

## MILITARY CODE

### **29A.1 Definitions.**

The following words, terms, and phrases when used in this chapter shall have the respective meanings herein set forth:

1. "*Civil air patrol*" means the civilian auxiliary of the United States air force established by the United States Congress in 36 U.S.C. § 40301 et seq., and 10 U.S.C. § 9441 et seq.
2. "*Facility*" means the land, and the buildings and other improvements on the land which are the responsibility and property of the Iowa national guard.
3. "*Federal service*" means duty authorized and performed under the provisions of 10 U.S.C. as part of the active military forces of the United States or the army national guard of the United States or the air national guard of the United States.
4. "*Homeland defense*" means the protection of state territory, population, and critical infrastructure and assets against attacks from within or without the state.
5. "*Law and regulations*" means and includes state and federal law and regulations.
6. "*Militia*" shall mean the forces provided for in the Constitution of Iowa.
7. "*National guard*" means the Iowa units, detachments and organizations of the army national guard of the United States, the air national guard of the United States, the army national guard, and the air national guard as those forces are defined in 10 U.S.C. § 101.
8. "*Officer*" shall mean and include commissioned officers and warrant officers.
9. "*On duty*" means training, including unit training assemblies, and other training, operational duty, and other service which may be required under state or federal law, regulations, or orders, and the necessary travel of an officer or enlisted person to the place of performance and return home after performance of that duty, but does not include federal service. A member of the national guard shall be considered to be on duty when called to testify about an incident which the member observed or was involved in while that member was on duty.
10. "*Organization*" means a command composed of two or more subordinate units and includes the state headquarters for both the army and the air national guard, one or more divisions, wings, brigades, groups, battalions, squadrons or flights as defined by an appropriate table of organization, a table of distribution or unit personnel document.
11. "*State active duty*" means duty authorized and performed under section 29A.8 and paid for with state funds. "*State active duty*" also includes serving as the adjutant general, a deputy adjutant general, or the state quartermaster.
12. "*State military service*" means training or operational duty or other service authorized and performed under the provisions of 32 U.S.C. or other federal law or regulation as part of the Iowa army national guard or Iowa air national guard and paid for with federal funds.
13. "*Unit*" means a military element of an organization whose structure is prescribed by competent authority such as a table of organization, table of distribution, or unit personnel document. For the purposes of this chapter, a unit shall include one or more companies, flights, troops, batteries or detachments and the state

officer candidate school.

14. Except when otherwise expressly defined herein military words, terms and phrases shall have the meaning commonly ascribed to them in the military profession.

[C97, § 2168; S13, § 2215-f2; C24, 27, 31, § 433; C35, § 467-f2; C39, § **467.02**; C46, 50, § 29.2; C54, 58, 62, § 29.1; C66, 71, 73, 75, 77, 79, 81, § 29A.1; 81 Acts, ch 14, § 18]

2000 Acts, ch 1020, §1, 6; 2001 Acts, 2nd Ex, ch 1, §16, 28; 2002 Acts, ch 1117, §2, 3, 23; 2004 Acts, ch 1086, §12; 2005 Acts, ch 119, §1

### **29A.2 Army national guard and air national guard created.**

There is hereby created the Iowa national guard to consist of the Iowa army national guard and the Iowa air national guard. The Iowa army national guard shall be composed of such organized land forces, individual officers, state headquarters, and detachments, as may be prescribed from time to time by proper authority. The Iowa air national guard shall be composed of such organized air forces, individual officers, state headquarters, and detachments, as may be prescribed from time to time by proper authority.

[C51, § 621; R60, § 1002; C73, § 1039; C97, § 2167; S13, § 2215-f1; C24, 27, 31, § 432; C35, § 467-f1; C39, § **467.01**; C46, 50, § 29.1; C54, 58, 62, § 29.2; C66, 71, 73, 75, 77, 79, 81, § 29A.2]

### **29A.3 Units of guard.**

The Iowa units, detachments, and organizations of the army national guard of the United States and the air national guard of the United States shall consist of such units, detachments, and organizations, as may be specified by the secretary of defense with the approval of the governor, in accordance with law and regulations.

[C73, § 1045; C97, § 2168; SS15, § 2215-f4; C24, 27, 31, § 435; C35, § 467-f7; C39, § **467.07**; C46, 50, § 29.7; C54, 58, 62, § 29.3; C66, 71, 73, 75, 77, 79, 81, § 29A.3]

2006 Acts, ch 1010, §18

#### **29A.3A Civil air patrol.**

1. The civil air patrol may be used to support national guard missions in support of civil authorities as described in section 29C.5 or in support of noncombat national guard missions under section 29A.8 or 29A.8A.

2. Requests for activation of the civil air patrol shall be made to the commander of the Iowa wing of the civil air patrol. Missions shall be in accordance with laws and regulations applicable to the United States air force and the civil air patrol. Prior to activation of the civil air patrol, the adjutant general or the Iowa civil air patrol wing commander shall apply to the air force rescue coordination center, the air force national security emergency preparedness agency, or the civil air patrol national operations center for federal mission status and funding.

3. If an operation or mission of the civil air patrol is granted federal mission status and assigned an accompanying federal mission number, the following shall apply:

a. The operation or mission shall be funded by the federal government.

b. When training or operating pursuant to a federal mission number, members of the civil air patrol shall be

considered federal employees for the purposes of tort claims arising from the performance of the mission or any actions incident to the performance of the mission.

4. If an operation or mission of the civil air patrol is not granted federal mission status and is not assigned an accompanying federal mission number, the following shall apply:

*a.* Operations and administration of the civil air patrol relating to missions not qualifying for federal mission status shall be funded by the state from moneys appropriated to the homeland security and emergency management division of the department of public defense for that purpose.

*b.* When performing a mission that does not qualify for federal mission status, members of the civil air patrol shall be considered state employees for purposes of the Iowa tort claims Act, as provided in chapter 669, and for purposes of workers' compensation, as provided in chapter 85.

2005 Acts, ch 119, §2

#### **29A.4 Organization armament equipment and discipline.**

The organization, armament, equipment and discipline of the national guard, and the militia when called into state active duty, except as hereinafter specifically provided, shall be the same as that which is now or may be hereafter prescribed under the provisions of federal law and regulations as to those requirements which are mandatory therein, but as to those things which are optional therein they shall become effective when an order or regulation to that effect shall have been promulgated by the governor.

[C51, § 623631; R60, § 10041015; C73, § 10381057; C97, § 2182, 2186; S13, § 2215-f3, -f8, -f9; C24, 27, 31, § 434, 439, 440; C35, § 467-f6, -f9, -f10; C39, § **467.06, 467.09, 467.10**; C46, 50, § 29.6, 29.9, 29.10; C54, 58, 62, § 29.4; C66, 71, 73, 75, 77, 79, 81, § 29A.4]

2001 Acts, 2nd Ex, ch 1, §7, 28

#### **29A.5 Government, discipline and uniforming.**

The national guard shall be subject to the provisions of federal law and regulations relating to the government, discipline and uniforming thereof; and to the provisions of this chapter and to regulations published pursuant hereto.

[C51, § 631; R60, § 1012; C73, § 1044; C97, § 2205; S13, § 2215-f6, -f7; C24, 27, 31, § 437, 438; C35, § 467-f8; C39, § **467.08**; C46, 50, § 29.8; C54, 58, 62, § 29.5; C66, 71, 73, 75, 77, 79, 81, § 29A.5]

#### **29A.6 Military forces of state.**

The military forces of the state of Iowa shall consist of the army national guard, the air national guard, and the militia.

[C51, § 621; R60, § 1002; C73, § 1039; C97, § 2167; S13, § 2215-f1; C24, 27, 31, § 432; C35, § 467-f1; C39, § **467.01**; C46, 50, § 29.1; C54, 58, 62, § 29.6; C66, 71, 73, 75, 77, 79, 81, § 29A.6]

2001 Acts, 2nd Ex, ch 1, §8, 28

#### **29A.7 Commander in chief.**

1. The governor is the commander in chief of the military forces, except when they are in federal service. The governor may employ the military forces of the state for the defense of the state, to provide assistance to civil

authorities in emergencies resulting from disasters or public disorders as defined in section 29C.2, including homeland security and defense duties, and for parades and ceremonies of a civic nature.

2. The governor shall provide for the participation of the national guard in training at the times and places as necessary to ensure readiness for public defense or federal service.

3. If circumstances necessitate the establishment of a military district under martial law and the general assembly is not convened, the district shall be established only after the governor has issued a proclamation convening an extraordinary session of the general assembly.

[C51, § 623; R60, § 1004; C73, § 1051; C97, § 2169, 2170; S13, § 2215-f19; C24, 27, 31, § 449; C35, § 467-f26, -f28; C39, § **467.26, 467.28**; C46, 50, § 29.26, 29.28; C54, 58, 62, § 29.7; C66, 71, 73, 75, 77, 79, 81, § 29A.7]

2001 Acts, 2nd Ex, ch 1, §9, 28; 2002 Acts, ch 1117, §4, 23

## **Footnotes**

Constitutional provision, Iowa Constitution, Art. IV, § 7

### **29A.8 State active duty.**

1. The governor may order into state active duty the military forces of the state, including retired members of the national guard, as the governor deems proper, under one or more of the following circumstances:

*a.* In case of insurrection or invasion, or imminent danger of insurrection or invasion.

*b.* For the purpose of assisting the civil authorities of any political subdivision of the state in maintaining law and order in the subdivision in cases of breaches of the peace or imminent danger of breaches of the peace, if the law enforcement officers of the subdivision are unable to maintain law and order, and the civil authorities of the subdivision request the assistance.

*c.* For the purposes of providing support to civil authorities during emergencies resulting from disasters or public disorders and for performing homeland defense or homeland security duties.

*d.* For training, recruiting, escort duty, and duty at schools of instruction, as a student or instructor, including at the Iowa military academy.

*e.* To participate in parades and ceremonies of a civic nature.

*f.* For other purposes as the governor may deem necessary.

