

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1210

By: Wells

AS INTRODUCED

An Act relating to soldiers and sailors; enacting the Military Service Relief Act; providing short title; stating purpose and public policy; defining terms; authorizing certain compensation; authorizing the staying of certain proceedings; providing exception; authorizing the staying of certain actions; providing exception; authorizing certain stays to be ordered for the period of military service; authorizing certain payments by installments; authorizing certain proceedings to proceed without certain defendants; authorizing stays for certain persons who are secondarily liable; authorizing certain judgments or decrees to be vacated under certain conditions; authorizing setting aside certain waivers; providing exceptions; providing for certain representation under certain circumstances; prohibiting certain acts by certain attorneys; authorizing certain judgments be opened by the court under certain circumstances; prohibiting the requirement of certain affidavits; providing exception; prohibiting certain fines and penalties under certain conditions; providing certain exceptions to the application of certain statute of limitations;

prohibiting certain evictions; providing exception;
providing for certain stay; limiting such stay;
providing penalties; providing for certain leases;
providing for certain termination of lease notice
and procedures relating thereto; providing for
certain judicial relief; prohibiting certain acts;
providing penalty; prohibiting certain acts
relating to property during the period of military
service; providing exception; providing penalty;
providing for certain court orders; providing for
certain obligations; authorizing certain stays and
other disposition relating to such obligations;
providing exceptions; prohibiting certain acts
relating to such obligation; providing exceptions;
providing penalty; providing for certain appraisals
involving foreclosures; providing for certain
payment orders; authorizing the staying of certain
tax proceedings; providing exceptions; prohibiting
the collection of certain taxes and assessments and
the sale of certain property, except under certain
conditions; authorizing the staying of certain
proceeding and sales; providing for certain
redemption of such property; authorizing certain
liens; prohibiting certain penalty and interest;
authorizing the continuance of certain insurance or
plan coverage under certain conditions; authorizing
certain coverage without restriction concerning
preexisting conditions; providing for the
suspension of certain benefits; suspending certain
Workers Compensation benefits; providing for
restoration of certain benefits; requiring certain
reinstatement to former employment; specifying

certain conditions; providing for reemployment to similar position in case of disability; providing for certain conditions; prohibiting the denial of certain employment rights or benefits; requiring entitlement to certain training programs; prohibiting certain discharge; providing for entitlement to certain retirement credit; limiting such credits; authorizing the contribution by the reservist to the retirement system; providing procedures related thereto; requiring certain private employers to credit military service toward retirement eligibility under certain conditions; authorizing such credit under certain individual account plans; authorizing reservist to pay into the retirement system an amount equal to amount and interest which would have been payed had the reservist elected to stay in the system; providing for computation on such amount; providing certain limitations; requiring the employer to pay certain unpaid actuarial cost to the retirement system as determined by the Public Retirement System Actuarial Committee under certain conditions; requiring a reservist's military service be counted in the public retirement system for death and survivor benefits under certain conditions; specifying such conditions; providing for election not to pay the employee contribution for death and survivor benefits; requiring the employer to pay certain unpaid actuarial cost to the retirement system; providing for inapplicability to deferred retirement option plan; requiring the deferment of payment of certain taxes under certain conditions;

prohibiting certain interest and penalties;
authorizing suspension of collection of such taxes;
providing exception; prohibiting certain
reinstatement fees relating to compulsory liability
insurance and motor vehicles; requiring certain
compliance with other provisions; suspending
certain reinstatement and licensing fees for
certain period; providing for exemption from
certain continuing education requirements;
providing exceptions; requiring completion of such
requirements within certain time period;
prohibiting disruption of a student in Higher
Education; prohibiting certain penalties;
specifying enforcement of such provision; providing
for jurisdiction for certain actions; authorizing
certain preference; providing for the awarding of
attorney fees and certain litigation expenses;
providing certain rights of elective officials;
prohibiting certain acts; providing for retroactive
application; providing for codification; and
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 501 of Title 72, unless there is
created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Military
Service Relief Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 502 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. In order to provide for, strengthen, and expedite the national security under emergency conditions which threaten the peace and security of the United States and the State of Oklahoma and to enable those citizens of the state who are called to military service to more successfully devote their entire energy to the security needs of the state and nation, provision is hereby made to provide reemployment rights and other benefits for persons called to military service in the reserve components of the armed forces of the United States or the State of Oklahoma. It is herein declared to be the policy of the State of Oklahoma that its citizens who are called to serve their country, and who leave their employment, homes, and education shall not be penalized or economically disadvantaged because of their military service.

