CHAPTER 11

Division of Veterans’ Affairs

CROSS REFERENCES

Department of Administration established, transfer of offices, divisions, other agencies, see Section 1‑11‑10.

ARTICLE 1

General Provisions

**SECTION 25‑11‑10.** Division of Veterans’ Affairs created; supervising panel.

 A Division of Veterans’ Affairs is hereby created in the Department of Administration for the purpose of assisting ex‑servicemen in securing the benefits to which they are entitled under the provisions of federal legislation and under the terms of insurance policies issued by the federal government for their benefit. This division shall be under the direct supervision of a panel consisting of the Governor as chairman, the Attorney General for the purpose of giving legal advice, and the Adjutant and Inspector General.

HISTORY: 1962 Code Section 44‑601; 1952 Code Section 44‑601; 1942 Code Section 2967; 1932 Code Section 2967; 1927 (35) 158; 1966 (54) 2063; 1993 Act No. 181, Section 486; 2014 Act No. 121 (S.22), Pt V, Section 7.BB.1, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.BB.1, substituted “is hereby created in the Department of Administration” for “in the Office of the Governor is hereby created”.

CROSS REFERENCES

Payment of benefits from U.S. Department of Veterans Affairs to a minor or an incapacitated person, see Section 62‑5‑436.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

**SECTION 25‑11‑20.** Director of Division of Veterans’ Affairs.

 For the purpose of carrying on this work the Governor shall appoint a Director of the Division of Veterans’ Affairs, who is charged with the duty of assisting all ex‑servicemen, regardless of the wars in which their service may have been rendered, in filing, presenting, and prosecuting to final determination all claims which they have for money compensation, hospitalization, training, and insurance benefits under the terms of federal legislation. The Director of the Division of Veterans’ Affairs must be a person versed in federal legislation relating to these matters and the rules, regulations, and practice of the Veterans Administration as created by Congress and must be appointed by the Governor. Before the appointment, the Governor shall receive a recommendation from (1) the executive committee of the American Legion, Department of South Carolina, (2) the Veterans of Foreign Wars of the United States, Department of South Carolina, and (3) the Disabled American Veterans. The Governor is not required to appoint the person recommended and he is subject to removal by the Governor pursuant to the provisions of Section 1‑3‑240(B).

HISTORY: 1962 Code Section 44‑602; 1952 Code Section 44‑602; 1942 Code Section 2967; 1932 Code Section 2967; 1927 (35) 158; 1971 (57) 73; 1992 Act No. 504, Section 1; 1993 Act No. 181, Section 486.

CROSS REFERENCES

Provision that the Director of Veterans Affairs or his designee shall serve as ex officio member of the South Carolina Agent Orange Advisory Council, see Section 44‑40‑30.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

**SECTION 25‑11‑30.** Location of office.

 The office of the division herein provided for shall be located in Columbia in space provided by the Department of Administration.

HISTORY: 1962 Code Section 44‑603; 1952 Code Section 44‑603; 1942 Code Section 2969; 1932 Code Section 2969; 1927 (35) 158; 1945 (44) 90; 1966 (54) 2063; 1993 Act No. 181, Section 486.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

**SECTION 25‑11‑40.** County veterans affairs officers; appointment and removal; training and accreditation.

 (A) For the purpose of this section, “veteran” means a person who served on active duty for a period of more than one hundred eighty days and was discharged or released from such active duty with an honorable discharge or, if one hundred eighty days or less, was discharged or released from service active duty because of service‑connected disability.

 (B) Subject to the recommendation of a majority of the Senators representing the county and a majority of the House members representing the county, the Director of the Division of Veterans Affairs shall appoint a county veterans affairs officer for each county in the State, whose term of office shall begin July first of each odd‑numbered year and shall continue for a term of two years and until a successor shall be appointed. A county veterans affairs officer must be a qualified veteran who served on active duty for a period of more than one hundred eighty days and was discharged or released from such active duty with an honorable discharge or, if one hundred eighty days or less, was discharged or released from such active duty because of a service‑connected disability; otherwise, a county veterans affairs officer may be a qualified nonveteran, if any veteran being considered for the post is not as qualified as a nonveteran being considered for the post. Qualifications shall be determined by the county legislative delegation upon a majority vote of the Senators representing the county and a majority of the House members representing the county. A county veterans affairs officer is subject to removal for cause at any time by a majority of the Senators representing the county and a majority of the House members representing the county.