2. The governor may prescribe regulations and requirements for duties performed under this section.

[C51, § 623; R60, § 1004; C73, § 1051; C97, § 2169, 2170; S13, § 2215-f19; C24, 27, 31, § 449; C35, § 467-f28, -f29; C39, § **467.28, 467.29**; C46, 50, § 29.28, 29.29; C54, 58, 62, § 29.7, 29.8; C66, 71, 73, 75, § 29A.7, 29A.8; C77, 79, 81, § 29A.8]

2001 Acts, 2nd Ex, ch 1, §10, 28; 2002 Acts, ch 1117, §58, 23

### **29A.8A State military service.**

If federal funding and authorization exist for this purpose, the governor may order to state military service the

military forces of the Iowa army national guard or Iowa air national guard as the governor may deem appropriate for the purposes of homeland security, homeland defense, or other duty. A state employee shall take either a full day's leave or eight hours of compensatory time on a day in which the state employee receives a full day's pay from federal funds for national guard duty.

2001 Acts, 2nd Ex, ch 1, §11, 28; 2002 Acts, ch 1117, §9, 23; 2004 Acts, ch 1086, §13

**29A.9 Training.** Repealed by 2002 Acts, ch 1117, § 22, 23.

**29A.10 Inspections.**

The governor may order such inspections of the different organizations, units, and personnel of the national guard as the governor may deem proper and necessary.

The form and mode of inspection shall be prescribed by the adjutant general.

The governor may appoint an officer of the national guard to serve as special investigator for a period determined by the governor. Service as special investigator shall be state active duty. The special investigator shall report to and serve at the pleasure of the governor. The duty of special investigator shall be assigned as additional duty. The special investigator shall not be the person designated as inspector general pursuant to federal national guard bureau regulation.

[C73, § 1049; C97, § 2191; S13, § 2215-f22; C24, 27, 31, § 451; C35, § 467-f52; C39, § **467.54**; C46, 50, § 29.54; C54, 58, 62, § 29.10; C66, 71, 73, 75, 77, 79, 81, § 29A.10]

2001 Acts, 2nd Ex, ch 1, §13, 28

**29A.11 Adjutant general appointment and term.**

There shall be an adjutant general of the state who shall be appointed and commissioned by the governor subject to confirmation by the senate and who shall serve at the pleasure of the governor. The rank of the adjutant general shall be at least that of brigadier general and the adjutant general shall hold office for a term of four years beginning and ending as provided in section 69.19. At the time of appointment the adjutant general shall be a federally recognized commissioned officer in the United States army or air force, the army or air national guard, the army or air national guard of the United States, or the United States army or air force reserve who has reached at least the grade of colonel and who is or is eligible to be federally recognized at the next higher rank.

[C73, § 1054; C97, § 2174; SS15, § 2215-f14; C24, 27, 31, § 445; C35, § 467-f40; C39, § **467.42**; C46, 50, § 29.42; C54, 58, 62, § 29.11; C66, 71, 73, 75, 77, 79, 81, § 29A.11]

2000 Acts, ch 1020, §2, 6; 2001 Acts, 2nd Ex, ch 1, §14, 28

**Footnotes**

Confirmation, see § 2.32

**29A.12 Powers and duties.**

1. The adjutant general shall have command and control of the military division, and perform such duties as pertain to the office of the adjutant general under law and regulations, pursuant to the authority vested in the adjutant general by the governor. The adjutant general shall superintend the preparation of all letters and reports required by the United States from the state, and perform all the duties prescribed by law. The

adjutant general shall have charge of the state military reservations, and all other property of the state kept or used for military purposes. The adjutant general shall cause an inventory to be taken at least once each year of all military stores, property and funds under the adjutant general's jurisdiction. In each year preceding a regular session of the general assembly the adjutant general shall prepare a detailed report of the transactions of that office, its expenses, and other matters required by the governor for the period since the last preceding report, and the governor may at any time require a similar report.

2. The adjutant general may enter into an agreement with the secretary of defense to operate the water plant at Camp Dodge for the use and benefit of the United States, and the state of Iowa upon terms and conditions as approved by the governor. The adjutant general may also enter into an agreement with the national guard of another state for the use of Iowa national guard personnel and equipment.

3. The adjutant general may request activation of the civil air patrol to provide assistance to the national guard in accordance with section 29A.3A. The adjutant general is authorized to provide suitable space in national guard facilities to support the civil air patrol.

[C73, § 1054, 1055; C97, § 2175; SS15, § 2215-f15; C24, 27, 31, § 446, 446-c1, 447; C35, § 467-f42; C39, § **467.44**; C46, 50, § 29.44; C54, 58, 62, § 29.12; C66, 71, 73, 75, 77, 79, 81, § 29A.12]

2005 Acts, ch 119, §3

### **29A.13 Appropriated funds.**

Operating expenses for the national guard including the purchase of land, maintenance of facilities, improvement of state military reservations, installations, and weapons firing ranges owned or leased by the state of Iowa or the United States shall be paid from funds appropriated for the support and maintenance of the national guard. Claims for payment of such expenses shall be subject to the approval of the adjutant general. Upon approval of the adjutant general the claim shall be submitted to the director of the department of administrative services.

Payment for personnel compensation and authorized benefits shall be approved by the adjutant general prior to submission to the director of the department of administrative services for payment.

[S13, § 2215-f41; C24, 27, 31, § 466; C35, § 467-f43; C39, § **467.45**; C46, 50, § 29.45; C54, 58, 62, § 29.13; C66, 71, 73, 75, 77, 79, 81, § 29A.13]

2003 Acts, ch 145, §147

### **29A.14 Leasing facilities.**

1. The adjutant general may operate or lease any of the national guard facilities at Camp Dodge. Any income or revenue derived from the operation or leasing shall be deposited with the treasurer of state and credited to the national guard facilities improvement fund. The balance in the national guard facilities improvement fund is limited to a maximum of two million dollars. Any amount exceeding the limit shall be credited to the general fund of the state.

2. A national guard facilities improvement fund is created in the state treasury. The proceeds of the fund are appropriated, and shall be used only for the construction, improvement, modification, maintenance or repair of national guard facilities. However, proceeds of the fund shall not be used for the construction of a new facility without the approval of the general assembly.

[C35, § 467-f44; C39, § **467.46**; C46, 50, § 29.46; C54, 58, 62, § 29.14; C66, 71, 73, 75, 77, 79, 81, § 29A.14; 81 Acts, ch 14, § 19]

### **29A.15 State awards and decorations.**

The adjutant general, from the funds appropriated for the support and maintenance of the national guard, shall procure and issue to the members of the national guard merit or service badges or other appropriate awards for service under regulations and according to the design and pattern determined by the adjutant general. Members of the national guard who, by order of the president, serve in federal forces during national emergency, may count the period of that federal service toward the procurement of a service badge.

[S13, § 2215-f34; C24, 27, 31, § 462; C35, § 467-f53; C39, § **467.55**; C46, 50, § 29.55; C54, 58, 62, § 29.15; C66, 71, 73, 75, 77, 79, 81, § 29A.15]

### **29A.16 Deputy adjutants general.**

1. The governor shall appoint a deputy adjutant general for the army national guard and a deputy adjutant general for the air national guard upon recommendation of the adjutant general. At the time of appointment, the deputy adjutants general shall be federally recognized officers in the national guard who have attained at least the rank of colonel and who are eligible for federal recognition at the next higher rank.

2. The deputy adjutants general shall have the rank as is consistent with federal law and regulations to and including the rank of brigadier general. The deputy adjutants general shall serve at the pleasure of the governor.

3. The deputy adjutants general shall serve in the office of the adjutant general and aid by performing such duties as the adjutant general may assign. In the absence or disability of the adjutant general, the senior deputy present for duty, based upon date of appointment under this section, shall perform the duties of that office as acting adjutant general.

4. The adjutant general may appoint a full-time staff within prescribed personnel authorization. Members of the staff who are not in state active duty status are authorized salaries with allowances as provided by law.

[C73, § 1054; C97, § 2174; SS15, § 2215-f14; C24, 27, 31, § 445; C35, § 467-f41; C39, § **467.43**; C46, 50, § 29.43; C54, 58, 62, § 29.16; C66, 71, 73, 75, 77, 79, 81, § 29A.16]

2000 Acts, ch 1020, §3, 6

### **29A.17 Governor's staff.**

The military staff of the governor shall consist of the adjutant general, who shall be the chief of staff; the deputy adjutants general, who shall be the assistant chiefs of staff; and any aides, who shall be residents of the state, as the governor may appoint or detail from the armed forces of the state.

The aides appointed shall be commissioned at a rank not higher than the military rank of colonel, except that if a person holds or has held a higher rank in the armed forces of the state or nation the commission may issue for such higher rank.

[C73, § 1054; C97, § 2174; SS15, § 2215-f14; C24, 27, 31, § 445; C35, § 467-f27; C39, § **467.27**; C46, 50, § 29.27; C54, 58, 62, § 29.17; C66, 71, 73, 75, 77, 79, 81, § 29A.17]

2000 Acts, ch 1020, §4, 6; 2002 Acts, ch 1119, §121

### **29A.18 United States property and fiscal officer.**

Subject to the approval of the secretary of the army and secretary of the air force, the governor shall detail through the national guard bureau a qualified commissioned officer of the national guard who is also a commissioned officer of the army or the air force of the United States to be the United States property and fiscal officer for Iowa. Subject to the approval of the governor, the adjutant general shall nominate a qualified commissioned officer for the detail to this position.

The United States property and fiscal officer for Iowa shall perform the duties provided by 32 U.S.C. § 708.

The governor may request the removal for cause of the United States property and fiscal officer for Iowa through the chief of the national guard bureau to the secretary of the army or air force.

[R60, § 1013; C73, § 1050; C97, § 2190; S13, § 2215-f12; C24, 27, 31, § 443; C35, § 467-f45; C39, § 467.47; C46, 50, § 29.47; C54, 58, 62, § 29.18; C66, 71, 73, 75, 77, 79, 81, § 29A.18]

### **29A.19 Quartermaster.**

A present or retired commissioned officer of the national guard who has ten years' service in the Iowa army national guard or the Iowa air national guard and has attained the grade of a field officer shall be detailed to be the quartermaster and property officer of the state, who shall have charge of and be accountable for, under the adjutant general, all state military property. The quartermaster shall keep property returns and reports and give bond to the state of Iowa as the governor may direct.

