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HB 630

Special Instructions for  
Acknowledgments and Sworn Instruments

**ALABAMA** Code of Ala., Title 47, Sec. 27.

1. **Acknowledgments.** Commissioned officers may take acknowledgments of any person, military or otherwise, at any place outside of the State of Alabama.

2. **Oaths and Sworn Instruments.** Requisites are the same as for acknowledgments.

**ALASKA** Alas. Stat. 9.65.010; 34.15.160.

1. No local statutory authority exists for commissioned officers to take acknowledgments, oaths, or sworn instruments, except a commanding officer of a Coast Guard vessel, who may take oaths or affirmation at any place.

**ARIZONA** Ariz. Rev. Stats., Sec. 33-511.

1. **Acknowledgments.** Commissioned officers may take acknowledgments of (a) U.S. Armed Forces members and their dependents at any place, (b) merchant seamen outside the limits of the 50 States and the District of Columbia at any time; and (c) others serving outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for dependents of persons in (b) and (c) above.

2. **Oaths and Sworn Instruments.** Requisites are the same as for acknowledgments.

**ARKANSAS** Ark. Stat. Ann., Secs. 49-111 and 40-103.

1. **Acknowledgments.** Commissioned officers may take acknowledgments for persons serving in or with the Armed Forces of the United States or their dependents at any place.

2. **Oaths and Sworn Instruments.** Any person in the Armed Forces may take oath to any affidavit before any commissioned officer of any branch of service.

**CALIFORNIA** Calif. Civil Code, Sec. 1183.5.

1. **Acknowledgments.** Officers on active duty, commissioned in or assigned or detailed to duty with the Judge Advocate General's Department or Corps, any staff judge advocate or acting

staff judge advocate, and the adjutant, assistant adjutant, personnel adjutant, or commanding officer of any command may take acknowledgments of any person serving in or with the US Armed Forces, or the spouse of any US Armed Forces member, at any place. *Note:* California statutes do not specifically authorize administrative services officers to take acknowledgments. Although the Air Force considers them to be "adjutants" within the meaning of the California statute, this State may not recognize such acknowledgments.

2. **Oaths and Sworn Instruments.** Requisites are the same as for acknowledgments.

**CANAL ZONE** 4 C.Z. Code, Sec. 725.

1. **Acknowledgments.** Commissioned officers on active duty with the Judge Advocate General's Department, any staff judge advocate or acting staff judge advocate, and the adjutant, assistant adjutant, personnel adjutant, or commanding officer of a command may take acknowledgments of any person serving in or with the US Armed Forces, or the spouse of any US Armed Forces member, at any place. **NOTE:** The Canal Zone Code does not specifically authorize administrative services officers to take acknowledgments. Although the Air Force considers them to be "adjutants" within the meaning of the Canal Zone Code, this jurisdiction may not recognize such acknowledgments.

2. **Oaths and Sworn Instruments.** Requisites are the same as for acknowledgments.

**COLORADO** Colo. Rev. Stat. (1963), Secs. 98-1-1 and 118-1-27.

1. **Acknowledgments.** Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside limits of the 50 States and the District of Columbia; and (c) of any person who is outside said limits by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. **Oaths and Sworn Instruments.** Requisites are the same as for acknowledgments.

**CONNECTICUT** Conn. Gen. Stat., Sec. 27-137.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with US Armed Forces at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. No local authority is granted for commissioned officers to take oaths or sworn instruments.

**DELAWARE** Del. Code Ann., Title 25, Sec. 130.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia at any time; and (c) other persons outside the above limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of a war in which the United States is then engaged. No provisions are made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**DISTRICT OF COLUMBIA**

\*The following persons on active duty are authorized to exercise the general powers of a notary public for members of any of the Armed Forces and for persons employed by or accompanying Air Force in certain places outside the US: All judge advocates of the Army and Air Force, law specialists, summary courts-martial, adjutants, assistant adjutants, acting adjutants, personnel adjutants, commanding officers of the Navy, Marine Corps, and Coast Guard, staff judge advocates and legal officers, acting or assistant staff judge advocates and legal officers, and all other persons designated by the regulation of the Air Force or by statute (10 U.S.C. 936).