 (C) All county veterans affairs officers must successfully complete a comprehensive course of training and be issued accreditation within one year following initial appointment, either through the Division of Veterans Affairs or through an accredited national veterans service organization. A training council from the South Carolina Association of County Veterans Affairs Officers, in conjunction with the Division of Veterans Affairs or through an accredited national veterans service organization, shall develop the training criteria. Training and accreditation must be provided by the Division of Veterans Affairs or through an accredited national veterans service organization. A county veterans affairs officer who does not complete the required training and receives accreditation within the first year following appointment is ineligible for reappointment by the county legislative delegation. Additionally, in order to maintain accreditation, refresher training is required yearly.

 (D)(1) In Berkeley County, appointments made pursuant to this section are governed by the provisions of Act 159 of 1995.

 (2) In Dorchester County, appointments made pursuant to this section are governed by the provisions of Act 512 of 1996.

 (3) In Georgetown County, appointments made pursuant to this section are governed by the provisions of Act 515 of 1996.

HISTORY: 1962 Code Section 44‑604; 1952 Code Section 44‑604; 1942 Code Section 2968; 1932 Code Section 2968; 1927 (35) 158; 1945 (44) 90; 1967 (55) 585; 1971 (57) 73; 1993 Act No. 181, Section 486; 2000 Act No. 228, Section 1.

Editor’s Note

By a Ordinance No. 96‑5‑15, dated October 2, 1996, the Berkeley County Council has notified the Code Commissioner that it accepts the responsibility and authority for making the appointments provided in Act 159 of 1995 which were formerly made by the Berkeley County Legislative Delegation pursuant to the authority of this section.

By Resolution 96‑07, dated July 15, 1996, the Dorchester County Council has notified the Code Commissioner that it accepts the responsibility and authority for making the appointments provided in Act 512 of 1996 which were formerly made by the Dorchester County Legislative Delegation pursuant to the authority of this section.

By a resolution dated August 13, 1996, the Georgetown County Council has notified the Code Commissioner that it accepts the responsibility and authority for making the appointments provided in Act 515 of 1996 which were formerly made by the Georgetown County Legislative Delegation pursuant to the authority of this section.

CROSS REFERENCES

Unlawful employment practices, exceptions, see Section 1‑13‑80.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

Attorney General’s Opinions

Anyone not listed within the statutory definition of “veteran” within this section would be a nonveteran by default. S.C. Op.Atty.Gen. (October 13, 2015) 2015 WL 6406146.

When the county legislative delegation makes a recommendation for the county veterans’ affairs officer pursuant to this section, the Director must appoint the delegation’s recommendation as the county veterans’ affairs officer. S.C. Op.Atty.Gen. (October 13, 2015) 2015 WL 6406146.

Discussion of legal representation, resources or protections which are available to a county veterans’ affairs officer who is subject to a lawsuit based on a personnel action. 2014 S.C. Op.Atty.Gen. (December 12, 2014) 2014 WL 7342086.

Although the county veterans’ affairs officer is not subject to a county’s grievance policy, and is accountable to the delegation that selects him in accordance with Section 25‑11‑40 (B), the county veterans’ affairs officer remains a county officer rather than a state officer; he thus would not be subject to State personnel policies in this regard. S.C. Op.Atty.Gen. (Nov. 18, 2011) 2011 WL 6120333.

There is no legislative authority empowering the delegation to adopt grievance policies applicable to the veterans’ affairs officer, and that any attempt by the delegation to do so may be deemed void by a court. S.C. Op.Atty.Gen. (Nov. 18, 2011) 2011 WL 6120333.

Because employees of a county veterans’ affairs officer are employed under the direction of an official appointed by an authority outside county government, a court would likely conclude they are not county employees entitled to all rights and privileges established by county policies. S.C. Op.Atty.Gen. (Oct. 21, 2011) 2011 WL 5304074.

An individual may serve as a veterans affairs officer for two counties; however, if one person were to serve as the county veterans affairs officer for two Counties, a court could find that this individual has failed to satisfy the qualifications of his or her office for the county in which he or she is not a resident. S.C. Op.Atty.Gen. (August 2, 2010) 2010 WL 3505054.

County Council has no authority to divert funds, appropriated by the General Assembly for veterans affairs offices, to other purposes. 1992 Op. Atty Gen No. 92‑30.

(1) The Director of the Department of Veteran Affairs does not have the authority to select a county Veteran Affairs officer, and such authority cannot be delegated to him by the County Delegation; (2) The Governor can make an interim appointment to that office; (3) The Director of the Veteran Affairs may give advice to the County Delegation, but the selection of the County Veteran Affairs officer must be that of the Delegation. 1976‑77 Op. Atty Gen, No. 77‑344, p 274.

Appointment recommendations for the position of county service officer and member of county forestry board made by a county council violate the constitutional prohibition against special legislation where general legislation can be made applicable. 1968‑69 Op. Atty Gen, No. 2698, p 139.