[S13, § 2215-f28; C24, 27, 31, § 456; C35, § 467-f18, -f46; C39, § 467.18, 467.48; C46, 50, § 29.18, 29.48; C54, 58, 62, § 29.19; C66, 71, 73, 75, 77, 79, 81, § 29A.19]

2002 Acts, ch 1117, §10, 23

### **29A.20 Officers.**

Officers of the national guard shall be selected from the classes of persons having the qualifications prescribed by federal law and regulations. They shall be appointed by the governor upon the recommendation of their superiors in the chain of command, provided that they shall have successfully passed such tests as to physical, moral, and professional fitness, as shall be prescribed by law and regulations. Each officer shall take an oath of office and shall hold office until the officer shall have attained the maximum age of retirement that is prescribed by federal law or regulations pertaining to officers of the armed forces of the United States, unless the officer's commission or warrant is sooner vacated by resignation, death or as hereinafter provided. In case the officer has no immediate superiors, within the state, in the chain of command, the officer shall be appointed, as above provided, upon the recommendation of the adjutant general. A commission shall designate the arm or branch of service in which the officer is commissioned. Provided, however, that no person shall be appointed a commissioned or warrant officer who has not reached the person's eighteenth birthday at or prior to the time of such appointment.

[C51, § 624, 626628; R60, § 1005, 10071009; C73, § 1047, 1048; C97, § 21762180; S13, § 2215-f10; C24, 27, 31, § 441; C35, § 467-f11; C39, § 467.11; C46, 50, § 29.11; C54, 58, 62, § 29.20; C66, 71, 73, 75, 77, 79, 81, § 29A.20]

### **29A.21 Powers and duties.**

In addition to the powers and duties prescribed in this chapter all officers of the national guard shall have the same powers and perform like military duties as officers of similar rank and position in the armed forces of the United States insofar as may be authorized by law. Officers are authorized to administer oaths in all matters connected with the service.

[C35, § 467-f16; C39, § **467.16**; C46, 50, § 29.16; C54, 58, 62, § 29.21; C66, 71, 73, 75, 77, 79, 81, § 29A.21]

### **29A.22 Fitness determined vacation of commissions.**

The moral character, capacity and general fitness for the service of any national guard officer may be determined at any time by an efficiency board as provided by federal law and regulations. Commissions or warrants of officers of the national guard may be vacated upon resignation, absence without leave for three months, upon the recommendation of an efficiency board, or pursuant to sentence of a court-martial. Any officer permanently removing from the state shall resign the officer's commission or warrant upon request of the adjutant general or make application to be placed upon the inactive list, and upon failure to do so, the officer's commission or warrant shall be revoked by the governor. Officers rendered surplus by the disbandment of their organization shall be disposed of as provided by law and regulations. Subject to the approval of their superior commanders and the adjutant general, officers may, upon their own application, be placed on the inactive list, as such list may be authorized by law and regulations.

[C97, § 2183, 2199; S13, § 2215-f11; C24, 27, 31, § 442; C35, § 467-f12; C39, § **467.12**; C46, 50, § 29.12; C54, 58, 62, § 29.22; C66, 71, 73, 75, 77, 79, 81, § 29A.22]

### **29A.23 Roll of retired officers and enlisted personnel.**

An officer or enlisted person of the Iowa national guard who has completed twenty years of military service under 10 U.S.C. § 1331(d), as evidenced by a letter of notification of retired pay at age sixty, shall upon retirement and written request to the adjutant general be placed by order of the commander in chief on a roll in the office of the adjutant general to be known as the "roll of retired military personnel." A member registered on the roll is entitled to wear the uniform of the rank last held on state or other occasions of ceremony, when the wearing of such uniform is not in conflict with federal law.

[C35, § 467-f15; C39, § **467.15**; C46, 50, § 29.15; C54, 58, 62, § 29.23; C66, 71, 73, 75, 77, 79, 81, § 29A.23]

### **29A.24 Unassigned list.**

There shall be maintained in the office of the adjutant general a list to be known as the unassigned list, to which officers may be transferred, pending their resignation or removal from the service. Any officer may be transferred by the adjutant general to such unassigned list upon the recommendation of the officer's commanding officer, either immediate or remote. Before such transfer is made the adjutant general shall notify the officer, either in person or by certified mail mailed to the officer's last known address of the intended transfer. The officer shall have ten days from the date of mailing of said notice in which to apply to the adjutant general for an efficiency board. Should the officer fail to apply for an efficiency board, the transfer shall be made upon the expiration of the ten-day period. If the officer requests an efficiency board, the adjutant general will be governed by the finding of such board. All officers transferred to such unassigned list shall remain subject to military discipline and to courts-martial for military offenses to the same extent and in like manner as if upon the active list.

[C35, § 467-f13; C39, § **467.13**; C46, 50, § 29.13; C54, 58, 62, § 29.24; C66, 71, 73, 75, 77, 79, 81, § 29A.24]

### **29A.25 Enlistments and discharges.**

All enlistments and discharges in the national guard shall be as prescribed by federal law and regulations.

[C97, § 2173; S13, § 2215-f13; C24, 27, 31, § 444; C39, § **467.22**; C46, 50, § 29.22; C54, 58, 62, § 29.25;

C66, 71, 73, 75, 77, 79, 81, § 29A.25]

2002 Acts, ch 1117, §11, 23

### **29A.26 State headquarters and detachment.**

The number and grade of officers and enlisted personnel in the state headquarters and headquarters detachment shall be as prescribed by federal law and regulations. However, in case of war, invasion, insurrection, emergency, or imminent danger thereof, the governor may temporarily increase the force to meet the circumstance.

[C51, § 624, 626628; R60, § 1005, 10071009; C73, § 1047, 1048; C97, § 21762180; S13, § 2215-f10; C24, 27, 31, § 441; C35, § 467-f23; C39, § **467.23**; C46, 50, § 29.23; C54, 58, 62, § 29.26; C66, 71, 73, 75, 77, 79, 81, § 29A.26]

2002 Acts, ch 1117, §12, 13, 23

### **29A.27 Pay and allowances injury or death benefit boards judicial review damages.**

Officers and enlisted persons while in state active duty shall receive the same pay, per diem, and allowances as are paid for the same rank or grade for federal service. However, a person shall not be paid at a base rate of pay of less than one hundred dollars per calendar day of state active duty.

In the event any officer or enlisted person shall be killed while on duty or in state active duty, in line of duty, or shall die as the result of injuries received or as a result of illness or disease contracted while on duty or in state active duty, in line of duty, dependents, as defined by the workers' compensation law of the state, shall receive the maximum compensation provided by such law.

Any officer or enlisted person who suffers injuries or contracts a disease causing disability, in line of duty, while on duty or in state active duty, shall receive hospitalization and medical treatment, and during the period that the officer or enlisted person is totally disabled from returning to military duty the officer or enlisted person shall also receive the pay and allowances of the officer's or enlisted person's grade. In the event of partial disability, the officer or enlisted person shall be allowed partial pay and allowances as determined by an evaluation board of three officers to be appointed by the adjutant general. At least one member of the board shall be a medical officer.

Any claim for death, illness, or disease contracted in line of duty while on duty or in state active duty, shall be filed with the adjutant general within six months from the date of death or contraction of the illness or disease.

Where the provisions of this section may be applicable or at other times as considered necessary, but at least once a year, the adjutant general shall appoint a state review board consisting of three officers, one of whom shall be a medical officer, for the purpose of determining the continuation of benefits for individuals who have established their eligibility under this section. Once established, benefits shall be paid until terminated by the review board and shall continue for the duration of the disability even though the individual may no longer be medically qualified for military service and may have been discharged from the national guard.

Judicial review of any decision of the evaluation or state review board may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review must be filed within a period of thirty days from date of mailing by the adjutant general by certified mail of notice of the board's decision. Within thirty days after the filing of a petition for judicial review, the adjutant general shall make, certify, and file in the office of the clerk of the district court in which the judicial review is sought a full and complete transcript

of all documents in the proceeding. The transcript shall include any depositions and a transcript or certification of the evidence, if reported. The attorney general of Iowa, upon the request of the adjutant general, shall represent the board appointed by the adjutant general against whom any such appeal has been instituted.

The provisions herein provided shall apply to all individuals receiving benefits under this section or who subsequently may become entitled to such benefits.

All payments herein provided for shall be paid on the approval of the adjutant general from the contingent fund of the executive council.

In the event benefits for death, injuries or illness are paid in part by the federal government, the state shall pay only the balance necessary to constitute the above designated amounts.

No payment received by any officer or enlisted person under the provisions of this section shall bar the right of such officer or enlisted person, or their heirs or representatives, to recover damages from any partnership, corporation, firm or persons whomsoever who otherwise would be liable, nor shall any such sums received under the provisions of this section reduce the amount of damages recoverable by such officer, enlisted person, or their heirs or representatives, against any partnership, corporation, firm or persons whomsoever who otherwise would be liable.

[C51, § 625; R60, § 1006; C73, § 1051; C97, § 2189, 2212, 2213; S13, § 2215-f23; C24, 27, 31, § 452; C35, § 467-f21, -f31; C39, § **467.21, 467.31**; C46, 50, § 29.21, 29.31; C54, 58, 62, § 29.27; C66, 71, 73, 75, 77, 79, 81, § 29A.27]

84 Acts, ch 1170, § 1; 92 Acts, ch 1238, § 15; 99 Acts, ch 99, §1; 2001 Acts, 2nd Ex, ch 1, §15, 28; 2003 Acts, ch 44, §114

## **Footnotes**

Workers' compensation, see chapter 85

### **29A.28 Leave of absence of civil employees.**

1. All officers and employees of the state, or a subdivision thereof, or a municipality other than employees employed temporarily for six months or less, who are members of the national guard, organized reserves or any component part of the military, naval, or air forces or nurse corps of this state or nation, or who are or may be otherwise inducted into the military service of this state or of the United States, or who are members of the civil air patrol, shall, when ordered by proper authority to state active duty, state military service, or federal service, or when performing a civil air patrol mission pursuant to section 29A.3A, be entitled to a leave of absence from such civil employment for the period of state active duty, state military service, federal service, or civil air patrol duty without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence. Where state active duty, state military service, federal service, or civil air patrol duty is for a period of less than thirty days, a leave of absence under this section shall only be required for those days that the civil employee would normally perform services for the state, subdivision of the state, or a municipality.

