



TORII LEGAL ASSISTANCE

OFFICE OF THE STAFF JUDGE ADVOCATE



RESIDENCY, HOME OF RECORD, AND DOMICILE

Did you ever notice that a lot of Soldiers are residents of Florida, Texas, Washington, or Alaska? Soldiers frequently ask questions about changing their state of legal residence. Before a Soldier decides to change his legal residence, he should become familiar with the different terms. The terms “**residence**,” “**home of record**,” and “**domicile**” have different legal meanings and consequences and are often confused.

A Soldier’s “**home of record**” is the state from which he entered the military. It is a snapshot of where the Soldier lived at that time of initial entry, or in limited cases upon reenlistment if there is a break in service. A Soldier’s “home of record” is normally used to determine his travel entitlements upon separation from the military.

A person’s “**residence**” is the place she is living at a particular time. For example, a Soldier stationed at Fort Benning and living on post would consider her residence to be Georgia.

“**Domicile**” is the place where a person has a permanent home and intends to return at some point. A person’s domiciliary state is also called his “state of legal residence,” which can be a bit confusing as the term uses the word “residence.” “State of legal residence” however refers to the person’s state of domicile, not the state where the person is temporarily living. Every person has only one domicile. A Soldier, under the Servicemembers’ Civil Relief Act retains the domicile he had immediately before entering the service.

Soldiers who wish to change their domicile should only do so while **physically present in the state**. Recent cases have made it clear that persons who attempt to change domicile only by mail, by registering to vote in a new state using a relative’s address for example, or simply changing their state tax code on their Leave and Earnings Statement, will likely have their claim of new domicile rejected. In one case, the “real” state of domicile successfully sued the Soldier for back taxes, penalties and interest, and held him liable for over \$20,000.

Domicile determines many important matters. The laws of your state of domicile affect liability for state personal property taxes, where your will is probated and who may act as guardian of your minor children, whether you or your children may attend a state college without paying higher fees required of out-of-state legal residents, and rules on property rights, divorce, and annulment of marriage. Therefore, you are advised to vote, exercise the rights, and claim the benefits of domicile only in the state you intend to be your domicile.