County service officers are county employees, rather than State employees. 1965‑66 Op. Atty Gen, No. 1986, p 41.

A county service officer cannot lawfully be at the same time a member of the county board of commissioners or the county commissioners of elections. 1963‑64 Op. Atty Gen, No. 1609, p 27.

**SECTION 25‑11‑45.** Funding of county veterans affairs offices.

 Notwithstanding Section 1‑30‑110(4), a County Veterans Affairs Office must be funded with monies appropriated by the General Assembly for that purpose and payable directly to the County Treasurer’s Office by the State Treasurer.

HISTORY: 2004 Act No. 297, Section 1.

Editor’s Note

Section 1‑30‑110 is repealed by 2014 Act No. 121, Section G.7.1, effective July 1, 2015.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

**SECTION 25‑11‑50.** Relations of Director of Division of Veterans’ Affairs and county veterans affairs officers.

 The Director of the Division of Veterans’ Affairs shall establish uniform methods and procedure for the performance of service work among the several county officers, maintain contact and close cooperation with such officers, and provide assistance, advice and instructions with respect to changes in law and regulations and administrative procedure in relation to the application of such laws and he may require from time to time reports from such county veterans affairs officers, reflecting the character and progress of their official duties.

HISTORY: 1962 Code Section 44‑605; 1952 Code Section 44‑605; 1942 Code Section 2969; 1932 Code Section 2969; 1927 (35) 158; 1945 (44) 90; 1971 (57) 73; 1993 Act No. 181, Section 486.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

**SECTION 25‑11‑60.** Semiannual reports.

 The county veterans affairs officers shall render semiannually a complete report of their acts and doings to the county legislative delegation of their respective counties upon uniform forms to be furnished by the Director of the Division of Veterans’ Affairs.

HISTORY: 1962 Code Section 44‑606; 1952 Code Section 44‑606; 1942 Code Section 2969; 1932 Code Section 2969; 1827 (35) 158; 1945 (44) 90; 1971 (57) 73; 1993 Act No. 181, Section 486.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

**SECTION 25‑11‑70.** Duties in connection with Agent Orange Information and Assistance Program; suit for release of information.

 The Division of Veterans’ Affairs shall assist the South Carolina Agent Orange Advisory Council and the Agent Orange Information and Assistance Program at the Division of Health and Environmental Control in carrying out the purposes of Chapter 40 of Title 44. The Division of Veterans’ Affairs shall:

 (1) refer veterans to appropriate state and federal agencies or other available resources for treatment of adverse health conditions which may have resulted from possible exposure to chemical agents, including Agent Orange;

 (2) assist veterans in filing compensation claims for disabilities that may have resulted from possible exposure to chemical agents, including Agent Orange;

 (3) communicate the concerns of veterans related to exposure to chemical agents, including Agent Orange, to appropriate state and federal officials.

 The division may request that the Attorney General represent a class of individuals composed of veterans who may have suffered adverse health conditions as a result of possible exposure to chemical agents, including Agent Orange, in a suit for release of information relating to the exposure to these chemicals during military service and for release of individual medical records.

HISTORY: 1986 Act No. 521, Section 2; 1993 Act No. 181, Section 486.

Library References

Armed Services 102.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313.

**SECTION 25‑11‑75.** Appointment of additional claims representative.

 The Director of the Division of Veterans Affairs shall appoint an additional claims representative within the Division of Veterans Affairs, who, in addition to being charged with the duty of assisting all ex‑servicemen, regardless of the wars in which their service may have been rendered, in filing, presenting, and prosecuting to final determination all claims which they have for money compensation, hospitalization, training, and insurance benefits under the terms of federal legislation, shall also specialize in the specific needs and diseases associated with veterans of the Vietnam era. The person appointed as a claims representative under this section must be versed in federal legislation relating to these matters and the rules, regulations, and practice of the Veterans Administration as created by Congress.

 Subject to the direction of the director, and in addition to other duties prescribed in this section, the claims representative appointed pursuant to this section may represent the Division of Veterans Affairs on the South Carolina Agent Orange Advisory Council and on the Hepatitis C Coalition established by the South Carolina Department of Health and Environmental Control, assist the Division of Veterans Affairs in carrying out its duties in connection with the Agent Orange Information and Assistance program, represent the director in connection with functions relating to Vietnam veterans, and perform other duties as may be assigned by the director.

 The position created by this section is a classified position subject to Article 3, Chapter 11, Title 8 of the 1976 Code. In the general appropriations act for fiscal year 2001‑2002 and thereafter, the General Assembly shall add the position in the budget for the Division of Veterans Affairs and provide for its funding.