2. A state agency, subdivision of the state, or municipality may hire a temporary employee to fill any vacancy created by such leave of absence. Temporary employees hired to fill a vacancy created by a leave of absence under this section shall not count against the number of full-time equivalent positions authorized for the state agency, subdivision of the state, or municipality.

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the

same position and classification held by the employee at the time of entry into state active duty, state military service, federal service, or civil air patrol duty, or to the position and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, state military service, federal service, or civil air patrol duty. Under this subsection, "*position*" includes the geographical location of the position.

[C35, § 467-f25; C39, § **467.25**; C46, 50, § 29.25; C54, 58, 62, § 29.28; C66, 71, 73, 75, 77, 79, 81, § 29A.28]

2001 Acts, 2nd Ex, ch 1, §16, 28; 2003 Acts, ch 142, §3, 11; 2003 Acts, 1st Ex, ch 2, § 36, 47; 2004 Acts, ch 1086, §14; 2006 Acts, ch 1185, §59

## **Footnotes**

See also § 29A.43

### **29A.29 Payment from treasury exception.**

When in state active duty, the compensation of officers and enlisted persons and expenses of the national guard and claims for death, injury, and illness of the members thereof, incurred in line of duty, shall be paid out of any funds in the state treasury not otherwise appropriated. However, if funds for compensation and expenses have been appropriated for compensation and expenses of persons on full-time state active duty pursuant to a specific Act of the general assembly, such persons shall be paid from funds appropriated pursuant to such Act.

[C51, § 625; R60, § 1006; C73, § 1051; C97, § 2189, 2212, 2213; S13, § 2215-f23; C24, 27, 31, § 452; C35, § 467-f31; C39, § **467.31**; C46, 50, § 2931; C54, 58, 62, § 29.29; C66, 71, 73, 75, 77, 79, 81, § 29A.29]

2001 Acts, 2nd Ex, ch 1, §17, 28

### **29A.30 Inactive guard.**

An inactive national guard may be organized and maintained in such manner as may be prescribed or authorized by law and regulations.

[C35, § 467-f14; C39, § **467.13**; C46, 50, § 29.14; C54, 58, 62, § 29.30; C66, 71, 73, 75, 77, 79, 81, § 29A.30]

### **29A.31 Unlawful organizations.**

It shall be unlawful for any person to form a military organization within the limits of this state without the written permission of the governor, which the governor may at any time revoke, but this provision shall not prevent civic, social, or benevolent organizations from wearing uniforms and equipment not in conflict with the other provisions of this chapter.

[C97, § 2200; S13, § 2215-f5; C24, 27, 31, § 436; C35, § 467-f3; C39, § **467.03**; C46, 50, § 29.3; C54, 58, 62, § 29.31; C66, 71, 73, 75, 77, 79, 81, § 29A.31]

2002 Acts, ch 1117, §14, 23

**29A.32** Repealed by 59 Acts, ch 85, § 6.

### **29A.33 Per capita allowance to unit.**

Each unit of the national guard showing attendance and actual drill of those present for such drills as are prescribed in compliance with the National Defense Act or its amendments and such regulations as prescribed by the secretary of defense, shall receive an annual allowance for military purposes, in the sum of five dollars per capita, to be paid in semiannual installments on the basis of two dollars and fifty cents per capita. For the purpose of computing each semiannual installment the per capita strength shall be the average enlisted strength of the unit, for that semiannual period, however, if the average attendance of any unit during any semiannual period falls below fifty percent of the average enlisted strength of such unit in that period, the allowance shall not be paid for that period. The semiannual periods shall begin January 1 and July 1. The allowance shall be paid from the funds appropriated for the support and maintenance of the national guard, and the adjutant general shall prescribe regulations requiring an itemized statement of the allowance and governing its expenditure. The allowance shall be used for morale purposes and for the welfare of the troops. The allowance shall not be used to purchase an alcoholic beverage or beer.

[SS15, § 2215-f27; C24, 27, 31, § 455; C35, § 467-f50; C39, § **467.52**; C46, 50, § 29.52; C54, 58, 62, § 29.33; C66, 71, 73, 75, 77, 79, 81, § 29A.33]

90 Acts, ch 1267, §24

### **29A.34 Clothing and equipment.**

The commanding officer of a unit or organization receiving clothing or equipment for the use of that command shall distribute it to the members of that command, taking receipts and requiring the return of each article at such time and place as that officer directs.

Upon the direction of any unit or organization commander the county attorney shall bring action in the name of the state of Iowa against any person for the recovery of any property issued by a unit or organization commander, or for its value as set forth in the price list promulgated by the federal government.

All sums so collected shall be paid to the treasurer of the United States and forwarded to the United States property and fiscal officer for Iowa.

[C51, § 629; R60, § 1010; C73, § 1050; C97, § 2190; SS15, § 2215-f31; C24, 27, 31, § 459; C35, § 467-f55, -f56; C39, § **467.57, 467.58**; C46, 50, § 29.57, 29.58; C54, 58, 62, § 29.34; C66, 71, 73, 75, 77, 79, 81, § 29A.34]

### **29A.35 Use for military only.**

All arms, clothing, equipment, and other military property furnished or issued by the federal government or the state or for which an allowance has been made, shall be used for military purposes only, and each officer and enlisted person upon being separated from the military forces of the state, or upon demand of the commanding officer, shall forthwith surrender such military property in the officer's or enlisted person's possession to said commanding officer. Any member of the national guard who shall neglect to return to the armory of the unit, or place in charge of the commanding officer of the organization to which the member belongs, any arms, clothing, equipment, or other military property or portion thereof, belonging to the federal government or the state, upon being notified by said commanding officer to do so, shall be guilty of a serious misdemeanor.

[S13, § 2215-f35; C24, 27, 31, § 463; C35, § 467-f4; C39, § **467.04**; C46, 50, § 29.4; C54, 58, 62, § 29.35; C66, 71, 73, 75, 77, 79, 81, § 29A.35]

### **29A.36 Injury or destruction of property.**

Every person who shall willfully or wantonly injure or destroy any articles of arms, clothing, equipment, or other military property furnished or issued by the federal government or the state, and refuses to make good such injury or loss; or who shall sell, dispose of, secrete or remove the same with intent to sell or dispose of it, shall be guilty of a simple misdemeanor.

[R60, § 1014; C73, § 1050; C97, § 2194; S13, § 2215-f32; C24, 27, 31, § 460; C35, § 467-f57; C39, § 467.59; C46, 50, § 29.59; C54, 58, 62, § 29.36; C66, 71, 73, 75, 77, 79, 81, § 29A.36]

### **29A.37 Bond of officers.**

Each officer responsible or accountable for property for military use, or funds of the state or of the United States, shall execute and deliver to the adjutant general a bond, with sureties to be approved by the adjutant general, and payable to the state, in such amount as fixed by the adjutant general, conditioned for the proper care, use, and return in good order, wear, use and unavoidable loss and damage excepted, of all such state and United States property, and the proper care and faithful disbursement and accounting of all those funds coming into the hands of that officer. However, the adjutant general, with the approval of the governor, may obtain an adequate indemnity bond covering all or part of those officers accountable or responsible and the officers covered shall not be required to furnish individual bonds.

Upon the violation of any of the conditions of any bond executed and delivered under the provisions of this section, action thereon shall be brought by the adjutant general on behalf of the state. It shall be the duty of the attorney general of the state to prosecute all actions upon such bonds. No further payments shall be made under any provision of this chapter to the accountable officer of any organization or unit who does not fully and satisfactorily account to the adjutant general for all moneys theretofore paid to the officer under any provision of this chapter.

[R60, § 1013; C73, § 1050; C97, § 2190; S13, § 2215-f12; C24, 27, 31, § 443; C35, § 467-f17; C39, § 467.17; C46, 50, § 29.17; C54, 58, 62, § 29.37; C66, 71, 73, 75, 77, 79, 81, § 29A.37]

### **29A.38 Serious misdemeanors.**

Any officer or enlisted person of the national guard who knowingly makes any false certificate of muster or false return of federal or state property or funds in the officer's or enlisted person's possession shall be guilty of a serious misdemeanor.

[C97, § 2192; S13, § 2215-f30; C24, 27, 31, § 458; C35, § 467-f19; C39, § 467.19; C46, 50, § 29.19; C54, 58, 62, § 29.38; C66, 71, 73, 75, 77, 79, 81, § 29A.38]

### **29A.39 Theft.**

Any officer or enlisted person of the national guard who willfully neglects or refuses to apply all money, in the officer's or enlisted person's possession drawn from the state treasury, to the purpose for which such money was appropriated or who fails or refuses to account for or return any state or federal property or funds in the officer's or enlisted person's possession shall be guilty of the crime of theft.

[C97, § 2192; S13, § 2215-f30; C24, 27, 31, § 458; C35, § 467-f20; C39, § 467.20; C46, 50, § 29.20; C54, 58, 62, § 29.39; C66, 71, 73, 75, 77, 79, 81, § 29A.39]

### **Footnotes**

See § 714.2

### **29A.40 False wearing of uniform.**

A member of the national guard shall not wear the uniform of the national guard while not on duty, except in accordance with state or federal regulations. A person, firm, or corporation, other than a civic, social, or benevolent military organization or the members of such organizations organizing for the benefit of all its members, shall not incorporate under the name of, or adopt any trade name which embodies the name or designation, officially or generally recognized as the name of a military organization now or formerly in existence, or any distinctive part of such name.

Any person who, without authority under the laws of the United States or of one of the states, wears the uniform of or a distinctive part of the uniform of the armed forces of the United States, shall be guilty of a serious misdemeanor.