**FLORIDA** Fla. Stat. Secs. 90.011 and 6950 31.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with US Armed Forces, and for spouses of US Armed Forces members, at any place. No provision is made for spouses of persons serving with the US Armed Forces. No provision is made for dependents other than spouses of US Armed Forces members.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**GEORGIA** Ga. Code Ann., Title 71, Secs. 401 and 404.

## 1. Acknowledgments:

a. Section 401 provides that all commissioned officers are ex officio notaries public for the purpose of taking acknowledgments of any person, at any place, concerning Georgia property only.

b. Section 404 provides that commissioned officers may take acknowledgments generally of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) other persons outside said limits by permission, assignment, or direction of any department or official the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

## 2. Oaths and Sworn Instruments.

a. Section 401 requisites are the same as for acknowledgments when oaths and sworn instruments concern Georgia property only.

b. Section 404 requisites are the same as for acknowledgments.

**GUAM** Govt. Code, Sec. 2 2200.

1. Acknowledgments. Commissioned officers on active duty authorized by the UCMJ to administer oaths may take acknowledgments of any person on active duty.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**HAWAII** Rev. Laws, Sec. 343-31.

1. Acknowledgments. Any US Armed Forces officer authorized by Congress to perform duties of a notary public may take acknowledgment for any US Armed Forces member, at any place, and for any person while outside the United States. (See paragraph 2a of this regulation for Federal authority to perform these functions.)

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

**IDAHO** Idaho Code, Sec. 55-705.

1. Acknowledgments. "Any officer of any component of any branch of the Armed Forces of the United States as may be designated to take a deposition. . ." may take the acknowledgment at any place of persons in any of the Armed Forces or otherwise subject to military law, and their wives and dependents.
2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**ILLINOIS** Illinois Ann. Stat., Secs. 30-19 and 101-2.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for those serving in or with the US Armed Forces and for their spouses or former spouses. No provision is made for dependents other than spouses or former spouses.
2. Oaths and Sworn Statements. Commissioned officers may take all oaths or sworn instruments, at any place, from any person whether or not connected with the US Armed Forces.

**INDIANA** Burns Ind. Stat., Sec. 56-130a.

1. Acknowledgments. Commissioned officers may take acknowledgments for (a) those serving in or with US Armed Forces at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) any person who is outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.
2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**IOWA** Iowa Code Ann., Sec. 558.26; Rules for Civil Procedure, Sec. 153.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with US Armed Forces at any place. No provision is made for spouses or dependents.
2. Oaths and Sworn Instruments. Depositions may be taken by any commissioned officer under whose command the person giving the deposition is serving, or by any commissioned

officer of the Judge Advocate General's Department or Corps. No local authority is granted for any US Armed Forces member to take other oaths or sworn instruments.

**KANSAS** Kan. Stat. Ann., Sec. 58-2216c.

1. Acknowledgments. Commissioned officers may take acknowledgments of any person, or his spouse or dependents, if such person is either (a) a member of the Armed Forces of the United States; (b) a merchant seaman outside the limits of the United States and the District of Columbia; or (c) is outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged.
2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**KENTUCKY** Ky. Rev. Stat., Sec. 384.080.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States; and (c) others outside said limits by permission, assignment, or direction of any department or official of the United States Government, at any time. No provision is made for spouses or dependents by the terms of the statute itself. Note, however, that the Attorney General of Kentucky has stated that the statute also applies to dependents of military personnel and to civilian employees of the Armed Forces and their dependents who are outside the limits of the United States (OAG 63-86).
2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**LOUISIANA** La. Rev. Stats., Sec. 35.7.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the US Armed Forces, at any place; acknowledgments are authorized for others, including spouses, only outside the United States and the District of Columbia.
2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

*Note:* Sec. 35.11 provides as follows:

"Whenever notaries pass any acts they shall give the marital status of all parties to the act, viz:

If either or any party or parties are men, they shall be described as single, married, or widower. If married or a widower, the Christian and family name of the wife shall be given. If either or any party or parties are women they shall be described as single, married, or widow. If married or widow, their Christian and family name shall be given, adding that she is the wife of or widow of...the husband's name."