B. The provisions of this act shall be liberally construed for the benefit of those called to serve their country or state in the armed forces. The purpose of this act is to prevent veterans from being disadvantaged because of their military service when they return to civilian life.

C. The provisions of this act are intended to be supplemental to any rights that persons called to military service have under any applicable federal statutes, particularly, the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, 50 U.S.C., Section 501 et seq. and the Veteran's Reemployment Rights Act, as amended, 38 U.S.C., Section 2021 et seq., and under any other applicable laws of this state. This act shall supersede, but not repeal, any conflicting laws of this state. Any conflicting applicable federal law shall take precedence over this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 503 of Title 72, unless there is created a duplication in numbering, reads as follows:

As used in the Military Service Relief Act, the following terms shall have the definitions ascribed in this section unless the context clearly requires otherwise:

1. "Appointed official" means a person holding an appointive position or office with any department, board, commission, or agency of the state, or of any political subdivision or municipal corporation, when the office or position is established by the constitution or laws of this state;

2. "Elected official" means a person holding an office in a governmental entity of the state or any of its political subdivisions which is filled by the vote of the appropriate electorate;

3. "Employee" means a person who holds any position which is other than temporary with any private or public employer in this state. "Employee" shall also include an elected or appointed official;

4. "Employment" means a position, which is other than temporary, as an employee with any private or public employer in this state;

5. "Person in military service" means a member of the reserve components of the armed forces of the United States as named in 10 U.S.C. 261, who is in military service or a member of the National Guard;

6. "Military service" means active duty or other training with a reserve component of the armed forces of the United States, and shall also mean active duty as defined in 10 U.S.C., Section 101(22), which has been satisfactorily completed in accordance with the provisions of 50 U.S.C. App., Section 459, or pursuant to Section 1 et seq. of Title 44 of the Oklahoma Statutes;

7. "Period of military service" means any and all periods of military service rendered on and after _____, 19____, with a Reserve component of the Armed Forces of the United States or the State of Oklahoma;

8. "Public retirement system" means any public retirement or pension system, fund, or plan maintained primarily for officers and employees for the State of Oklahoma or of any political subdivision thereof, or any district, board, commission, or other agency of either, or of any other such public entity;

9. "Reserve component of the armed forces of the United States" means the Armed National Guard of the United States, the Armed Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, Air Force Reserve and the Coast Guard Reserve.

10. "Reservist" means a person in the military service of a reserve component of the armed forces of the United States; and

11. "Compensation" means normal or regular base pay, but does not include overtime, per diem, differential pay, or any other allowance for other expense, and for firemen, policemen, and deputy sheriffs shall also include supplemental pay.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 504 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. Any private or public employer in this state is hereby authorized to pay compensation to any employee who leaves employment to perform military service, during the employee's military service. If the employer elects to pay the compensation, it shall be paid on a uniform basis to all such employees called to military service.

B. The payment of compensation subsequent to the employee's release from military service and upon reemployment with his or her former employer shall be governed by the the provisions of Section 209 of Title 44 of the Oklahoma Statutes.

C. The payment of compensation to elected officials shall be paid in accordance with the provisions of Section 209 of Title 44 of the Oklahoma Statutes.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 505 of Title 72, unless there is created a duplication in numbering, reads as follows:

At any stage thereof, any proceeding in any court or in any adjudicatory or licensing proceeding before any state agency, including any public authority, or any political subdivision of the state, in which a person in military service is involved as a party, during the period of such service or within sixty (60) days thereafter may, in the discretion of the court or adjudicatory or licensing agency before which it is pending, on its own motion, and shall, on application to it by such person or some person on his or her behalf, be stayed as provided in this act unless, in the opinion of the court or adjudicatory or licensing agency, the ability of the plaintiff to prosecute the action, or the defendant to conduct his or her defense, or in any adjudicatory or licensing proceeding the ability of the party to represent his or her interest, is not materially affected by reasons of his or her military service.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 506 of Title 72, unless there is created a duplication in numbering, reads as follows:

In any action or proceeding commenced in any court or in any adjudicatory or licensing proceeding before any state agency, including any public authority, or any political subdivision of the state, against a person in military service, before or during the period of which service or within sixty (60) days thereafter may, in the discretion of the court or adjudicatory or licensing agency before which it is pending, on its own motion, and shall, on application to it by such person or some person on his or her behalf, be stayed as provided in this act unless, in the opinion of

the court or adjudicatory or licensing agency, the ability of the plaintiff to prosecute the action, or the defendant to conduct his or her defense is not materially affected by reason of his or her military service.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 507 of Title 72, unless there is created a duplication in numbering, reads as follows:

Any stay of any action, proceeding, attachment, or execution ordered by any court or adjudicatory or licensing agency under the provisions of this act may, except as otherwise provided, be ordered for the period of military service and as may be just, whether as to payment in installments of such amounts and at such times as the court or adjudicatory or licensing agency may fix or otherwise determine. Where the person in military service is a codefendant with others, the plaintiff may nevertheless, by leave of the court, proceed against the others.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 508 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. When, pursuant to any of the provisions of this act, the enforcement of any obligation or liability, the prosecution of any suit or proceeding, the entry or enforcement of any order, writ, judgment, or decree, or the performance of any act, may be stayed, postponed or suspended, such stay, postponement or suspension may, in the discretion of the court, likewise be granted to sureties, guarantors, endorsers and others subject to the obligation or liability, the performance or enforcement of which is stayed, postponed or suspended.

B. When a judgment or decree is vacated or set aside, in whole or in part, as provided in this act, the same may, in the discretion of the court, likewise be set aside and vacated as to any surety, guarantor, endorsers, accommodation maker or other person whether

primarily or secondarily liable upon the contract or liability for the enforcement of which the judgment or decree was entered.

C. Nothing contained in this act shall prevent a waiver in writing of the benefits afforded by subsections A and B of this section by any surety, guarantor, endorser, accommodation maker or other person whether primarily or secondarily liable upon the obligation or liability except that after the date of enactment of this act no such waiver shall be valid unless it is executed as an instrument separate from the obligation or liability in respect to which it applies, and no such waiver shall be valid after the beginning of the period of military service if executed by an individual who, subsequent to the execution of such waiver, becomes a person in military service.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 509 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. In every action or proceeding in which a person in military service is a party, if such party does not personally appear therein or is not represented by an authorized attorney, the court may appoint an attorney to represent him or her. In such case, a bond, approved by the court conditioned to indemnify the defendant, if in military service, against any loss or damage that he or she may suffer by reason of any judgment, should the judgment thereafter be set aside in whole or in part, may be required and an order made to protect the rights of such person. But no attorney appointed under this act to protect a person in military service shall have power to waive any right of the person for whom he or she is appointed or bind him or her by his or her acts.

B. If any judgment shall be rendered in any action or proceeding against any person in military service during the period of such service, or within thirty (30) days thereafter, and it appears that the person was prejudiced by reason of his or her

military service in making his or her defense thereto, such judgment may, upon application, made by such person or his or her legal representative, not later than ninety (90) days after the termination of such service, be opened by the court rendering the same and such defendant or his or her legal representative may be allowed in to defend provided it is made to appear that the defendant has a meritorious or legal defense to the action or proceeding, or to some part thereof. Vacating, setting aside, or reversing any judgment because of any of the provisions of this act shall not impair any right or title acquired by any bona fide purchaser for value under such judgment.

C. Where a default judgment may properly be rendered in any action or proceeding in any court, the court shall not require the attorney for the plaintiff or petitioner to submit an affidavit or affirmation that the defendant or respondent is not in military service, provided that the court may impose such requirement where authorized by federal law.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 510 of Title 72, unless there is created a duplication in numbering, reads as follows:

When an action for compliance with the terms of any contract is stayed pursuant to this act, no fine or penalty shall accrue by reason of failure to comply with the terms of such contract during the period of such stay, and in any case where a person fails to perform any obligation and a fine or penalty for such nonperformance is incurred a court may, on such terms as may be just, relieve against the enforcement of such fine or penalty if it shall appear that the person who would suffer by such fine or penalty was in the military service when the penalty was incurred, and that by reason of the service the ability of the person to pay or perform was thereby materially impaired.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 511 of Title 72, unless there is created a duplication in numbering, reads as follows:

The period of military service shall not be included in computation of any period now or hereafter to be limited by any law, rule, regulation or order for the bringing of any action or proceeding in any court, board, bureau, commission, or department or other agency of government of this state or any of its governmental subdivisions by or against any person in military service, or by or against his or her heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such an action or proceeding shall have accrued prior to or during the period of such service, nor shall any part of such period which occurs after the date of enactment of this act be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax or assessment.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 512 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. No eviction shall be made during the period of military service in respect of any premises occupied chiefly for dwelling purposes by the spouse, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in any action or proceeding affecting the right of possession.