[S13, § 2215-f35; C24, 27, 31, § 463; C35, § 467-f4; C39, § **467.04**; C46, 50, § 29.4; C54, 58, 62, § 29.40; C66, 71, 73, 75, 77, 79, 81, § 29A.40]

2002 Acts, ch 1117, §15, 23; 2006 Acts, ch 1185, §60

### **29A.41 Exemptions.**

A member of the national guard shall not be arrested, or served with a summons, order, warrant or other civil process after having been ordered to any duty, or while going to, attending, or returning from, any place to which the national guard member is required to go for military duty. This section does not prevent the national guard member's arrest by order of a military officer or for a felony or breach of the peace committed while not in the actual performance of the national guard member's duty. The articles of equipment personally owned by such members are exempt from seizure or sale for debt.

[C97, § 2209; S13, § 2215-f33; C24, 27, 31, § 461; C35, § 467-f24; C39, § **467.24**; C46, 50, § 29.24; C54, 58, 62, § 29.41; C66, 71, 73, 75, 77, 79, 81, § 29A.41]

84 Acts, ch 1181, § 1; 2002 Acts, ch 1117, §16, 23

### **29A.42 Trespass or interference with official acts.**

Any person who shall trespass upon any military reservation, camp, or armory, in violation of the orders of the commander thereof, or officer charged with the responsibility therefor shall be guilty of trespass and shall be punished as provided in section 716.8.

Any person who shall molest, or interfere with any member of the national guard, in the discharge of the member's duty shall be guilty of interference with official acts which is section 719.1. The commanding officer of such force may order the arrest of such person and cause the person to be delivered to a peace officer or magistrate.

[C97, § 2188; S13, § 2215-f29; C24, 27, 31, § 457; C35, § 467-f54; C39, § **467.56**; C46, 50, § 29.56; C54, 58, 62, § 29.42; C66, 71, 73, 75, 77, 79, 81, § 29A.42]

### **29A.43 Discrimination prohibited leave of absence continuation of health coverage.**

1. A person shall not discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States or any member of the civil air patrol because of that membership. An employer, or agent of an employer, shall not discharge a person from employment because of being an officer or enlisted person of the military forces of the state or member of the civil air patrol, or hinder or prevent the officer or enlisted person or member of the civil air patrol from performing any military service or civil air patrol duty the person is called upon to perform by proper authority. A member of the

national guard or organized reserves of the armed forces of the United States ordered to temporary duty, as defined in section 29A.1, subsection 3, 11, or 12, or a member of the civil air patrol performing duty pursuant to section 29A.3A, for any purpose is entitled to a leave of absence during the period of the duty or service, from the member's private employment, other than employment of a temporary nature, and upon completion of the duty or service the employer shall restore the person to the position held prior to the leave of absence, or employ the person in a similar position. However, the person shall give evidence to the employer of satisfactory completion of the training or duty, and that the person is still qualified to perform the duties of the position. The period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. A person violating a provision of this section is guilty of a simple misdemeanor.

2. An officer or enlisted person of the national guard or organized reserves of the armed forces of the United States who is insured as a dependent under a group policy for accident or health insurance as a full-time student less than twenty-five years of age, whose coverage under the group policy would otherwise terminate while the officer or enlisted person was on a leave of absence during a period of temporary duty or service, as defined for members of the national guard in section 29A.1, subsection 3, 11, or 12, or as a member of the organized reserves called to active duty from a reserve component status, shall be considered to have been continuously insured under the group policy for the purpose of returning to the insured dependent status as a full-time student who is less than twenty-five years of age. This subsection does not apply to coverage of an injury suffered or a disease contracted by a member of the national guard or organized reserves of the armed forces of the United States in the line of duty.

[C35, § 467-f5; C39, § **467.05**; C46, 50, § 29.5; C54, 58, 62, § 29.43; C66, 71, 73, 75, 77, 79, 81, § 29A.43]

87 Acts, ch 115, § 8; 2001 Acts, 2nd Ex, ch 1, §18, 28; 2002 Acts, ch 1117, §17, 23; 2003 Acts, ch 91, §1; 2006 Acts, ch 1185, §61

## **Footnotes**

Leave for civil employees; § 29A.28

### **29A.44 Assault prohibited.**

Whenever the national guard is called into service under proclamation of the governor for the performance of any duties contemplated in this chapter any person who willfully assaults, or fires at, or throws any dangerous missiles at, against, or upon any member or body of the national guard so engaged, or civil officer or other persons lawfully aiding or assisting them in the discharge of their duties, shall be guilty of an aggravated misdemeanor.

[C35, § 467-f30; C39, § **467.30**; C46, 50, § 29.30; C54, 58, 62, § 29.44; C66, 71, 73, 75, 77, 79, 81, § 29A.44]

### **29A.45 Martial law.**

When a military district is established under martial law, the chief justice or an associate justice of the supreme court may, upon written agreement of the parties or their attorneys, on good cause being shown, order any civil or criminal case on file in the office of the clerk of any court of record within the military district transferred to any court of record outside of the military district. The said cause shall be docketed without fee and proceed in all respects with the same force and effect as though transferred on a change of venue. When the said military district is dissolved, the cause and all proceedings in connection therewith may be retransferred by the supreme court to the original court, where it shall be redocketed without fee.

[C39, § **467.32**; C46, 50, § 29.32; C54, 58, 62, § 29.45; C66, 71, 73, 75, 77, 79, 81, § 29A.45]

### **29A.46 Military court or commission.**

The governor may establish within such military district a military court or commission to take jurisdiction and cognizance of all public offenses against the peace and dignity of the state, and the violation of ordinances and military rules which are now, or may hereafter be, promulgated or enacted for the preservation of law and order and the public safety.

The military court or commission may make such orders, judgments, and decrees in civil cases as may be agreed upon by the litigants or their attorneys, or as may be necessary because of an emergency or to prevent waste, with the same force and effect as though made and entered by a judge of the district court. The said court or commission shall have full power and authority to issue all necessary process for the conduct of its proceedings, and like power to compel the attendance of witnesses therein as are exercised by civil courts of the state.

[C39, § 467.33; C46, 50, § 29.33; C54, 58, 62, § 29.46; C66, 71, 73, 75, 77, 79, 81, § 29A.46]

### **29A.47 Arrests and subpoenas.**

Troops occupying a military district established under martial law, may, if necessary, pursue, arrest and subpoena persons wanted in said military district, anywhere within the state of Iowa.

All peace officers of the state shall serve process and execute the orders of a military court in the same way and to the same extent as corresponding instruments of civil courts.

[C35, § 467-f34; C39, § 467.32, 467.36; C46, 50, § 29.32, 29.36; C54, 58, 62, § 29.47; C66, 71, 73, 75, 77, 79, 81, § 29A.47]

### **29A.48 Commitment and fines.**

In default of payment of any fine imposed by any military court acting under martial law, the offender may be committed to any county jail designated by any court of this state for a period equal to one day for each three dollars of fine imposed and unpaid.

[C35, § 467-f35; C39, § 467.37; C46, 50, § 29.37; C54, 58, 62, § 29.48; C66, 71, 73, 75, 77, 79, 81, § 29A.48]

### **29A.49 Military jails.**

The keepers and wardens of all county jails or state institutions are required to receive and confine all military offenders or other persons when delivered to them, under a certificate of commitment of a military court or commanding officer, for and during the term of sentence or confinement as set forth in said commitment.

[C35, § 467-f36; C39, § 467.38; C46, 50, § 29.38; C54, 58, 62, § 29.49; C66, 71, 73, 75, 77, 79, 81, § 29A.49]

### **29A.50 Immunity.**

The commanding officer and members of any of the military forces engaged in the suppression of an insurrection, assistance to civil authorities in emergencies, homeland defense, or security duties, or the enforcement of the laws, shall have the same immunity as peace officers.

[C35, § 467-f37; C39, § **467.39**; C46, 50, § 29.39; C54, 58, 62, § 29.50; C66, 71, 73, 75, 77, 79, 81, § 29A.50]

2002 Acts, ch 1117, §18, 23

**29A.51 Suit or proceeding defense.**

If a suit or proceeding is commenced in any court by any person against a member of the military forces of the state for an act done by the member in the member's official capacity in the discharge of a duty under this chapter or chapter 29B, the attorney general or staff judge advocate, upon the request of the adjutant general, shall defend the member against whom the suit or proceeding has been instituted. The costs of the defense shall be paid out of any funds in the state treasury not otherwise appropriated. Before the suit or proceeding is filed or maintained against the member, the plaintiff must give security, to be approved by the court in a sum not less than one hundred dollars to secure the costs. If the plaintiff fails to recover judgment, the costs shall be taxed and judgment rendered against the plaintiff and the plaintiff's sureties. When members of the military forces of the state are called into state active duty by the governor under martial law or to assist civil authorities, in addition to the judge advocate's other duties, any judge advocate on duty with those troops may be appointed by the attorney general as an assistant attorney general, without pay for the judge advocate's services for acting in that capacity.

[C35, § 467-f38; C39, § **467.40**; C46, 50, § 29.40; C54, 58, 62, § 29.51; C66, 71, 73, 75, 77, 79, 81, § 29A.51]

2002 Acts, ch 1117, §19, 23

**29A.52 Malice must be proved.**

No action or proceeding shall be maintained against any officer appointing a military court or against any member of a military court or commission, officer or agent acting under its authority, or reviewing its proceedings, on account of the imposition of a fine or penalty or for the execution of a sentence of any person, unless it be shown that such officer, member or agent has acted from motives of malice.

[C35, § 467-f39; C39, § **467.41**; C46, 50, § 29.41; C54, 58, 62, § 29.52; C66, 71, 73, 75, 77, 79, 81, § 29A.52]

**29A.53 Call by president of U.\$THS.**

Whenever the United States is invaded or in danger of invasion from any foreign nation, or of rebellion against the authority of the government of the United States, or the president is unable, with the regular forces at the president's command, to execute the laws of the union, it shall be lawful for the president to call forth such number of the national guard as the president may deem necessary to assist in repelling such invasion, suppressing such rebellion, or to assist in enabling the president to execute such laws, and to issue orders for that purpose, through the governor to such officers of the national guard as the president may think proper; and the president may specify, in the call, the period for which such service is required, and the guard so called forth shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the president.

