

MILITARY

CHAPTER 307

HOUSE BILL NO. 1162
(Committee on Veterans' Affairs)
(At the request of the Adjutant General)

LAWYERS FOR GUARDSMEN IN TORT ACTIONS

AN ACT to amend and reenact section 37-01-12 of the North Dakota Century Code, relating to the exemption of members of the national guard from civil or criminal personal liability and to provide for furnishing lawyers at state expense for guardsmen in tort actions arising from acts committed while on state active duty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-12. WHEN MEMBERS OF NATIONAL GUARD OR MILITIA EXEMPT FROM CIVIL OR CRIMINAL LIABILITY.) Members of the national guard or militia ordered into the active service of the state by any proper authority shall not be civilly nor criminally liable for any act or acts done by them in the line of duty. Members of the national guard or militia ordered into active service of the state shall be presumed to be acting in the line of duty except in the case of willful misconduct or gross negligence. When a suit or proceeding shall be commenced in any court against an officer of the militia for any act done by such officer in his official capacity in the discharge of any duty under the provisions of this title, or against any person acting under the authority or order of any such officer or by virtue of any warrant issued by any such officer pursuant to law, the defendant shall be entitled to legal representation provided by the attorney general, an assistant attorney general, or a judge advocate officer at no cost. The defendant in such action may require the person prosecuting or instituting the suit or proceeding to file security for the payment of the costs that may be awarded to the defendant therein. The defendant in all such cases may make a general denial and give the special matter in evidence. If the action is dismissed or a verdict or judgment is rendered against the plaintiff, the defendant shall recover treble costs in the action.

Approved March 6, 1975

CHAPTER 308

SENATE BILL NO. 2132
(Freed)

VETERANS' RECORDS

AN ACT to amend and reenact sections 37-01-34 and 37-01-36 of the North Dakota Century Code, relating to the recording and availability of veterans of the armed forces.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-01-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-34. RECORDING OF DISCHARGE PAPERS.) It is hereby provided that those discharged from the national guard, the army, the marine corps, and other branches of the armed forces of the United States may record their discharges from such armed forces, a certificate issued in lieu thereof, duly authenticated and certified copies thereof, or duly certified records of their service and discharge from such armed forces in the office of the clerk of the district court of the county in which they reside, without payment of any fee whatsoever, and such recordings shall have the same force and effect as the recording of other instruments, provided, however, that any discharge document recorded by the clerk of district court shall be made available only to the following persons: the veteran, the parents, his next of kin, the veteran's legal representative, a county veterans' service officer, a veterans' organization service officer, the department of veterans' affairs, or a designee of the veteran.

SECTION 2. AMENDMENT.) Section 37-01-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-36. CERTIFIED COPY OF RECORDS FURNISHED VETERANS WITHOUT CHARGE.) If a copy of any public record is required by any veteran, or his guardian, dependent, or representative in connection with an application for benefits made available by federal or state laws, the official charged with the custody of such public record, without charge, shall provide a certified copy of such record upon request. This section shall be subject to the restrictions provided for in section 37-01-34.

Approved March 7, 1975

CHAPTER 309

HOUSE BILL NO. 1307
(Orange, Rundle, Laughlin)

VIETNAM SERVICE DATES

AN ACT to amend and reenact subsection 10 of section 37-01-40 and section 37-14-03.3 of the North Dakota Century Code, relating to the Vietnam era service dates for veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 10 of section 37-01-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. The "Vietnam era" means the period beginning August 5, 1964, and ending on August 15, 1973.

SECTION 2. AMENDMENT.) Section 37-14-03.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-03.3. REVOLVING FUND.) Such sum of three hundred thousand dollars shall be a permanent revolving fund of the veterans' aid fund and shall not revert to the general fund and shall be used solely for the purpose of making loans to any veteran of the armed forces of the United States who served in World War II, the Korean conflict, or during hostilities in Vietnam, as defined by section 37-01-40.

Approved March 18, 1975

CHAPTER 310

HOUSE BILL NO. 1123
(Committee on Veterans' Affairs)
(At the request of the Adjutant General)

AGE OF GUARD OFFICERS

AN ACT to amend and reenact section 37-04-01 of the North Dakota Century Code, relating to the qualifications of commissioned officers of the national guard.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-04-01. COMMISSIONED OFFICERS OF NATIONAL GUARD -
QUALIFICATIONS.) Officers of the national guard shall not be
commissioned as such unless they are at least nineteen years of age
and shall have been selected from the classes of persons having the
qualifications prescribed by federal law.