HISTORY: 2002 Act No. 294, Section 1.

**SECTION 25‑11‑80.** State veterans’ cemeteries.

 (A) In this section:

 (1) “state veterans’ cemetery” means a cemetery that the Division of Veterans Affairs establishes under this section; and

 (2) “immediate family” means those family members who are eligible for burial in a Department of Veterans Affairs national cemetery.

 (B) The division may establish one or more cemeteries in the State for the burial of veterans and their immediate families.

 (C) The division may accept land, in the name of the State, or otherwise acquire land for a state veterans’ cemetery, if the division has the approval of:

 (1) the governing body of the county where the state veterans’ cemetery is to be located;

 (2) the delegation in the General Assembly for the county where the state veterans’ cemetery is to be located; and

 (3) the Department of Administration.

 (D) The division shall maintain and supervise each state veterans’ cemetery.

 (E)(1) Subject to the limitations in this section, the division shall provide a plot in a state veterans’ cemetery, without charge, to an applicant who meets the requirements of this section.

 (2) In the order in which the division receives the applications for plots, the division shall allot a plot in the state veterans’ cemetery that is closest to the residence of the veteran and has an available plot.

 (F)(1) To qualify for a plot in a state veterans’ cemetery, the applicant must be a veteran or a member of the immediate family of a veteran who meets the requirements of this subsection.

 (2) The veteran must have an honorable discharge from the Armed Forces.

 (3) The veteran must have been a resident of the State:

 (a) when the veteran entered the Armed Forces;

 (b) when the veteran or eligible family member died; or

 (c) for five years, unless for a reason that the division finds compelling, the division waives the time period.

 (G) To obtain a plot in a state veterans’ cemetery, an applicant shall submit to the division an application on the form that the division provides.

 (H) In a plot that is allotted to a veteran, the division shall bury:

 (1) the veteran; and

 (2) any member of the immediate family of the veteran if the family member can be buried in a space above or below the veteran.

 (I)(1) The division shall bury the veteran without charge.

 (2) For burial of a member of the immediate family, the division may:

 (a) set a fee that does not exceed the cost of burial; or

 (b) accept, from the social security burial allowance, an amount that does not exceed the cost of the burial.

 (J) The division shall keep a registry of the graves of veterans who are buried in the state veterans’ cemeteries.

HISTORY: 2001 Act No. 33, Section 1; 2008 Act No. 258, Section 1, eff June 4, 2008; 2014 Act No. 121 (S.22), Pt V, Section 7.BB.2, eff July 1, 2015.

Effect of Amendment

The 2008 amendment, in subparagraph (F)(3)(b), added “or eligible family member”; and, in subparagraph (F)(3)(c), substituted “five years” for “twenty years”.

2014 Act No. 121, Section 7.BB.2, in subsection (C)(3), substituted “Department of Administration” for “Budget and Control Board”.

Library References

Armed Services 125.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 291.

**SECTION 25‑11‑90.** Roster of active duty service in certain operations and conflicts; contents.

 (A) The Division of Veterans Affairs shall prepare a complete roster of all South Carolina members of the United States military who served on active duty during:

 (1) the Korean conflict;

 (2) the Vietnam conflict;

 (3) Operation Urgent Fury (Grenada);

 (4) Operation Just Cause (Panama);

 (5) Operations Desert Shield and Desert Storm (Iraq and Kuwait);

 (6) Operation Restore Hope (Somalia);

 (7) Operations Joint Guard, Joint Forge, and Joint Endeavor (Bosnia‑Herzegovina);

 (8) Operation Joint Guardian (Kosovo);

 (9) Operation Noble Eagle (Homeland Defense); and

 (10) Operations Enduring Freedom and Iraqi Freedom (Afghanistan, Horn of Africa, Iraq, and Philippines).

 This roster shall also include veterans born in South Carolina who served on active duty but may have enlisted in another state. Upon returning to South Carolina, that veteran’s name must be added to the roster.

 The list must be periodically updated to include persons who serve on active duty or are mobilized in any subsequent named military operation in which United States military personnel are engaged in armed conflict or any future war declared by the United States Congress.

 (B) The roster shall contain the principal items of record of all military personnel included on the roster as shown by the service cards or records in the Office of State Selective Service, the Adjutant General, and the Department of Defense of the United States. The roster must be arranged in a manner to make the information readily accessible.

 (C) The roster also shall contain an Order of Battle to include the name and location of assignment of every unit of the South Carolina National Guard and every active and reserve unit based in South Carolina participating in any of the conflicts listed in subsection (A). The Order of Battle must be periodically updated in conjunction with the roster.