Whenever the president shall require, in any of the designated instances, more troops than can be supplied by the national guard, the governor shall, in the governor's discretion, organize forthwith such other national guard forces as the governor may deem necessary, or order into the service of the United States so many of the unorganized militia of the state as is required, designating the same by draft if a sufficient number do not volunteer, and shall commission officers therefor.

Officers and enlisted personnel called into federal service through the national guard shall upon completion of such service continue to serve the balance of their enlistment period the same as though it had not been interrupted by such service.

[C97, § 2169; S13, § 2215-f18; C24, 27, 31, § 448; C35, § 467-f58; C39, § **467.60**; C46, 50, § 29.60; C54, 58, 62, § 29.53; C66, 71, 73, 75, 77, 79, 81, § 29A.53]

#### **29A.54 Senior commander allowances.**

A fund shall be established from an annual appropriation of funds to be used by senior commanders as an expense allowance to defer expenses incurred in conducting command functions or escorting military guests while acting in their official capacity as commander. Appropriations to the fund shall be made at the beginning of each fiscal year in the amount of seven hundred fifty dollars for each federally recognized general officer of the army national guard and the air national guard. The adjutant general of Iowa shall have custodial and administrative responsibility for the fund and shall prescribe regulations requiring an itemized statement of expenditures from the fund. The fund shall not be used to purchase an alcoholic beverage or beer.

[C54, 58, 62, § 29.54; C66, 71, 73, 75, 77, 79, 81, § 29A.54]

2002 Acts, ch 1117, §20, 23

#### **29A.55 Insurance.**

The adjutant general is hereby authorized to procure insurance against the liability of officers and enlisted personnel of the national guard, and employees of the adjutant general by reason of claims for bodily injuries, death, or property damage, made upon such officers, enlisted personnel and employees resulting from their operation of a motor vehicle while in the performance of their duties.

[C54, 58, 62, § 29.55; C66, 71, 73, 75, 77, 79, 81, § 29A.55]

#### **29A.56 Special police.**

The adjutant general may by order entered of record commission one or more of the employees of the military division as special police. Such special police shall on the premises of any state military reservation or other state military property have and exercise the powers of regular peace officers.

[C66, 71, 73, 75, 77, 79, § 29A.12; C81, § 29A.56]

#### **29A.57 Armory board.**

1. The governor shall appoint an armory board which consists of the adjutant general serving as chairperson, at least two officers from the active commissioned personnel of the national guard, and at least one other person, who is a citizen of the state of Iowa. One member of the board shall have at least five years' experience in the building construction trade. The board shall meet at times and places as ordered by the governor. The members shall serve at the pleasure of the governor. Members of the board shall receive actual expenses for each day in which they are actually employed under this chapter. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

2. The board may acquire land or real estate by purchase, contract for purchase, gift, or bequest and acquire, own, contract for the construction of, erect, purchase, maintain, alter, operate, and repair installations and facilities of the Iowa national guard and the Iowa air national guard when funds for the installations and facilities are made available by the federal government, the state of Iowa, municipalities, corporations or

individuals. The title to the property so acquired shall be taken in the name of the state of Iowa and the real estate may be sold or exchanged by the executive council, upon recommendation of the board, when it is no longer needed for the purpose for which it was acquired. Income or revenue derived from the sale of the real estate shall be credited to the national guard facilities improvement fund and used for the purposes specified in section 29A.14, subsection 2.

3. In carrying out this section, the armory board may:

*a.* Borrow money.

*b.* Mortgage any real estate acquired and the improvements erected on the real estate when purchasing or improving the property, in order to secure necessary loans.

*c.* Pledge the sales, rents, profits and income received from the property for the discharge of obligations executed.

*d.* Grant a temporary or permanent easement with or without monetary consideration for utility, public highway, or other purposes if granting the easement will not adversely affect use of the real estate for military purposes.

4. An obligation created under this section shall not be a charge against the state of Iowa, but all the obligations, including principal and interest, are payable solely from any of the following:

*a.* The sales, net rents, profits and income arising from the property so pledged or mortgaged.

*b.* The sales, net rents, profits and income which have not been pledged for other purposes arising from any other installation and facility or like improvement under the control and management of said board.

*c.* The income derived from gifts and bequests for installations and facilities under the control of the armory board.

5. All property, real or personal, acquired by, and all bonds, debentures or other written evidences of indebtedness, given as security by the board, are exempt from taxation.

6. When property acquired by the armory board, under this chapter, is free and clear of all indebtedness, the title of the property shall pass to the state of Iowa.

7. There is no liability to the state of Iowa under this section. Members of the armory board and of the state executive council shall not be held to any personal or individual liability for any action taken by them under this chapter.

8. The board shall fix the amount to be paid to commanding officers of each organization and unit of the national guard for headquarters expenses and shall provide by regulation how the amount shall be disbursed by the commanding officers. The governor may disapprove the actions of the armory board.

9. The allowances made by the armory board shall be paid from the funds appropriated for the support and maintenance of the national guard.

[C24, 27, 31, § 453; C35, § 467-f47; C39, § **467.49**; C46, 50, § 29.49; C54, 58, 62, § 29.57; C66, 71, 73, 75, 77, 79, 81, § 29A.57; 81 Acts, ch 14, § 20]

86 Acts, ch 1245, § 1703; 92 Acts, ch 1238, § 16; 2006 Acts, ch 1143, §1

### **29A.58 Armories leased.**

The armory board as lessee, may lease property to be used for armory purposes and other training of the national guard. Leases may be made for any term not to exceed twenty years. Rents under such leases shall be paid from funds appropriated for the support and maintenance of the national guard.

The armory board as lessor or sublessor may, for a term not to exceed twenty years, lease property under the control of the board for purposes other than armory or military use when the leasing does not interfere with the use of the property for military purposes. A military operations fund is created in the state treasury. The rental proceeds of property leased by the board shall be paid to the adjutant general for deposit with the treasurer of state and credited to a separate account of the military operations fund. The finance officer of the office of adjutant general shall credit the appropriate account with the rental revenue which each armory produces. The revenue credited to each account is appropriated for maintaining, improving and repairing the armory facility and utility payments.

Where the armory board is lessee, leases made under the provisions of this section may provide for an option to purchase the leased property and may make provision for the application upon the purchase price of rental payments made under the lease. Payments of special tax assessments arising under such leases may be paid from funds appropriated for the support and maintenance of the national guard.

[C24, 27, 31, § 453; C35, § 467-f47; C39, § **467.49**; C46, 50, § 29.49; C54, 58, 62, § 29.58; C66, 71, 73, 75, 77, 79, 81, § 29A.58; 81 Acts, ch 14, § 21]

**29A.59 Approval of executive council.** Repealed by 86 Acts, ch 1238, § 57; 86 Acts, ch 1245, § 1992.

### **29A.60 Property exempt from taxation.**

All personal and real property held and used for armory or military purposes shall be exempt from taxation; and it shall be lawful for any county or city which owns public utilities to grant to any organization or unit of the national guard, which is stationed in such place, the free use of such public utilities.

[S13, § 2215-f40; C24, 27, 31, § 465; C39, § **467.50**; C46, 50, § 29.50; C54, 58, 62, § 29.60; C66, 71, 73, 75, 77, 79, 81, § 29A.60]

### **29A.61 Fines.**

Fines may be paid to a court or to an officer executing its process. The amount of any fine imposed may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due to the delinquent, until said fine is liquidated. Any sum so deducted from any state pay or allowance shall be turned in to the court which imposed the fine and shall be paid over by the officer receiving the same in like manner as provided for other fines and moneys collected.

The proceeds of all fines imposed by a military court or a commander administering nonjudicial punishment shall be transmitted to the adjutant general. The adjutant general shall deposit all fines and penalties received with the state treasurer for credit to the general fund of the state.

[C35, § 467-f60; C39, § **467.62**; C46, 50, § 29.62; C54, 58, 62, § 29.78; C66, 71, 73, 75, 77, 79, 81, § 29A.61]

### **29A.62 Immunity from prosecution.**

No action or proceeding shall be prosecuted or maintained against a member of a military court or officer or person acting under its authority or reviewing its proceeding on account of the approval or imposition or

execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any warrant, writ, execution, or process, of a military court.

[C35, § 467-f37; C39, § **467.39**; C46, 50, § 29.39; C54, 58, 62, § 29.80; C66, 71, 73, 75, 77, 79, 81, § 29A.62]

### **29A.63 Jurisdiction presumed.**

The jurisdiction of the courts and boards established by this chapter shall be presumed.

[C39, § **467.33**; C46, 50, § 29.33; C54, 58, 62, § 29.81; C66, 71, 73, 75, 77, 79, 81, § 29A.63]

### **29A.64 Custom and usage.**

All matters relating to the organization, discipline, and government of the military forces not otherwise provided for in this chapter, shall be decided by the custom, regulations, and usage of the armed forces of the United States.

[C35, § 467-f61; C39, § **467.63**; C46, 50, § 29.63; C54, 58, 62, § 29.82; C66, 71, 73, 75, 77, 79, 81, § 29A.64]

### **29A.65 Activation.**

Whenever any part of the national guard is in federal service the governor may activate such part of the unorganized militia, to be designated the "*Iowa State Guard*", as the governor may deem necessary, subject to provisions of federal law and regulations relating to such military organizations.

[C46, 50, § 29.64; C54, 58, 62, § 29.83; C66, 71, 73, 75, 77, 79, 81, § 29A.65]

### **29A.66 Applicable powers and duties.**

The powers and duties of the governor, the adjutant general, and the deputy adjutants general, with relation to the Iowa state guard, shall be the same as those powers and duties prescribed in this chapter for those officers with relation to the national guard.

[C46, 50, § 29.65; C54, 58, 62, § 29.84; C66, 71, 73, 75, 77, 79, 81, § 29A.66]

2000 Acts, ch 1020, §5, 6; 2002 Acts, ch 1119, §122

### **29A.67 Chief of staff.**

In the event the state headquarters of the national guard is inducted into federal service, the governor shall appoint a chief of staff for the Iowa state guard.