MAINE Title 33, Maine Rev. Stat. Ann., Sec. 203.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for US Armed Forces members. No provision is made for any other acknowledgments.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

MARYLAND Md. Code Ann., Art. 18, Secs. 11 and 15.

1. Acknowledgments. Commissioned officers in active service of the Armed Forces of the United States may take acknowledgments of (a) any persons serving in or with the Armed Forces of the United States, and their spouses or dependents, at any place; (b) any persons serving as merchant seamen outside the United States and the District of Columbia; or (c) any persons outside the United States and the District of Columbia by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for acknowledgments of spouses or dependents of persons described in (b) or (c) of this paragraph.

2. Oaths and Sworn Instruments. Any commissioned officer in active service of the Armed Forces of the United States may take oaths and sworn instruments for (a) any member of the Armed Forces of the United States; (b) any persons serving as merchant seamen outside the United States and the District of Columbia; or (c) any person outside the United States and the District of Columbia by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

MASSACHUSETTS Mass. Ann. Laws, Vol. 7A, Ch.2 22, Sec.1 1.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the Armed Forces of the United States and their dependents at any place. In case of dependents, the officer's certificate must state name and SSAN/serial number of the person serving in the Armed Forces on whom the person is dependent.

2. Oaths and Sworn Instruments. No local authority exists for any US Armed Forces member to take oaths or sworn instruments.

MICHIGAN Mich. Stat. Ann., Secs. 26.601(1) and 27A1440.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for persons serving in or with the Armed Forces of the United States or civilian employees thereof, or, in each case, their spouses and dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except that here the statute uses the word "dependents," instead of the words "spouses and dependents" which occur in the statute relating to acknowledgments. *Note:* The oath prescribed is more extensive than the jurat prescribed in attachment 1 and is more in the nature of a verification; it should contain, in addition to the matter prescribed in attachment 1, the following: "made oath that he or she knows the contents thereof and the same is true of his own knowledge except as to matter stated therein to be on information and belief, and as to those matters he or she believes is to be true."

MINNESOTA Minn. Stat. Ann., Secs 35S.09 and 35S.27.

\*1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or employed by the US Armed Forces, and their spouses, at any place. Certificates must state status of persons acknowledging and of officers taking acknowledgments. No seal or authentication is required.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**MISSISSIPPI** Miss. Code Ann., Sec. 4025-01.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) members of the US Armed Forces or their spouses at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) persons outside said limits by permission, assignment, or direction of any department or official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. *Note:* No provision is made for the spouses of persons in (b) and (c).

2. Oaths and Sworn Instruments. Requisites same as for acknowledgments.

**MISSOURI** Vernon's Ann. Stat., Secs. 442.160 and 492.070.

1. Acknowledgments. Commissioned officers may take acknowledgments for US Armed Forces members on active duty, and their spouses, when joint or separate acknowledgment on the same instrument is required. No local authority is granted for any other acknowledgment.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except that there is no provision for taking oaths of spouses.

**MONTANA** Mont. Rev. Code (1961), Sec. 39-106.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia; and (c) persons outside the limits of the United States of America by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**NEBRASKA** Neb. Rev. Stat. (Reissue 1966), Sec. 76-227.

\*1. Acknowledgments. Commissioned officers may take acknowledgments of any persons, at any place. The certificate must show signature and rank of the officer and branch of service. No authentication is required.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**NEVADA** Nev. Rev. Stat., Sec. 111.305.

1. Acknowledgments. Commissioned officers may take acknowledgments for any person serving in or with the US Armed Forces, or any person whose duties require his presence with the US Armed Forces, at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**NEW HAMPSHIRE** N.H. Rev. Stat. Ann., Ch. 455.12.