 (D) The Division of Veterans Affairs shall secure printing of the roster, and a copy or set must be delivered to the South Carolina Department of Archives and History, Department Headquarters of the American Legion and Auxiliary, Department Headquarters of the Veterans of Foreign Wars and Auxiliary, Department Headquarters of the Disabled American Veterans, county libraries, and each county Veterans Affairs Service Officer. Any remaining copies must be placed in the Office of the Division of Veterans Affairs for distribution as needed.

 (E) The preparation and distribution of the roster is subject to the availability of funds as appropriated by the General Assembly to the Department of Administration, Division of Veterans’ Affairs for this purpose. These rosters and their distribution must be maintained and updated based on workloads and availability of funds.

 (F) The inclusion of a person’s name on the roster does not entitle the person to any additional benefits or any benefits for which the person would not otherwise qualify.

HISTORY: 2005 Act No. 96, Section 1; 2014 Act No. 121 (S.22), Pt V, Section 7.BB.3, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.BB.3, in subsection (E), substituted “Department of Administration, Division of Veterans’ Affairs” for “Governor’s Office, Division of Veterans Affairs”.

Library References

Armed Services 102.1.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 288, 290.

ARTICLE 3

South Carolina Military Family Relief Fund

**SECTION 25‑11‑310.** Definitions.

 As used in this article:

 (1) “Active duty” means military service performed as State Active Duty under the South Carolina Military Code, or corresponding provisions of the applicable state statute for South Carolina residents who are National Guard members of other states; military service performed under the provisions of Title 32, United States Code; or military service performed under the provisions of Title 10, United States Code.

 (2) “Division” means the Division of Veterans’ Affairs in the Department of Administration.

 (3) “Duty as a result of September 11, 2001, terrorist attacks” means active duty service of a minimum of thirty consecutive days, directly related to the President’s Partial Mobilization Authority in response to the attacks, (currently referred to as Operation Noble Eagle and Operation Enduring Freedom); any future operations as determined by the President; or any future operations as determined by the Governor of the State.

 (4) “Families of members” means a husband, wife, child, mother, father, brother, sister, or other person who has been approved as a dependent and is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) in accordance with applicable military regulations. A custodial parent or guardian of a member’s dependent may apply for a grant on behalf of that dependent.

 (5) “Next of kin” means the person listed as next of kin for the member in DEERS. In the case of multiple entries for next of kin, the first person listed is considered next of kin for the purposes of this article.

HISTORY: 2004 Act No. 308, Section 1.B; 2014 Act No. 121 (S.22), Pt V, Section 7.BB.4, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.BB.4, in subsection (2), substituted “Veterans’ Affairs in the Department of Administration” for “Veterans Affairs in the Office of the Governor”.

**SECTION 25‑11‑320.** South Carolina Military Family Relief Fund established; donations; awarding grants.

 There is established in the State Treasury a fund separate and distinct from the general fund of the State and all other funds entitled the South Carolina Military Family Relief Fund. Earnings on this fund must be credited to it and a balance in the fund at the end of a fiscal year does not lapse to the general fund of the State but is instead carried forward in the fund to the succeeding fiscal year and used for the same purposes. The fund is not subject to mid‑year budget reductions. Revenues of the fund include amounts donated to it pursuant to the state individual income tax return as provided in Section 12‑6‑5060, other grants or donations made to the fund, regardless of source, and amounts as may be appropriated to the fund by the General Assembly. The division may award grants from the fund in the manner and for the purposes provided in this article. Grants awarded may not at any time exceed the fund balance at the time of the grant.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 101 to 127.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 287 to 313, 327 to 340, 347.

**SECTION 25‑11‑330.** Intent of article; types of payments.

 The intent of this article is to provide an opportunity on standard individual income tax forms to allow individual taxpayers and other donors to contribute to the South Carolina Military Family Relief Fund, and to provide the division the authority to award grants from the fund to families of South Carolina National Guard members or other Reserve component members, to include the Army Reserve, Marine Corps Reserve, Naval Reserve, Air Force Reserve, and Coast Guard Reserve, and including National Guard members of other states, who are South Carolina residents and were called to active military service as a result of the September 11, 2001, terrorist attacks.

 The grants must be in the form of three types of payments:

 (1) payments based on the need of the member or the member’s family as determined eligible under Section 25‑11‑340.

 (2) payments based on the member’s status as a member of the South Carolina National Guard or other Reserve component, made to the member or the member’s family as determined eligible under Section 25‑11‑350.

 (3) payments to the member’s next of kin as determined eligible under Section 25‑11‑360.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 101 to 127.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 287 to 313, 327 to 340, 347.