[C46, 50, § 29.64; C54, 58, 62, § 29.85; C66, 71, 73, 75, 77, 79, 81, § 29A.67]

### **29A.68 Applicable provisions.**

The provisions of this chapter pertaining to the administration and employment of the national guard shall be applicable to the Iowa state guard. The rules relating to, appointment of officers, enlistments, term and conditions of service in, and discharge from, the Iowa state guard shall be such as are directed by the governor.

[C46, 50, § 29.65; C54, 58, 62, § 29.86; C66, 71, 73, 75, 77, 79, 81, § 29A.68]

### **29A.69 Officers and duties.**

The powers and duties of officers and enlisted personnel of the Iowa state guard shall be the same as those prescribed in this chapter for officers and enlisted personnel of the national guard and the punitive and disciplinary provisions of this chapter relating to the national guard shall be applicable to the Iowa state guard.

[C46, 50, § 29.16, 29.33; C54, 58, 62, § 29.87; C66, 71, 73, 75, 77, 79, 81, § 29A.69]

### **29A.70 Immunity and exemption.**

The provisions of this chapter relating to immunity from suit and exemption from personal liability of members of the national guard shall apply to members of the Iowa state guard.

[C46, 50, § 29.39; C54, 58, 62, § 29.88; C66, 71, 73, 75, 77, 79, 81, § 29A.70]

### **29A.71 Pay and allowances.**

Officers and enlisted personnel of the Iowa state guard while in state active duty shall receive the same pay, allowances, and compensation as provided by law for members of the Iowa national guard.

[C46, 50, § 29.31, 29.67; C54, 58, 62, § 29.89; C66, 71, 73, 75, 77, 79, 81, § 29A.71]

2001 Acts, 2nd Ex, ch 1, §19, 28

### **29A.72 Expense.**

Any expense necessary for organizing, equipping, and maintaining the Iowa state guard shall be paid on approval of the governor by warrant drawn on any state funds not otherwise appropriated, or funds now or hereafter appropriated for the maintenance of the national guard.

[C46, 50, § 29.68; C54, 58, 62, § 29.90; C66, 71, 73, 75, 77, 79, 81, § 29A.72]

### **29A.73 Immunity from national service.**

The Iowa state guard shall not be called, ordered or in any manner drafted as such into the military service of the United States. However, no person shall by reason of membership in the Iowa state guard be exempt from federal military service under federal law.

[C46, 50, § 29.66; C54, 58, 62, § 29.91; C66, 71, 73, 75, 77, 79, 81, § 29A.73]

### **29A.74 Death of principal effect.**

Except as otherwise provided in this chapter, an agency created by a power of attorney in writing given by a principal who is at the time of execution, or who after executing such power of attorney becomes a member of the national guard or the armed forces of the United States, a person serving as a merchant seaman outside the limits of the United States included within the fifty states and the District of Columbia, or a person outside those limits by permission, assignment, or direction of any department, shall not be revoked or terminated by the death of the principal, as to the agent or other person who, without actual knowledge or

actual notice of the death of the principal, shall have acted or shall act, in good faith, under or in reliance upon such power of attorney or agency, and any action so taken, unless otherwise invalid or unenforceable, shall be binding on the heirs, devisees, legatees, or personal representatives of the principal.

Except as otherwise provided in this chapter no report or listing either official or otherwise, of "missing" or "missing in action" shall constitute or be interpreted as constituting actual knowledge or actual notice of the death of such principal or notice of any facts indicating the same, or shall operate to revoke the agency.

[C46, 50, § 29.69, 29.71; C54, 58, 62, § 29.92; C66, 71, 73, 75, 77, 79, 81, § 29A.74]

2002 Acts, ch 1117, §21, 23

#### **29A.75 Affidavit.**

An affidavit, executed by an attorney in fact or agent, setting forth that the attorney or agent has not or had not, at the time of doing any act pursuant to the power of attorney, received actual knowledge or actual notice of the revocation or termination of the power of attorney, by death or otherwise, or notice of any facts indicating the same, shall, in the absence of fraud, be conclusive proof of the nonrevocation or nontermination of the power at such time. If the exercise of the power requires execution and delivery of any instrument which is recordable under the laws of this state, such affidavit (when authenticated for record in the manner prescribed by law) shall likewise be recordable.

[C46, 50, § 29.70; C54, 58, 62, § 29.93; C66, 71, 73, 75, 77, 79, 81, § 29A.75]

#### **29A.76 Express revocation or termination.**

Sections 29A.74 and 29A.75 of this chapter shall not operate to alter, invalidate, or in any manner affect any express provision for revocation or termination contained in any power of attorney.

[C46, 50, § 29.72; C54, 58, 62, § 29.94; C66, 71, 73, 75, 77, 79, 81, § 29A.76]

#### **29A.77 Posthumous grants.**

A member of the Iowa national guard, who was not retired, and was otherwise qualified for any state service award or for state appointment or promotion to a higher grade or rank as provided in this chapter, and who was unable to receive such award or appointment or promotion by reason of death, is eligible for posthumous grant of the award of state appointment or promotion to a higher grade or rank. The adjutant general shall present the award or evidence of the state appointment or promotion to the next of kin of the deceased member.

[C71, 73, 75, 77, 79, 81, § 29A.77]

#### **29A.78 Brevet rank.**

The commander in chief, on the recommendation of the adjutant general, may commission by brevet general and field grade officers of the national guard whose names appear on the roll of retired military personnel as defined in section 29A.23 in the next higher grade than that held at retirement or resignation. Brevet rank is only honorary and does not confer any privilege, precedence or command or pay any emoluments. Brevet officers may wear the uniform of their brevet rank on occasions of ceremonies related to state functions only.

[C81, § 29A.78]

#### **29A.79 Emergency helicopter ambulance.**

The adjutant general shall develop a plan within the Iowa national guard for an emergency helicopter ambulance service to transport persons who require emergency medical treatment or require emergency transfer between hospitals and to transport emergency medical supplies, equipment or personnel.

The Iowa national guard shall be requested to provide the emergency helicopter ambulance service from its available staffed helicopters when the plan is implemented on order of the governor at the request of the state patrol, or the administrative heads of the hospitals located in Iowa, unless the Iowa national guard does not have a staffed helicopter available or is in active service under the armed forces of the United States.

The adjutant general shall establish policies and procedures to carry out the provisions of this section. The policies and procedures shall provide that the emergency helicopter ambulance service shall be coordinated and supplemental to, and not competitive with conventional ambulance services. In determining whether an emergency exists the policies and procedures shall give reasonable consideration to the risk of death or permanent injury due to delayed treatment resulting from remoteness of an area from any hospital, the absence or unavailability of conventional ambulance services, and the distance to be traveled in a transfer between hospitals.

[C73, 75, 77, 79, 81, § 29A.79]

98 Acts, ch 1074, § 2; 2005 Acts, ch 35, §31

**29A.80 through 29A.89** Reserved.

**29A.90 Definitions.**

As used in this subchapter, unless the context otherwise requires:

1. "*Dependent*" means the spouse and children of a service member or any other person dependent upon the service member for support.
2. "*Interest*" includes service charges, renewal charges, fees, or any other charges in respect to any obligation or liability.
3. "*Military service*" means full-time state military service or state active duty, as defined in section 29A.1, for a period of at least ninety consecutive days, commencing on or after April 22, 2002.
4. "*Service member*" means a member of the military forces of the state performing military service.

2002 Acts, ch 1117, §24, 40; 2002 Acts, ch 1175, §78, 102; 2003 Acts, ch 108, §20, 132; 2004 Acts, ch 1086, §15

**29A.91 Applicability.**

1. This subchapter shall apply to all service members on military orders who are unable to perform, continue, or complete civil obligations due to military service.
2. This subchapter does not apply to military duty performed under orders issued pursuant to 10 U.S.C.
3. Proper application of this subchapter shall suspend or postpone actions upon those obligations until thirty days after discharge from military service.

2002 Acts, ch 1117, §25, 40

### **29A.92 Reopening default judgments.**

1. A default judgment rendered in any civil action against a service member during a period of military service or within thirty days after termination of military service may be set aside under the following circumstances:

*a.* It appears that the service member was prejudiced by reason of military service in making a defense to the action.

*b.* Application by the service member or the service member's legal representative is made to the court rendering the judgment not later than thirty days after the termination of military service.

*c.* The application provides enough facts that it appears that the service member has a meritorious or legal defense to the action or some part of the action.

2. Vacating, setting aside, or reversing a judgment because of any of the provisions of this chapter shall not impair any right or title acquired by a bona fide purchaser for value under the judgment.

2002 Acts, ch 1117, §26, 40

### **29A.93 Stay of proceedings.**

1. If at any point during an action or proceeding it appears that a plaintiff or defendant is a service member and may be adversely affected by military service in the conduct of the proceedings, the court may, on its own motion, stay the proceedings.

2. The court shall stay the proceedings if the service member or another person on the service member's behalf makes a request in writing to the court, unless the court determines on the record that the ability of the plaintiff to pursue the action or the defendant to conduct a defense, is not materially affected by reason of military service.

2002 Acts, ch 1117, §27, 40

### **29A.94 Fines and penalties on contracts.**

1. If compliance with the terms of a contract is stayed pursuant to this subchapter, a fine or penalty shall not accrue by reason of failure to comply with the terms of the contract during the period of the stay.

2. If a service member has not obtained a stay, and a fine or penalty is imposed for nonperformance of an obligation, a court may relieve enforcement if the service member was in military service when the penalty was incurred and the service member's ability to pay or perform was materially impaired.

2002 Acts, ch 1117, §28, 40

### **29A.95 Exercise of rights not to affect future financial transactions.**

An application by a service member in military service for, or receipt of, a stay, postponement, or suspension under the provisions of this subchapter in the payment of any fine, penalty, insurance premium, or other civil obligation or liability shall not be used as the basis for any of the following:

1. A determination by any lender or other person that the service member is unable to pay any civil obligation or liability in accordance with its terms.

