



Kaiserslautern (Kleber Kaserne) Legal Assistance Office



HOME OF RECORD / STATE OF LEGAL RESIDENCE (DOMICILE)

1. “State of Legal Residence” (SLR) and “Domicile” mean the same thing; your true, fixed, and permanent home. This is the place where, although you may leave for military duty, you intend to return. The Soldier might never be stationed in in their SLR during their entire military career, and yet the SLR remains the same without some action on the part of the Soldier.
2. “Home of record” is almost always the state where you first joined the military. Home of record (HOR) is an accounting term used by the military to determine a number of military benefits, such as travel allowances, transportation expenses, travel time to report to duty, *etc.* A Soldier’s HOR is usually the same as the Soldier’s SLR, but that’s merely a coincidence, since most people just happen to join the military in the state that is also their SLR. Except in the military, home of record is usually a meaningless term. A HOR cannot be changed unless it was improperly recorded, or there is a full day break in service periods.
3. Why does this matter? Because military members may have “legal residence” in one state, but be stationed in a different state, the Servicemembers Civil Relief Act (SCRA), allows military members to pay taxes, register vehicles, vote, *etc.*, in their SLR, rather than the state they are stationed in. This can sometimes result in a tax advantage because several states exempt military pay from state taxes.
4. Can I change my SLR? A valid change of SLR requires you satisfy ALL of the following requirements: (1) You must be **physically present** in the new state; (2) You must simultaneously **intend to remain** in the new state permanently or to treat that location as your permanent home; and (3) You must **intend to abandon** your old SLR. You can show your intent to change your SLR by taking as many as possible of the following actions:
 - Get a driver’s license in the new state;
 - Register your vehicle(s) in the new state;
 - Pay state taxes (income, property, *etc.*) in the new state;
 - Change your will (testamentary instrument) to reflect the new state as your legal residence;
 - Establish a permanent address in the new state;
 - Notify the old state’s taxing authorities of your change in SLR

Once you’ve taken these steps, go to your unit S-1 or finance office and complete a DD Form 2058, State of Legal Residence Certificate. Filing this form alone doesn’t change your SLR; the form should be filed to adjust your state income tax withholding after the change has already occurred.

5. Can I change my SLR for “tax purposes”? You cannot change your SLR just for “tax purposes.” You must meet the physical presence and intent to remain test discussed above. Remember also, just filing a DD Form 2058, doesn’t change your SLR. Filing the form improperly

may get you in serious trouble. Military personnel may face court-martial, civilian criminal trials, and may be given huge fines, for wrongfully claiming legal residency, tax evasion, and other misconduct related to residency issues.

6. Is there any way to change my SLR to a state in which I do not reside? You may be able to change your SLR without meeting the physical presence test if you marry a resident of a different state. In that case, you might be allowed to claim your spouse's SLR as your SLR, or vice versa, without ever having been physically present in that state.

7. Are there any other collateral consequences of changing your SLR? Changing your residence may also affect the following rights:

- Liability for state inheritance taxes
- Where your Will is probated
- The right to vote in state elections
- Bonuses for wartime service
- The right to homestead, veterans' claims, or tax exemptions
- Whether you or your children may attend a state college without paying higher fees required of non-domiciliary residents
- Whether community property principles apply for divorce matters