**SECTION 25‑11‑340.** Grant eligibility based on need.

 (A) The grant applicant must show proof of the following:

 (1) The applicant is a member of the South Carolina National Guard or a South Carolina resident who is a member of another United States Armed Forces Reserve component, applying on behalf of the applicant’s family, or is a family member of that member. Proof of residency for military members consists of information obtained from DEERS. Proof of a familial relationship also consists of information obtained from DEERS.

 (2) The South Carolina National Guard or Reserve component member was on active military duty for at least thirty consecutive days as a result of the September 11, 2001, terrorist attacks. Proof of active duty consists of a copy of the orders issued by an authorized headquarters ordering the member to this duty and documentation showing this duty was actually performed. Eligible active duty includes any active duty since September 11, 2001.

 (3) A copy of a payroll record from the member’s civilian employer that indicates member’s monthly salary plus a copy of a military payroll record that indicates the member’s monthly salary.

 (4) Proof that the military salary, including Basic Allowance for Housing, of the member has decreased by thirty percent or greater from the applicant’s civilian salary.

 (5) Proof that the member or family member has incurred or is about to incur a specific monetary expense relating to clothing, food, housing, utilities, medical services, medical prescriptions, insurance or vehicle payments. This proof includes, but is not limited to, a copy of a bill, invoice, estimate, cancellation notice, or any other similar record.

 (6) A signed statement that the grant request is for the purpose identified in the application and that the grant funds will be used for the purposes requested.

 (7) The South Carolina National Guard or Reserve component member holds a pay grade no higher than O‑3, if a commissioned officer, or W‑2, if a warrant officer. Individuals or families are eligible for the grant based upon rank at the time of the mobilization. Proof of pay grades consists of information obtained from DEERS.

 (8) If a custodial parent or guardian is applying for a grant on behalf of a member’s dependent, then the custodial parent or guardian must provide proof of guardianship of a member’s dependent currently enrolled in DEERS.

 (9) The division may waive the requirements in subsection (A)(4) upon a written request indicating the circumstances justifying such a waiver, and upon proof that there has in fact been some decrease from the member’s civilian salary. These circumstances include, but are not limited to, death, injury, or incapacity of the member, long‑term deployment of the member, and unexpected expenses incurred by the member’s family. The division may use discretion in granting or denying these requests.

 (B) The following members are ineligible to receive grants:

 (1) all commissioned and warrant officers with pay grades of O‑4 and W‑3, or higher;

 (2) personnel serving in Active Guard/Reserve (AGR) or similar full‑time unit support programs unless called to Title 10 service;

 (3) members who are unmarried and have no family members enrolled in DEERS;

 (4) members who, at any time before the disbursement of funds pursuant to a grant application under this section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 101 to 127.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 287 to 313, 327 to 340, 347.

**SECTION 25‑11‑350.** Grant eligibility based on military status.

 (A) The grant applicant must show proof of the following:

 (1) The applicant is a member of the South Carolina National Guard or a South Carolina resident who is a member of another United States Armed Forces Reserve component, applying on behalf of the applicant’s family or is a family member of that member. Proof of residency for military members consists of information obtained from the Defense Enrollment Eligibility Reporting System (DEERS). Proof of a familial relationship also consists of information obtained from DEERS.

 (2) The South Carolina National Guard or Reserve component member was on active military duty for at least thirty consecutive days as a result of the September 11, 2001, terrorist attacks. Proof of active duty consists of a copy of the orders issued by an authorized headquarters ordering the member to this duty and documentation showing that this duty was actually performed. Eligible active duty includes any active duty since September 11, 2001.

 (3) The South Carolina National Guard or Reserve component member holds a pay grade no higher than O‑3, if a commissioned officer, or W‑2, if a warrant officer. Individuals or families are eligible for the grant based upon rank at the time of mobilization. Proof of pay grades consists of information obtained from DEERS.

 (B) The following members are ineligible to receive grants:

 (1) all commissioned and warrant officers with pay grades of O‑4 and W‑3, or higher;

 (2) personnel serving in Active Guard/Reserve (AGR) or similar full‑time unit support programs unless called to Title 10 service;

 (3) members who are unmarried and who have no family members enrolled in DEERS;

 (4) members who receive a punitive discharge or an administrative discharge with service characterized as Under Other Than Honorable Conditions.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 101 to 127.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 287 to 313, 327 to 340, 347.

**SECTION 25‑11‑360.** Grant eligibility of next of kin of member wounded or killed on active duty.

 (A) The grant applicant must show proof of the following:

 (1) The applicant is a member of the South Carolina National Guard or a South Carolina resident who is a member of another United States Armed Forces Reserve component, applying on behalf of the applicant’s family, or is next of kin of that member. Proof of residency for military members consists of information obtained from DEERS. Proof of a familial relationship also consists of information obtained from DEERS.