B. On any such application or in any action the court may on its own motion, and shall, on application, unless in the opinion of the court the ability of the tenant to pay the agreed rent is not materially affected by reason of military service, stay the proceedings for not longer than three (3) months, as provided in this act, or it may make such other order as may be just.

C. Any person who shall knowingly take part in any eviction otherwise than as approved in subsection A of this section, or attempts so to do, upon conviction, shall be guilty of a misdemeanor, and shall be punished by imprisonment not to exceed one (1) year or by a fine not to exceed One Thousand Dollars (\$1,000.00), or both such imprisonment and fine.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 513 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply to any lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes in any case in which:

1. Such lease was executed by or on the behalf of a person who, after the execution of such lease, entered military service; and

2. The premises so leased have been occupied for such purposes by such person or by the person and his or her dependents.

The provisions of this section shall also apply to any lease covering premises occupied for dwelling purposes when such lease was executed by or on behalf of a person who, after the execution of such lease, entered military service where the lease was also executed by or on the behalf of the spouse of the person.

B. Any such lease may be terminated by notice in writing delivered to the lessor, or his or her grantee, or in the lessor's agent, or his or her grantee's, agent by a lessee at any time following the date of the beginning of such military service. Delivery of the notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor, or his or her grantee, or to the lessor's, or his or her grantee's, agent and depositing the notice in the United States mail. Termination of any such lease providing for monthly payment of rent shall not be effective until thirty (30) days after the first date on which the next rental payment is due and payable subsequent to the date when

the notice is delivered or mailed. In the case of all other leases, termination shall be effected on the last day of the month and in such case any unpaid rental for a period preceding termination shall be proratable computed and any rental paid in advance for a period succeeding termination shall be refunded by the lessor or his or her assignee. Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this subsection shall be subject to such modifications or restrictions as in the opinion of the court justice and equity may in the circumstances require.

C. Any person who shall knowingly seize, hold, or detain the personal effects, clothing, furniture or other property of any person who has lawfully terminated a lease covered by this section or the spouse or dependent of any such person, or in any manner interfere with the removal of such property from the 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 so to do, upon conviction, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one (1) year or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 514 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. No person who has received, or whose assignor has received, under a contract for the purchase of real property, or of lease or bailment with a view to purchase of such property, a deposit or installment of the purchase price or a deposit or installment under the contract, lease or bailment from a person or from the assignor of a person who, after the date of payment of such deposit or installment, has entered military service, shall exercise any right

or option under such contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment thereunder due or for any other breach of the terms thereof occurring prior to or during the period of such military service, except by action in a court of competent jurisdiction; provided, that nothing contained in this section shall prevent the modification, termination or cancellation of any such contract, or prevent the repossession, retention, foreclosure, sale or taking possession of property purchased or received or which is security for any obligation under such contract, pursuant to a mutual agreement of the parties thereto, or their assignees, if such agreement is executed in writing subsequent to the making of such contract and during or after the period of military service of the person concerned.

B. Any person who shall knowingly resume possession of property which is the subject of this section otherwise than as provided in subsection A hereof or attempt so to do, upon conviction, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

C. Upon the hearing of such action the court may order the repayment of prior installments or deposits or any part thereof, as a condition of terminating the contract and resuming possession of the property, or may, in its discretion, on its own motion, and shall, except as provided in Section 16 of this act, on application to it by such person in military service or some person on his or her behalf, order a stay of proceedings as provided in this act except that such stay under this section may be ordered for the period of military service and six (6) months thereafter or any part of such period, unless, in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of such service, or it may make such

other disposition of the case as may be equitable to conserve the interests of all parties.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 515 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply only to obligations secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service at the commencement of the period of his or her military service and still so owned by him or her which obligations originated prior to such person's period of military service.

