAN I BE REQUIRED TO PAY IF I AM FOUND TO BE LIABLE?

Financial liability ordinarily will not exceed one month's base pay. In certain cases, however, such as the loss of personal arms or equipment, or damage to government housing, liability may equal the full amount of the loss.

Q: CAN I SIGN A STATEMENT OF CHARGES INSTEAD OF HAVING A FLIPL INITIATED?

A FLIPL is not required in every situation where there is a loss or damage. If the loss is less than one month's base pay, the command may ask the responsible individual to sign a DD Form 362, Statement of Charges/Cash Collection Voucher. This is essentially a voluntary admission of liability for the lost or damaged property and an agreement to pay for it. The command cannot force or coerce someone into signing such a statement. A FLIPL is used in situations where its initiation is mandatory such as where responsibility for the loss is in question, the amount of the loss is greater than one month's base pay, the amount to be assessed is in dispute, or the loss involves a controlled inventory item.

Q: WHAT IS THE FLIPL PROCESS?

The FLIPL process starts when the appointing authority, usually a Lieutenant Colonel or above (most often a battalion commander), appoints an investigating officer, also called a financial liability officer, to investigate the facts surrounding the loss. The investigating officer will be a commissioned or warrant officer, a noncommissioned officer with the rank of Sergeant First Class or above, or a civilian employee in the grade of GS-7 or above. The investigating officer must be senior in grade to the individual subject to potential liability unless war or military exigency requires otherwise. The investigating officer investigates and makes initial findings as to what happened. If financial liability is recommended, a

copy of the investigating officer's initial findings is then given to the individual subject to potential liability who has 7 days (15 if the findings are mailed to him or her) to prepare and submit a rebuttal back to the investigating officer. The investigating officer will consider the rebuttal along with the findings and make a recommendation to the appointing authority about who should be held liable and in what amount.

Q: WHAT HAPPENS AFTER I SUBMIT MY REBUTTAL? After the investigating officer considers your rebuttal and makes a recommendation to the appointing authority, the appointing authority reviews the FLIPL packet, comments on the investigating officer's recommendation, and forwards it to the approving authority. The approving authority, usually a Colonel or above (most often a brigade or regiment commander or a division or installation chief of staff), approves or disapproves the investigating officer's recommendation. Before making his or her decision, the approving authority receives a legal opinion regarding whether the findings are legally sufficient and consistent with AR 735-5. The approving authority will notify the person to be charged that financial liability has been assessed. The notification will be in memorandum format and will inform the person they have the right to request reconsideration of the approving authority's decision.

Q: WHAT CAN I DO IF I DISAGREE WITH THE APPROVING AUTHORITY'S DECISION TO HOLD ME FINANCIALLY LIABLE? A person held liable has 30 days to request reconsideration of the approving authority decision to assess liability. The request goes back to the approving authority (the investigating officer and appointing authority are not involved). If the approving authority decides to continue liability, he or she will forward the request to the appeal authority. The appeal authority, usually a General Officer, is the next higher commander in the chain of command. The appeal authority will examine all of the facts and the recommendations again. The decision of the appeal authority is final.

Q: WHAT ARE MY OPTIONS IF MY REQUEST FOR RECONSIDERATION FAILS? Once the approving and/or appeal authority renders a decision, the person to be held liable still has several options to avoid losing pay including the right to request remission or cancellation of the debt (enlisted personnel only), to request a hearing (civilian personnel only), to request a payment plan with DFAS, or to petition the Army Board for the Correction of Military Records to reverse the chain of command action. These options are not a part of the FLIPL process but are afforded to soldiers and civilian employees under other Army Regulations.

Q: WHAT SHOULD I DO AFTER I RECEIVE NOTICE THAT I AM RECOMMENDED FOR FINANCIAL LIABILITY RESPONSIBILITY? Contact the Joint Base Legal Assistance Division immediately to arrange a consultation with a Legal Assistance Attorney. Remember that you have a limited amount of time to respond. Often, arrangements can be made to extend your rebuttal period in order to construct an effective rebuttal.