 (2) The South Carolina National Guard or Reserve component member was on active military duty for at least thirty consecutive days as a result of the September 11, 2001, terrorist attacks. Proof of active duty consists of a copy of the orders issued by an authorized headquarters ordering the member to this duty and documentation showing that this duty was actually performed.

 (3)(a) A statement signed by the member stating that the member sustained a service‑connected injury or illness; or

 (b) A statement signed by the member’s next of kin that the member was killed in action, is missing in action, or is a prisoner of war.

 (4) Proof of next of kin status includes, but is not limited to, an affidavit signed by the applicant or information obtained from DEERS.

 (5) The division may waive the thirty‑day requirement in subsection (A)(2) upon a written request indicating the circumstances justifying the waiver. The division may use discretion in granting or denying these requests.

 (6) The division must verify with the United States Department of Defense that the member has been wounded or killed, is missing in action, is a prisoner of war, or was otherwise incapacitated while on active duty. No payments may be made without this verification.

 (B) Applications submitted under this section take precedence over all other applications.

 (C) Members who, at any time before the disbursement of funds pursuant to a grant application under this section, receive a punitive discharge or an administrative discharge with service characterized as Under Other Than Honorable Conditions, are ineligible to receive grants pursuant to this section.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 102.1.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 288, 290.

**SECTION 25‑11‑370.** Need payment conditions and restrictions.

 (A) Payments to a South Carolina National Guard or Reserve component member’s family pursuant to Section 25‑11‑340 may not exceed two thousand dollars, to include any amounts paid pursuant to provisions of Section 25‑11‑380 during a state fiscal year.

 (B) If a grant payment is to be used for the purpose of payments for food, housing, utilities, medical services or medical prescriptions, it may be noted on the application.

 (C) No additional applications from a member or a member’s family may be accepted within one hundred eighty days from receipt of any prior applications.

 (D) All grants must be paid directly to the applicant. Payments must not be made directly to creditors.

 (E) The division may waive the requirements in subsections (A) and (C) of this section upon a written request indicating the circumstances justifying the waiver. The division may use discretion in granting or denying these requests. However, in no event may payments authorized pursuant to this section exceed three thousand dollars during any state fiscal year.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 102.1.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 288, 290.

**SECTION 25‑11‑380.** Military status grant conditions and restrictions.

 (A) All grants pursuant to Section 25‑11‑350 must be a flat rate of five hundred dollars unless the number of requests and fund balance necessitate a lesser amount as determined by the division.

 (B) South Carolina National Guard or Reserve component members’ families may receive a grant only one time in each fiscal year and only one time for each active duty order.

 (C) All grants must be paid directly to the applicant. Payments must not be made directly to creditors.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 102.1.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 288, 290.

**SECTION 25‑11‑390.** Active duty injury or death grant conditions and restrictions.

 (A) All grants pursuant to Section 25‑11‑360 must be a flat rate of one thousand dollars unless the number of requests and fund balance necessitate a lesser amount as determined by the division.

 (B) South Carolina National Guard or Reserve component members or next of kin may receive a grant only one time for each active duty order.

 (C) All grants must be paid directly to the applicant. Payments must not be made directly to creditors.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 102.1.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 288, 290.

**SECTION 25‑11‑400.** Procedures governing acceptance, payment, and denial of applications.

 (A) The procedures governing the acceptance of applications are as follows:

 (1) To receive consideration for a grant, applicants must request and submit an application provided by the division.

 (2) All necessary documentation must be included with the application unless otherwise provided pursuant to DEERS and the applicant shall authorize access to DEERS for purposes of verification.

 (3) Applications may be submitted via facsimile but the original documentation must be submitted before any grant payments are authorized.

 (4) Incomplete applications must be returned to the applicant.

 (5) The division, upon receipt of a complete original application, shall verify required information under DEERS and then shall process the information for payment. The application must be processed in an expeditious manner.

 (B) The procedure governing payments are as follows:

 (1) Payment must be made to the applicant who has met all eligibility requirements.

 (2) The timeliness of payment is determined by the amount of funds available at the time of application.

 (3) If adequate funds are not available, the application must be held in a queue until funds are available.

 (4) Applications for casualty‑based grants take precedence over all others.

 (C) The procedures governing denials of applications are as follows:

 (1) Grant applications from those not meeting eligibility requirements must be denied.

 (2) A letter explaining the denial, as well as providing additional sources of available relief, must be sent to the applicant within thirty days after receipt of the application.

HISTORY: 2004 Act No. 308, Section 1.B.