B. In any proceeding commenced in any court during the period of military service to enforce such obligation arising out of nonpayment of any sum thereunder due or out of any other breach of the terms thereof occurring prior to or during the period of such service the court may, after hearing, in its discretion, on its own motion, and shall, except as hereinafter provided in this act, on application to it by such person in military service or some person on his or her behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of his military service:

1. Stay the proceedings as provided for in this act; or
2. Make such other disposition of the case as may be equitable to conserve the interests of all parties.

C. No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made during the period of military service, or within three (3) months thereafter, unless upon

an order of sale previously granted by the court and a return thereto made and approved by the court.

D. Any person who shall knowingly cause to be made any sale, foreclosure or seizure of property defined as invalid by subsection C of this section, or attempts to do so shall, upon conviction, be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 516 of Title 72, unless there is created a duplication in numbering, reads as follows:

Where a proceeding to foreclose a mortgage upon or to resume possession of personal property, or to rescind or terminate a contract for the purchase thereof, has been stayed as provided in this act, the court may, unless in its opinion an undue hardship would result to the dependents of the person in military service, appoint three disinterested parties to appraise the property and, based upon the report of the appraisers, order such sum, if any, as may be just, paid to the person in military service or his or her dependent as the case may be, as condition of foreclosing the mortgage, resuming possession of the property, or rescinding or terminating the contract.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 517 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply when any taxes or assessments, whether general or special, other than taxes on income, whether falling due prior to or during the period of military service in respect of personal property, money or credits or real property owned and occupied for dwelling, agricultural, or business purposes by a person in military service and still so occupied by his or her dependents or employees, are not paid.

B. No sale of such property shall be made to enforce the collection of such tax or assessment, or any assessment, or any proceeding or action for such purpose commenced, except upon leave of court granted upon application made therefor by the collector of taxes or other officer whose duty is to enforce the collection of taxes or assessments. The court thereupon, unless in its opinion the ability of the person in military service to pay such taxes or assessments is not materially affected by reason of such service, may stay such proceedings or such sale, as provided in this act, for a period extending not more than six (6) months after the termination of the period of military service of such person.

C. When by law such property may be sold or forfeited to enforce the collection of such tax or assessment, such person in military service shall have the right to redeem or commence an action to redeem such property, at any time not later than six (6) months after the termination of such service, but in no case later than six (6) months after the date when this act ceases to be in force. Provided, however, this shall not be taken to shorten any period, now or hereafter provided by the laws of the state, or any political subdivision thereof, for such redemption.

D. When any tax or assessment shall not be paid when due, such tax or assessment due and unpaid shall bear interest until paid at the rate of six percent (6%) per annum from the date when such tax first became a lien, and no other penalty or interest shall be incurred by reason of such nonpayment, whether such penalty or interest shall have accrued prior or shall accrue subsequent to the commencement of the period of military service of such person. Any lien for such unpaid taxes or assessment shall also include such interest thereof.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 518 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall be applicable to any group life insurance, group, family group, blanket and franchise health and accident insurance, and health care services plan provided by any private or public employer in this state.

B. Any employee shall have the right to maintain the insurance or plan coverage enumerated in subsection A by furnishing his or her employer with sums equal to that which would have been deducted from his or her compensation for such coverage. Upon timely receipt of the employee's contributions required by the insurance policy or plan provisions, the employer shall provide the applicable insurer or health maintenance organization with those contributions plus an amount equal to what the employer would have contributed during the period of military service. The employee shall notify his or her employer of his or her election to continue insurance or plan coverage at the time he or she enters military service.

C. Family members or dependent children of an employee who are covered by any insurance policy or plan enumerated in subsection A of this section who are subsequently called to military service shall continue to be considered family members or dependents under the provisions of the policy or plan without any lapse of coverage, provided that all required contributions are paid in accordance with the policy or plan provisions.

D. Any employee who leaves employment to perform military service and who reapplies for coverage within ninety (90) days after his or her release from military service shall be reinstated, including all of his or her family members and dependents previously covered, with the group insurance program or medical and health care coverage without any clause or restriction because of a preexisting condition.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 519 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. Any reservist receiving temporary earnings benefits pursuant to the provisions of Section 22 of Title 85 of the Oklahoma Statutes who is called to military service, and is found to be medically deployable militarily, and is subsequently deployed, shall have suspended any such benefit payments for which he or she would otherwise be eligible during his or her period of active duty.

