

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 963

Introduced by Vrtiska, 1

Read first time January 9, 2004

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the military service; to amend section
2 55-101, Revised Statutes Supplement, 2003; to adopt
3 portions of the federal Servicemembers Civil Relief Act;
4 and to repeal the original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 55-101, Revised Statutes Supplement,
2 2003, is amended to read:

3 55-101. Sections 55-101 to 55-181 and section 2 of this
4 act shall be known and may be cited as the Military Code.

5 Sec. 2. The sections of the federal Servicemembers Civil
6 Relief Act, Public Law 108-189, listed in this section or any other
7 sections referred to by such sections in existence and effective as
8 of January 1, 2004, are adopted as Nebraska law and are applicable
9 to all persons in military service as defined in Public Law
10 108-189, Title I, Sec. 101. The Legislature hereby adopts the
11 following sections:

12 (1) Section 1. Short title; table of contents;

13 (2) Sec. 2. Purpose. Sec. 2 shall be construed to apply
14 to the defense, peace, and security of the State of Nebraska and
15 includes servicemembers of the Nebraska National Guard while
16 serving on state active duty;

17 (3) Title I - General Provisions:

18 (a) Sec. 101. Definitions. Sec. 101(1) Servicemember
19 includes uniformed members of the Nebraska National Guard
20 performing state active duty for periods of more than thirty days.

21 Sec. 101(2) Military service includes state active duty under the
22 Nebraska Military Code. Sec. 101(7) Secretary concerned includes
23 the Adjutant General with respect to members of the Nebraska
24 National Guard;

25 (b) Sec. 102. Jurisdiction and Applicability of Act.
26 The jurisdiction and applicability of act is limited to the State
27 of Nebraska unless otherwise extended by law;

28 (c) Sec. 103. Protection of persons secondarily liable;

1 (d) Sec. 104. Extension of protections to citizens
2 serving with allied forces. Sec. 104 includes service within
3 another state, territory, or the District of Columbia;

4 (e) Sec. 105. Notification of benefits;

5 (f) Sec. 106. Extension of rights and protections to
6 reserves ordered to report for military service and to persons
7 ordered to report for induction;

8 (g) Sec. 107. Waiver of rights pursuant to written
9 agreement;

10 (h) Sec. 108. Exercise of rights under act not to affect
11 certain future financial transactions; and

12 (i) Sec. 109. Legal representatives;

13 (4) Title II - General Relief:

14 (a) Sec. 201. Protection of servicemembers against
15 default judgments. Any person who falsifies an affidavit required
16 by Sec. 201(b) may be prosecuted for making a false statement under
17 oath or affirmation under section 28-915.01;

18 (b) Sec. 202. Stay of proceedings when servicemember has
19 notice;

20 (c) Sec. 203. Fines and penalties under contracts;

21 (d) Sec. 204. Stay or vacation of execution of
22 judgments, attachments, and garnishments;

23 (e) Sec. 205. Duration and terms of stays; codefendants
24 not in service;

25 (f) Sec. 206. Statute of limitations; and

26 (g) Sec. 207. Maximum rate of interest on debts incurred
27 before military service;

28 (5) Title III - Rent, Installment Contracts, Mortgages,

1 Liens, Assignment, Leases:

2 (a) Sec. 301. Evictions and distress. For the purposes
3 of subdivision 301(a)(1)(A), dependents includes any person
4 providing primary care for the dependents of a servicemember as
5 defined in Sec. 101(4)(C), during a period of military service of
6 the servicemember. Any person who violates Sec. 301 is guilty of a
7 Class I misdemeanor;

8 (b) Sec. 302. Protection under installment contracts for
9 purchase or lease. Any person who violates Sec. 302 shall be
10 guilty of a Class I misdemeanor;

11 (c) Sec. 303. Mortgages and trust deeds. Any person who
12 violates Sec. 303 is guilty of a Class I misdemeanor;

13 (d) Sec. 304. Settlement of stayed cases relating to
14 personal property;

15 (e) Sec. 305. Termination of residential or motor
16 vehicle leases. For the purposes of Sec. 305, the definition of
17 dependents is expanded to include persons who are joint lessees
18 with a person in military service or sureties or cosigners for the
19 person in military service. Any person who violates Sec. 305 is
20 guilty of a Class I misdemeanor;

21 (f) Sec. 306. Protection of life insurance policy. Any
22 person who violates Sec. 306 is guilty of a Class I misdemeanor;

23 (g) Sec. 307. Enforcement of storage liens. Any person
24 who violates Sec. 307 is guilty of a Class I misdemeanor; and

25 (h) Sec. 308. Extension of protections to dependants;

26 (6) Title IV - Life Insurance:

27 (a) Sec. 401. Definitions;

28 (b) Sec. 402. Insurance rights and protections;

- 1 (c) Sec. 403. Application for insurance protection;
- 2 (d) Sec. 404. Policies entitled to protection and lapse
- 3 of policies;
- 4 (e) Sec. 405. Policy restrictions; and
- 5 (f) Sec. 406. Deduction of unpaid premiums;
- 6 (7) Title V - Taxes and Public Lands:
- 7 (a) Sec. 501. Taxes respecting personal property, money,
- 8 credits, and real property;
- 9 (b) Sec. 510. Income taxes. Sec. 510 shall be construed
- 10 to apply to state income taxes; and
- 11 (c) Sec. 511. Residence for tax purposes. Sec. 511
- 12 shall be construed to apply to residency in Nebraska for tax
- 13 purposes;
- 14 (8) Title VI - Administrative Remedies:
- 15 (a) Sec. 601. Inappropriate use of act;
- 16 (b) Sec. 602. Certificates of service; persons reported
- 17 missing. For the purposes of Sec. 602 Secretary concerned shall be
- 18 construed to mean the Adjutant General and with respect to members
- 19 of the Nebraska National Guard; and
- 20 (c) Sec. 603. Interlocutory orders;
- 21 (9) Title VII - Further Relief:
- 22 (a) Sec. 701. Anticipatory relief;
- 23 (b) Sec. 702. Power of attorney. Subdivision
- 24 702(a)(1)(B) includes powers of attorney executed by a
- 25 servicemember who has been advised by an official of the Military
- 26 Department that the servicemember may receive a call or order to
- 27 report for military service;
- 28 (c) Sec. 703. Professional liability protection.

1 Subdivision 703(a)(1) shall include a servicemember who is ordered
2 to state active duty in excess of thirty days under Military Code
3 or National Guard, Title 32 U.S.C.;

4 (d) Sec. 704. Health insurance reinstatement. Sec. 704
5 shall include insurance personally purchased by the servicemember
6 or carried by a third party or entity for the benefit of the
7 servicemember without regard to employment. For the purposes of
8 Sec. 704, Secretary of Veterans Affairs is construed to mean the
9 Nebraska National Guard State Surgeon. Subsection (c) also applies
10 to section 55-161 of the Military Code;

11 (e) Sec. 705. Guarantee of residency for military
12 personnel; and

13 (f) Sec. 706. Business or trade obligations.

14 Sec. 3. Original section 55-101, Revised Statutes
15 Supplement, 2003, is repealed.