2. With respect to a credit transaction between a creditor and a service member:

a. A denial or revocation of credit by the creditor.

b. A change by the creditor in the terms of an existing credit arrangement.

c. A refusal by the creditor to grant credit to the service member in substantially the amount or on substantially the terms requested.

d. An adverse report relating to the creditworthiness of the service member by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

2002 Acts, ch 1117, §29, 40

### **29A.96 Stay of execution of judgment.**

Unless the court determines on the record that the ability of a service member to comply with a judgment or order entered or sought is not materially affected by reason of military service, the court shall, on its own motion, or upon application to it by the service member or another person on the service member's behalf, do the following:

1. Stay the execution of a judgment or order entered against the service member, as provided in this chapter.

2. Vacate or stay an attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this chapter.

2002 Acts, ch 1117, §30, 40

### **29A.97 Duration of stays.**

1. A stay of an action, proceeding, attachment, or execution, ordered by a court under the provisions of this subchapter, may be ordered for the period of military service plus thirty days after its termination or any part of that time period.

2. Where the service member in military service is a codefendant with others, the plaintiff may, with the permission of the court, proceed against the others.

2002 Acts, ch 1117, §31, 40

### **29A.98 Statutes of limitations affected by military service.**

The period of military service shall not be included in computing any period limited by law, rule, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any service member or by or against the service member's heirs, executors, administrators, or assigns, whether the cause of action or the right or privilege to institute the action or proceeding has accrued prior to or during the period of military service.

2002 Acts, ch 1117, §32, 40

### **Footnotes**

Limitations of civil actions, see chapter 614

Limitations of criminal actions, see chapter 802

### **29A.99 Maximum rate of interest.**

1. An obligation or liability bearing interest at a rate in excess of six percent per year that is incurred by a service member either individually or jointly with the service member's spouse before the service member enters military service shall not bear interest at a rate in excess of six percent per year during the service member's period of military service. Interest that would otherwise be incurred but for the prohibition in this section is forgiven. The amount of any periodic payment due from a service member under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under this section that is allocable to the period for which such payment is made.
2. In order for an obligation or liability of a service member to be subject to the interest rate limitation in this section, the service member shall provide to the creditor written notice and a copy of the military orders calling the service member to military service and any orders further extending military service, not later than one hundred eighty days after the date of the service member's termination or release from military service. Upon receipt of written notice and a copy of orders calling a service member to military service, the creditor shall treat the debt in accordance with this section, effective as of the date on which the service member is called to military service.
3. A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the service member to pay interest upon the obligation or liability at a rate in excess of six percent per year is not materially affected by reason of the service member's military service.
4. As used in this section, the term "*interest*" includes service charges, renewal charges, fees, or any other charges, except for bona fide insurance, with respect to an obligation or liability.

2002 Acts, ch 1117, §33, 40; 2006 Acts, ch 1143, §2

### **29A.100 Dependent benefits.**

Dependents of a service member are entitled to the benefits accorded to service members under the provisions of sections 29A.101 through 29A.105. Dependents may obtain the benefits upon application to a court, unless, in the opinion of the court, the ability of the dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the military service of the service member of the dependents.

2002 Acts, ch 1117, §34, 40

### **29A.101 Termination of lease or rental agreement exceptions.**

1. A landlord shall not terminate the lease or rental agreement of a service member or the service member's dependents for nonpayment of rent from any premises used as a dwelling by the service member or dependents during the period of military service if the rent on the premises occupied by the service member or dependents is less than one thousand two hundred dollars per month. However, a court may allow an eviction or the recovery of property pursuant to chapter 646 or 648.
2. In any action affecting the right of possession, the court may, on its own motion, stay the proceedings for not longer than three months, or make any order the court determines to be reasonable and just under the circumstances, unless the court finds that the ability of the service member to pay the agreed rent is not materially affected by reason of military service.
3. When a stay is granted or other order is made by the court, the owner of the premises shall be entitled,

upon application, to relief with respect to the premises similar to that granted service members in military service in sections 29A.102 through 29A.104 to the extent and for any period as the court determines to be just and reasonable under the circumstances.

4. A person who knowingly takes part in any eviction or distress otherwise than as provided in subsection 1, or attempts to do so, commits a simple misdemeanor.

5. The governor may order an allotment of the pay of a service member in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by any dependents of the service member.

2002 Acts, ch 1117, §35, 40

## **Footnotes**

Uniform residential landlord and tenant law, see chapter 562A

Mobile home parks residential landlord and tenant law, see chapter 562B

## **29A.101A Termination of lease by service member penalty.**

1. For purposes of this section, unless the context otherwise requires:

*a. "Premises lease"* means a lease of premises occupied, or intended to be occupied, by a service member or a service member's dependents for a residential, professional, business, agricultural, or similar purpose if either of the following applies:

(1) The lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service.

(2) The service member, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than ninety days.

*b. "Vehicle lease"* means a lease of a motor vehicle used, or intended to be used, by a service member or a service member's dependents for personal or business transportation if either of the following applies:

(1) The lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of service of not less than ninety days, or who enters military service under a call or order specifying a period of ninety days of service or less and who, without a break in service, receives orders extending the period of military service to a period of not less than ninety days.

(2) The service member, while in military service, executes the lease and thereafter receives military orders to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than ninety days.

2. A service member may terminate a premises lease or vehicle lease pursuant to the requirements of this section. Termination of a premises lease or vehicle lease shall be made as follows:

*a.* By delivery by the lessee of written notice of such termination, and a copy of the service member's military orders, to the lessor or the lessor's grantee, or to the lessor's agent or the agent's grantee. A lessee's

termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease. For purposes of this paragraph, written notice may be accomplished by hand delivery, by private business carrier, or by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor or the lessor's grantee or to the lessor's agent or the agent's grantee, and depositing the written notice in the United States mail.

*b.* In the case of a vehicle lease, by return of the motor vehicle by the lessee to the lessor or the lessor's grantee, or to the lessor's agent or the agent's grantee, not later than fifteen days after the date of the delivery of written notice under paragraph "*a*". A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.

3. In the case of a premises lease that provides for monthly payment of rent, termination of the lease is effective thirty days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered. In the case of any other premises lease, termination of the lease is effective on the last day of the month following the month in which the notice is delivered.

4. In the case of a vehicle lease, termination of the lease is effective on the day on which the vehicle is delivered to the lessor or the lessor's grantee.

5. Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of a vehicle lease, the lessor may not impose an early termination charge, but any taxes, summonses, and title and registration fees and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use, and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

6. Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor or the lessor's assignee or the assignee's agent within thirty days of the effective date of the termination of the lease.

7. Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a service member may be modified as justice and equity require.

8. *a.* Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a service member or a service member's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, commits a simple misdemeanor.

*b.* The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section.

2003 Acts, ch 154, §1; 2006 Acts, ch 1143, §3

### **29A.102 Installment contracts.**

1. The creditor of a service member who, prior to entry into military service, has entered into an installment contract for the purchase or lease of real or personal property, including a motor vehicle, shall not terminate the contract or repossess the property for nonpayment or for any breach occurring during military service without an order from a court of competent jurisdiction.

2. The court, upon application to it under this section, shall, unless the court finds on the record that the ability of the service member to comply with the terms of the contract is not materially affected by reason of military service, do one or more of the following:

- a.* Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property.
  - b.* Order a stay of the proceedings on its own motion, or on motion by the service member or another person on behalf of the service member.
  - c.* Make any other disposition of the case it considers to be equitable to conserve the interests of all parties.
3. A person who knowingly repossesses property which is the subject of this section, other than as provided in subsection 1, commits a simple misdemeanor.

2002 Acts, ch 1117, §36, 40; 2006 Acts, ch 1143, §4

### **29A.103 Mortgage foreclosures.**

1. The creditor of a service member who, prior to entry into military service, has entered into a mortgage contract with the service member for the purchase of real or personal property shall not foreclose on the mortgage or repossess the property for nonpayment or for any breach occurring during military service without an order from a court of competent jurisdiction.
2. The court, upon application to it under this section, shall, unless the court finds on the record that the ability of the service member to comply with the terms of the mortgage is not materially affected by reason of military service, do one or more of the following:
  - a.* Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property.
  - b.* Order a stay of the proceedings on its own motion, or on motion by the service member or another person on behalf of the service member.
  - c.* Make any other disposition of the case as it considers to be equitable to conserve the interests of all parties.
3. In order to come within the provisions of this section, the service member must establish all of the following:
  - a.* That relief is sought on an obligation secured by a mortgage, trust deed, or other security in the nature of a mortgage on either real or personal property.
  - b.* That the obligation originated prior to the service member's entry into military service.
  - c.* That the property was owned by the service member prior to the commencement of military service.
  - d.* That the property is owned by the service member at the time relief is sought.
4. A person who knowingly forecloses on property that is the subject of this section, other than as provided in subsection 1, commits a simple misdemeanor.

2002 Acts, ch 1117, §37, 40

### **29A.104 Application for relief.**

1. A service member may, at any time during military service or within thirty days after discharge or termination of military service, apply to a court for relief in respect of any obligation or liability incurred by

the service member prior to military service.

2. The court, after appropriate notice and hearing, unless in its opinion the ability of the service member to comply with the terms of the obligation or liability has not been materially affected by reason of military service, shall grant the following relief:

*a.* In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of the obligation during the applicant's period of military service and, from the date of termination of the period of military service or from the date of application if made after termination of military service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of the combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as the court may consider just.

*b.* In the case of any other obligation or liability, a stay of the enforcement during the applicant's period of military service and, from the date of termination of the period of military service or from the date of application if made after termination of the period of military service, for a period of time equal to the period of military service of the applicant or any part of that period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, in equal periodic installments during the extended period at the rate of interest prescribed for the obligation or liability, if paid when due, and subject to other terms the court considers to be reasonable and just.

3. When any court has granted a stay as provided in this section, a fine or penalty shall not accrue for failure to comply with the terms or conditions of the obligation or liability for which the stay was granted during the period the terms and conditions of the stay are complied with.

2002 Acts, ch 1117, §38, 40

#### **29A.105 Applicability contrary law.**

Sections 29A.90 through 29A.104 apply notwithstanding any contrary provision of state law, which may include but is not limited to Titles XIII, XIV, and XV.

2002 Acts, ch 1117, §39, 40