B. During the period of such voluntary suspension, the provisions of the Worker's Compensation Act, if otherwise applicable, shall not apply to such individual.

C. The reservist shall be restored to the same benefits he or she would have received had he or she not been called to military service, provided that he or she makes an application to resume such benefits within ninety (90) days after his or her release from military service or release from hospitalization incidental to his or her military service.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 520 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. Any reservist who leaves a position of employment to perform military service and who applies for reemployment shall be reinstated by his or her employer to the prior status of his or her employment or to a position of like seniority, status, and pay, provided that:

1. The reservist applies for reemployment within ninety (90) days after being released from military service or his or her discharge from hospitalization incidental to his or her military service; and

2. The reservist is still qualified to perform the duties of his or her former position; and

3. The employer's circumstances have not changed so as make it impossible to place the reservist in his or her former position.

B. If any reservist seeks reemployment as provided in subsection A, but by reason of physical disability sustained during military service is not qualified to perform the duties of his or her former employment, the reservist shall be employed in a similar position for which the reservist is qualified to perform, provided that:

1. The similar position will provide the disabled employee like seniority, status, and pay, or the nearest approximation thereof, consistent with the physical circumstances of the reservist; and

2. The circumstances of the former employer have not changed so as to make it impossible to place the reservist in the similar position.

C. No reservist who performs military service shall be denied:

1. Retention in employment or promotion; or

2. Any increase in compensation, if it is reasonably certain that such increase would have been granted; or

3. Any another incident or advantage of employment because of his or her military service.

D. Any reservist who applies for reemployment in accordance with the provisions of this section shall be entitled to complete any training program that was applicable to his or her former position of employment during his or her period of military service.

E. Any reservist who is restored to or employed in a position in accordance with the provisions of this section shall not be discharged from such position without cause within one (1) year after such restoration or reemployment.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 521 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. Any reservist who completes his or her military service and applies for reemployment within ninety (90) days of his or her release from military service or discharge from hospitalization

incidental to his or her military service, shall be entitled to receive creditable service for such period of military service toward vesting and computation of benefits in the retirement system, pension fund, or employee benefit plan applicable to his or her employment, as provided in this section.

B. No reservist shall receive more than a total of four (4) years of military service credit in the retirement system, pension fund, or employee benefit plan applicable to his or her employment, pursuant to this section.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 522 of Title 72, unless there is created a duplication in numbering, reads as follows:

Any reservist may, at his or her option, pay the required employee contributions to the retirement system, pension fund, or employee benefit plan applicable to his or her employment, during his or her period of military service and if the payment of contributions is permitted by the Internal Revenue Code, if the plan is a qualified plan. The reservist shall timely furnish his or her employer with sums equal to that which would have been deducted from his or her compensation for retirement system coverage, as required under the public retirement system or employee benefit plan. Upon such receipt, the employer shall remit the employee contributions to the applicable system or plan, including the employer contributions that would have been contributed on behalf of the employee. The reservist shall notify his or her employer of his or her election to pay the required employee contributions to the applicable system or plan at the time he or she enters military service.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 523 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. Every private employer in this state who maintains a defined benefit plan, as defined by 29 U.S.C., Section 1002(35), shall

credit the reservist with his or her period-of-military service towards retirement eligibility and vesting under the plan, including the computation of any retirement benefits due under the express terms of the plan, when the accrued benefits due under the plan are derived from employer contributions to the plan. If the defined benefit plan provides benefits derived from employer and employee contributions to the plan, the reservist shall be credited with his or her period of military service towards retirement eligibility and vesting under the plan, including the computation of any retirement benefits due under the express terms of the plan, provided that the employer contributions and the mandatory contributions of the employee are made to the plan.

B. If any private employer maintains an individual account plan or a defined contribution plan, as defined by 29 U.S.C., Section 1002(34), the reservist shall be credited with his or her period of military service toward retirement eligibility under the express terms of the plan, upon payment of the designated contributions to the plan and if such credit is permitted by the Internal Revenue Code, if the plan is a qualified plan.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 524 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. Any reservist, who did not elect to make employee contributions pursuant to the public retirement system applicable to his or her employment during his or her period of military service, shall be entitled to receive credit for his or her military service toward establishing retirement eligibility and for computation of benefits, upon payment in to the system an amount equal to the employee contributions that would have been paid had the reservist continued in employment and not been called to military service, together with interest thereon at the valuation interest rate of the system or plan in effect at the time payment is made. The

contributions shall be based on the salary, including any increases in compensation that the employee would have received had he or she remained in employment during the period of military service.