Library References

Armed Services 130 to 144.

Westlaw Topic No. 34.

C.J.S. Armed Services Sections 1, 313 to 320.

ARTICLE 5

South Carolina Prisoner of War Medal

**SECTION 25‑11‑510.** South Carolina Prisoner of War “POW” Medal.

 There is created the South Carolina Prisoner of War “POW” Medal. The Governor may present the medal on behalf of the people of the State of South Carolina to any person who:

 (1) on the date of induction into the organized militia or federal military service, was a resident of this State and who, while serving in the organized militia or in federal military service on active duty in a combat theater of operation during a time of war or emergency, was officially listed as a prisoner of war by the United States Department of Defense;

 (2) on the date of induction into the organized militia or federal military service, was not a resident of this State but currently resides in this State or was a resident at the time of death and who, while serving in the organized militia or in federal military service on active duty in a combat theater of operation during time of war or emergency, was officially listed as a prisoner of war by the United States Department of Defense; or

 (3) meets the residency requirements of item (1) or (2), and was taken prisoner and held captive while:

 (a) engaged in an action against an enemy of the United States;

 (b) engaged in military operations involving conflict with an opposing foreign force; or

 (c) serving with friendly forces engaged in an armed conflict against an opposing force in which the United States is not a belligerent party.

HISTORY: 2014 Act No. 233 (S.1173), Section 1, eff June 2, 2014.

CROSS REFERENCES

Eligibility, see Section 25‑11‑520.

**SECTION 25‑11‑520.** Eligibility.

 (A) The South Carolina Division of Veterans’ Affairs, in consultation with the Adjutant General, shall determine eligibility for the medal. For any person qualifying for the medal pursuant to Section 25‑11‑510(3), the Director of the Division of Veterans’ Affairs shall determine eligibility on a case by case basis. There is no required period of captivity; however, the director and the Adjutant General shall compare such cases to those under which persons have generally been held captive by enemy forces during periods of armed conflict.

 (B) The Division of Veterans’ Affairs may require a copy of DD Form 214 or WD Form 53 and any other information necessary to determine eligibility.

HISTORY: 2014 Act No. 233 (S.1173), Section 1, eff June 2, 2014.

Federal Aspects

Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series), see 32 C.F.R. Section 45.1 et seq.

**SECTION 25‑11‑530.** Ineligibility.

 Any person convicted by a United States military tribunal of misconduct or a criminal charge or whose discharge is less than honorable based on actions while a POW is ineligible for the medal. Any POW whose conduct was not in accord with the Code of Conduct and whose actions are documented by United States military records, is ineligible for the medal. Resolution of questionable cases shall be the responsibility of the Director of the Division of Veterans’ Affairs, in consultation with the Adjutant General.

HISTORY: 2014 Act No. 233 (S.1173), Section 1, eff June 2, 2014.

**SECTION 25‑11‑540.** Limit of one medal per person.

 No person may be awarded more than one South Carolina POW Medal.

HISTORY: 2014 Act No. 233 (S.1173), Section 1, eff June 2, 2014.

**SECTION 25‑11‑550.** Award to deceased person or person absent as a prisoner of war.

 The medal may be awarded for a deceased person or a person absent as a prisoner of war and presented to the person’s next of kin.

HISTORY: 2014 Act No. 233 (S.1173), Section 1, eff June 2, 2014.

**SECTION 25‑11‑560.** Plan to accept nominations.

 The Division of Veterans’ Affairs must develop and implement a plan to accept nominations for the medal.

HISTORY: 2014 Act No. 233 (S.1173), Section 1, eff June 2, 2014.

**SECTION 25‑11‑570.** Design and appearance; South Carolina Prisoner of War Medal Fund.

 (A) The Adjutant General, in consultation with the Director of the Division of Veterans’ Affairs, shall develop the appropriate design and appearance of the medal and a ribbon to be worn in lieu of the medal. However, nothing in this section requires the Director of the Division of Veterans’ Affairs or the Adjutant General to provide or pay for the medal, ribbon, or its design.

 (B) There is created in the State Treasury a special fund to be known as the South Carolina Prisoner of War Medal Fund for the sole purpose of receipt and disbursement of donated funds from the public to be used in the design, production, purchasing, and presentation of the South Carolina Prisoner of War Medal as administered by the Director of the South Carolina Division of Veterans’ Affairs, in consultation with the Adjutant General. The Office of the South Carolina Division of Veterans’ Affairs, or the Adjutant General, shall remit all funds donated to the South Carolina Prisoner of War Medal Fund to the Office of State Treasurer for deposit and disbursement.

HISTORY: 2014 Act No. 233 (S.1173), Section 1, eff June 2, 2014.