



FORT SILL LEGAL ASSISTANCE



FINANCIAL LIABILITY INVESTIGATION OF PROPERTY LOSS “FLIPL”

A Financial Liability Investigation of Property Loss (FLIPL) is the manner in which the Army accounts for the circumstances surrounding the loss, damage or destruction (LDD) of Government property. A FLIPL serves as documentation allowing for the adjustment of property books. A FLIPL may also documents a charge or relief from financial liability.

FLIPL Process

The FLIPL process begins once the loss is discovered. A Financial Liability Investigating Officer is appointed to conduct an investigation. There are four elements which the Investigator must address while conducting the investigation and preparing their findings. ***All four*** elements must be proven in order to hold an individual financially liable for the loss.

1. Loss, Damage or Destruction - The item must be lost, damaged, or destroyed in order to hold a person financially liable. If the item was found or was scheduled to be destroyed by the Army, then the Respondent/Soldier may not be held financially liable.
2. Responsibility - There are many methods of having responsibility over Government property (see AR 735-5, paragraph 13-29a). Just because a person has responsibility of the property does not, in itself, make the person financially liable.
3. Culpability- A determination of fault. Before a person can be held financially liable, the findings must show that he or she, through negligence or willful misconduct, violated a particular duty of care for the property. Whether the person's actions or omissions constitute negligence depends on the circumstances of each case. Negligence under some circumstances may not reflect negligence under other circumstances. All facts must be fully considered when determining the reasonableness of a person's conduct.
4. Proximate Cause - The cause, which in a natural and continuous sequence of events, unbroken by a new cause, produced the loss or damage. Without this cause, the loss or damage would not have occurred. It is further defined as the primary moving cause, or the predominate cause from which the loss or damage followed as a natural, direct, and immediate consequence.

Soldiers should take reasonable steps to care for the property that is entrusted to them. Do not let others borrow property in your possession without signing the equipment over to the next person. If you do sign for equipment or sign the equipment over to another person, then keep copies of the hand receipts. Take inventories of the property for which you are responsible. Ensure that the property you have responsibility for is secured properly. The loss or damage to property can cost you up to one month's pay if you are not careful.

Once the Investigator completes their investigation, he or she will prepare their finding and recommendations on the DD Form 200, in block 15a. The finding reported should be clear and concise statements of fact, readily deduced from evidence in the record. The standard of proof is a preponderance of the evidence, which means “more likely

than not.” The finding should answer questions listed in the scope of the investigation. Recommendations must be supported by, and be consistent with, the findings. Recommendations should be guided by the Investigator’s concept of fairness.

The timeline starts with the discovery of the loss or damage. Time limits are found in AR 735-5, paragraph 13-6. Generally, Active Army FLIPLs have 75 days to be completed, while reserve component units have longer time periods. These are flexible time constraints but should be abided by as much as possible. If there is a delay in the process, the person causing the delay should write a Memorandum for Record explaining the delay and attach it to the FLIPL as an exhibit.

Notification

If the Investigator recommends that the Soldier be financially liable, the Investigator must send notification to the Soldier. The notification memorandum, along with the FLIPL packet and all exhibits, should be hand-delivered to the Soldier. If hand delivery is not possible, then the packet should be forwarded via certified mail. Generally, the Soldier has 7 calendar days to submit a rebuttal if the packet was hand-delivered. To properly rebut the Investigator’s recommendation to hold you financially liable, you must know the basis for that recommendation. It is critical that you carefully read the entire FLIPL and examine all the evidence that is attached (usually in the form of exhibits).

Legal Review

A legal review is required for all FLIPLs recommending financial liability. If the legal review finds the Investigator’s findings and recommendations legally insufficient, the approving authority cannot assess financial liability against the individual(s) in question.

Action by Approving Authority

The approval authority approves /disapproves charges of financial liability. The approval authority puts the Soldier on notice that financial liability is assessed. The Soldier may request that the approval authority reconsider if new evidence is discovered. The Soldier may also request remission or cancellation of indebtedness or an extension of the monetary collection period.

Amount of Liability

The Government can require you to pay the entire amount of money lost by the Government or some lesser amount. The value of loss is determined using the lost item’s current fair market value and depreciation. Generally, no more than one month’s pay can be assessed unless you fall into a special category. Base pay is determined at the time of the loss and not when the FLIPL is completed.

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This Information Paper provides only basic information and is not intended to serve as a substitute for personal consultation with a Legal Assistance Attorney. To schedule an appointment with a Legal Assistance Attorney, please contact the Legal Assistance Office at (580) 442-5058. The Fort Sill Legal Assistance Office is located on the 4th Floor of Building 4700 (Welcome Center) at 4700 Mow-Way Road, Fort Sill, Oklahoma 73503.