B. Upon payment by the employee of the employee contributions and interest as provided in subsection A of this section, the employer shall pay to the retirement system an amount equal to the employer contributions that the employer would have paid to the retirement system had the reservist remained in service, together with interest thereon, at the valuation interest rate in effect at the time payment is made. The contributions shall be based on the salary the reservist would have received during the period of military service, including any increases in compensation that the reservist would have received had he remained in employment during the period of military service. The employer contributions and interest due to the system shall be paid within thirty (30) days after the employee has paid all of the contributions due to the system or fund.

C. All employee contributions and interest due thereon made in payment for military service credit in accordance with subsection A of this section must be received by the system within four (4) years of his or her reemployment.

D. Should the reservist fail to make the required contributions within four (4) years, military service credit shall only count toward determining eligibility for retirement benefits. Any unpaid actuarial cost to the retirement system shall be borne by the employers through reflection in the employer rate established by the Public Retirement Systems Actuarial Committee.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 525 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. The reservist's period of military service shall be counted as creditable service in the public retirement system in which he or

she was a member, for determining eligibility for death and survivor benefits and in the computation of benefits, provided that the following conditions are satisfied:

1. The beneficiary of the death or survivor benefits shall provide payment of the unpaid portion of the contributions of the deceased member. The beneficiary may agree in writing to have the payment of the unpaid portion of the contributions of the deceased member deducted from the benefits over a period not to exceed four (4) years. The beneficiary may pay, in the alternative, the actuarial cost of such additional credit in a lump sum prior to the distribution of benefits;

2. If there is more than one beneficiary, a written agreement to pay the unpaid contributions of the deceased member shall be unanimous. In the event that a recipient is a minor child, the legal guardian of the minor child shall express consent for the minor child; and

3. The board of trustees of every public retirement system shall adopt a written policy covering all beneficiaries and survivors rights to pay the required contributions in order to have the reservist's military service computed in the computation of any death or survivor benefits payable under the system.

B. If all of the conditions of subsection A of this section are satisfied, the employer shall pay the employer contributions in a manner consistent with this section.

C. If the beneficiary of the death or survivor benefits of the deceased member elects not to pay the employee contributions due the system on account for such military service credit, the computation of death and survivor benefits shall be based on the actual service of the reservist in the system prior to his or her call to military service. The death or survivor benefits provided for herein shall be due and payable upon the death of the reservist.

D. If the application of any provision set forth in this section results in an unpaid actuarial cost to the retirement system, it shall be borne by the employers through a reflection in the system of the employer rate established by the Public Retirement System Actuarial Committee.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 526 of Title 72, unless there is created a duplication in numbering, reads as follows:

The provisions of Section 25 of this act are inapplicable with respect to reservists who are participants in the deferred retirement option plan.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 527 of Title 72, unless there is created a duplication in numbering, reads as follows:

The collection from any reservist of any tax on the income of such person, whether falling due prior to or during his or her period of military service, shall be deferred for a period extending not more than six months after his or her release from military service or discharge from hospitalization incidental to his or her military service if such person's ability to pay such tax is materially impaired by reason of such service. No interest on any amount of tax, collection of which is deferred for any period under this section, and no penalty for nonpayment of such amount during such period, shall accrue for such period of deferment by reason of such nonpayment. The prescriptive period for the collection of such taxes shall be suspended for the period of military service of any individual the collection of whose tax is deferred under this section, and for an additional period of nine (9) months beginning with the day following his or her release from military service or discharge from hospitalization incidental to this military service. The provisions of this section shall not apply to the income tax on

employees imposed by Section 1400 of the Federal Insurance Contributions Act.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 528 of Title 72, unless there is created a duplication in numbering, reads as follows:

The reinstatement fees imposed by Section 7-506 of Title 47 of the Oklahoma Statutes shall not be assessed and collected against any reservist whose compulsory liability insurance has been canceled or terminated due to the reservist's failure to pay his or her premiums during his or her period of military service. However, the reservist must comply with all other requirements of Section 7-506 of Title 47 of the Oklahoma Statutes, as applicable, relative to the reinstatement of his or her motor vehicle registration.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 529 of Title 72, unless there is created a duplication in numbering, reads as follows:

The payment of any reinstatement or licensing fee or the application for renewal of any license imposed by the state or any public or governmental entity which the reservist validly holds at the time he or she enters military service shall be suspended until ninety (90) days after his or her release from military service or discharge from hospitalization incidental to his or her military service, provided that the reservist complies with all of the licensing requirements including the payment of fees, before the expiration of ninety (90) days after his or her release from military service or discharge from hospitalization incidental to his or her military service. Any license covered by this section which the reservist validly held at the time he or she entered military service shall remain in force and effect until ninety (90) days after his or her release from military service, provided that the licensing requirements are complied with, including the payment of any licensing and renewal fees owed.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 530 of Title 72, unless there is created a duplication in numbering, reads as follows:

The reservist shall be exempted from the payment of any reinstatement or licensing renewal fee required by any profession or occupation governed by Title 59 of the Oklahoma Statutes or by other law or ordinance which may be applicable to any reservist during his or her period of military service except those licensing or renewal fees owed for the year in which he or she is released from military service or discharged from hospitalization incidental to his or her military service. The reservist shall have ninety (90) days after his or her release from military service or hospitalization incidental to his or her military service to pay the licensing or renewal fees then owed. The reservist shall be exempted from compliance with any continuing educational requirements applicable to such license during his or her period of military service, except those required for the year in which he or she is released from military service or discharged from hospitalization incidental to his or her military service. The reservist shall complete such requirements within one hundred eighty (180) days from his or her release from military service or discharge from hospitalization incidental to his or her military service. Any applicable license shall continue in force and effect, provided that both the renewal fees and the educational requirements are completed within the periods provided herein.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 531 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. No student member of any reserve component of the Armed Forces of the United States or the State of Oklahoma shall have his or her higher education unnecessarily disrupted because of his or her military service. No undue penalties shall be assessed because

of his or her active service, and he or she may resume his or her studies with a minimum of effort.

B. The enforcement of this section shall be reserved for the proper authority and the appropriate jurisdiction of the following boards: The Oklahoma State Regents for Higher Education, the Board of Supervisors of Oklahoma State University, the Board of Regents of the University of Oklahoma, the Board of Trustees for State Colleges and Universities, or the successor of such boards, and the boards of trustees of the private colleges and universities in this state which award a baccalaureate or higher degree and which maintain and operate educational programs for which credits are given.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 532 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. The district court in which the state or its political subdivisions exercise authority or conduct their business shall have jurisdiction to hear actions to enforce the provisions of this act.

B. An action involving this act shall be brought in the county where the state or its political subdivisions exercise authority, or as provided by law.

C. All district and appellate courts shall give preference in scheduling such actions, upon the motion of any reservist, or his or her attorney, who presents certification that the reservist has been called to military service, as defined in Title 72 of Oklahoma Statutes and for any period of military service provided in Title 72 of Oklahoma Statutes.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 533 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. The district courts of this state shall have jurisdiction over proceedings involving the Soldiers' and Sailors' Civil Relief

Act of 1940, as amended, and which shall be governed by the rules applicable to ordinary proceedings.

B. The district and appellate courts shall give preference in scheduling such proceedings, upon the motion of any reservist, or his or her attorney, who presents certification that the reservist has been called to military service, as defined in Title 72 of the Oklahoma Statutes and for any period of military service provided in Title 72 of the Oklahoma Statutes.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 534 of Title 72, unless there is created a duplication in numbering, reads as follows:

In any proceeding employed to enforce any of the provisions of R.S. 29:401 through 422, the court may award reasonable litigation expenses including, but not limited to, the payment of reasonable attorney fees.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 535 of Title 72, unless there is created a duplication in numbering, reads as follows:

A. No vacancy in the office of an elected official shall be deemed to have occurred by reason of his or her absence when the official is called to military service as defined by Title 72 of the Oklahoma Statutes. No change in the residence of an elected official is deemed to have occurred by reason of his or her military service.

B. The provisions of this act are intended to be remedial and shall be applied retroactively as of August 3, 1990, including the suspension of any mandatory time requirements imposed by Title 72 of the Oklahoma Statutes.

SECTION 36. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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