Approved February 28, 1975

CHAPTER 311

HOUSE BILL NO. 1148

(Committee on Appropriations)

(At the request of the Division of Disaster Emergency Services)

DISASTER RELIEF

AN ACT to create and enact sections 37-17.1-20, 37-17.1-21, and 37-17.1-22 of the North Dakota Century Code, relating to the United States Disaster Relief Act of 1974.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Section 37-17.1-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-17.1-20. TEMPORARY HOUSING FOR DISASTER VICTIMS AND SITE ACQUISITION AND PREPARATION.) In accordance with the provisions of the United States Disaster Relief Act of 1974, the governor is authorized to enter into such agreements and execute such assurances on behalf of the state of North Dakota as may be necessary to establish, in the event of a disaster, a program of temporary housing for disaster victims adversely affected by a major disaster in those cases where such disaster victims are unable to meet their needs through assistance under provisions other than section 404 of the Disaster Relief Act or through other means. The governor shall be authorized:

1. To receive temporary housing units to be occupied by disaster victims from any agency of the United States and to make such units available to any political subdivision of the state.
2. To assist any political subdivision of this state which is the site of temporary housing for disaster victims, to acquire and to prepare sites necessary for such temporary housing, and to "pass through" funds made available by any agency, public or private.

Any political subdivision of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, which are necessary to prepare or equip such sites to utilize the housing units.

The governor is authorized to make rules and regulations necessary to carry out the purposes of this Act.

SECTION 2.) Section 37-17.1-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-17.1-21. COMMUNITY DISASTER LOANS.) In accordance with the provisions of the United States Disaster Relief Act of 1974, the governor is authorized to enter into such agreements and execute such assurances on behalf of the state of North Dakota as may be necessary to establish, in the event of a presidential-declared "major disaster", a program of community disaster loans in those cases where communities are unable to meet or provide for its essential governmental functions through assistance under provisions other than section 414 of the Disaster Relief Act or through other means. Upon the governor's determination that a local government of the state will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions to apply to the federal government, on behalf of the local government, for a loan; and to receive and disburse the proceeds of any approved loan to any applicant local government.

The governor shall be authorized:

1. To determine the amount needed by any applicant local government to restore or resume its governmental functions, and to certify the same to the federal government; provided, however, that no application amount shall exceed twenty-five percent of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs.
2. To recommend to the federal government, based upon his review, the cancellation of all or any part of repayment when, within three fiscal years following the major disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character.

SECTION 3.) Section 37-17.1-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-17.1-22. DEBRIS AND WRECKAGE REMOVAL IN DISASTER EMERGENCIES OR MAJOR DISASTERS.) In accordance with the provisions of the United States Disaster Relief Act of 1974, the governor is authorized to enter into such agreements and execute such assurances on behalf of the state of North Dakota as may be necessary to establish, in the event of a disaster, a program of debris and wreckage removal caused by a major disaster in those cases where such debris and wreckage removal cannot be provided under provisions other than section 403 of the Disaster Relief Act or through other means. The governor shall be authorized:

1. Notwithstanding any other provision of law, through the use of state departments or agencies, or the use of any of the state's instrumentalities, to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or threaten public or private property, in any disaster emergency declared by the governor or major disaster as declared by the president.
2. To accept funds from the federal government and utilize such funds to make grants to any local government for the purpose of removing debris or wreckage from publicly or privately owned land or water.

Authority under this Act shall not be exercised, except upon state-owned lands, unless the affected local government, corporation, organization, or individual shall first present an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the state government against any claim arising from such removal.

Whenever the governor provides for clearance of debris or wreckage pursuant to subsections 1 or 2 of this section, employees of the designated state agencies or individuals appointed by the state are authorized to enter upon private land or waters and perform any tasks necessary to the removal or clearance operation.

Except in cases of willful misconduct, gross negligence, or bad faith, any state employee or agent complying with orders of the governor and performing duties pursuant thereto under this Act shall not be liable for death of or injury to persons or damage to property.

The governor is authorized to make rules and regulations to carry out the purposes of this Act.

Approved April 8, 1975

CHAPTER 312

HOUSE BILL NO. 1479
(Rundle)

VIETNAM BONUS TIME LIMIT

AN ACT to amend and reenact section 37-25-10 of the North Dakota Century Code, relating to the time limit for filing or receiving applications for the Vietnam bonus.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-25-10 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-25-10. TIME LIMIT FOR FILING OR RECEIVING APPLICATIONS.) No application for benefits under the provisions of this chapter shall be filed or received after four years from the date prescribed by the president or the Congress for the cessation of hostilities in Vietnam, or from January 28, 1973, whichever date is earlier. However, in the cases of those veterans who are prisoners of war or missing in action on or after January 28, 1973, the deadline for receipt of application shall be four years from the date upon which they first set foot on American soil following January 28, 1973.

Approved March 12, 1975