1. Acknowledgments. Commissioned officers may take acknowledgments of those serving in or with the Armed Forces of the United States or their dependents, wherever located.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

**NEW JERSEY** N.J. Stats. Ann., Secs. 38:23A-1; 46:2B-1, 2, 3; and 46:2C-1, 2, and 5.

\*1. Acknowledgments. Commissioned officers of the US Armed Forces may take an oath, affidavit, acknowledgment, or proof of a person in military service, merchant marine, or one who is outside the US by authority of the US Government during war or in time of emergency. The officer must certify his own rank and official designation and that such person is in military service or is outside the US by authority of the US Government.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**NEW MEXICO** N.M. Stat. Ann., Sec. 43-1-7.

\*1. Acknowledgments. Commissioned officers of the Armed Forces may perform notarial acts for any members of the Armed Forces.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

NEW YORK Real Property Law, Sec. 300; CPLR, Secs. 2309 and 4538.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the Armed Forces of the United States or of any dependent of any such persons, wherever located, or of any person attached to or accompanying the Armed Forces, wherever located. No authentication is now required.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments. *Note:* Where an oath of acknowledgment is by a member of the Armed Forces or by a dependent of such member, the SSAN/serial number of the member must appear.

NORTH CAROLINA N.C. Gen. Stat., Sec. 47-2.

1. Acknowledgments. Any warrant officer or other officer of higher rank may take acknowledgments of any persons, at any place.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

NORTH DAKOTA Century Code, Title 47, Secs. 19-17 and 19-17.1.

1. Acknowledgments. Sergeants, warrant officers, and other officers of higher rank may take acknowledgments for those serving in or with the US Armed Forces, at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

OHIO Ohio Rev. Code Ann., Sec. 147.38.

1. Acknowledgments. Commissioned officers may take acknowledgments, at any place, for US Armed Forces members and their dependents, and of persons serving with, employed by, or accompanying the Armed Forces outside the United States, and their dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

OKLAHOMA Okla. Stat. Ann., Title 72, Secs. 50.1 and 50.2.

1. Acknowledgments. Sergeants, warrant officers, and other officers of higher rank may take acknowledgments for US Armed Forces members on active duty, and their spouses,

when joint or separate acknowledgment to the same instrument is required. No local authority is granted for any other acknowledgments.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

OREGON Ore. Rev. Stat., Secs. 194.410, 194.420, and 194.430.

1. Acknowledgments. Commissioned officers may take acknowledgments of members of the US Armed Forces or US Merchant Marine, and the spouses of such members, and civilian employees of the US and their spouses, so long as any of the above are serving outside the boundaries of any of the 50 States and the District of Columbia.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

PENNSYLVANIA Purdon's Pa. Stat. Ann., Title 21, Sec. 291.10a, and Title 57, Secs. 54b to 54f.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) Armed Forces members and their spouses and dependents at any place; (b) persons serving with the Armed Forces and their dependents at any place; (c) merchant seamen outside the limits of the United States and the District of Columbia; and (d) persons outside said limits by permission, assignment, or direction of any department or official of the United States Government in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for the spouses and dependents of persons in (c) and (d), above. Further, any person having powers of a notary public under Title 50, United States Code, Section 732 (now Title 10, United States Code, Section 936, or Article 136, UCMJ), may take acknowledgments of any US Armed Forces member on active duty.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments except that the word "and dependents" are omitted from (a), as it appears in paragraph 1 above, and there is no provision for personnel described in 1b above.

#### PUERTO RICO

No local statutory authority exists for any US Armed Forces member to take acknowledgments.

ments, oaths, or sworn instruments. (See paragraph 2a of this regulation for Federal authority to perform these functions.)

**RHODE ISLAND** Gen. Laws, Sec. 34-12-5.

\*1. Acknowledgments. Commissioned officers may take acknowledgments of any person outside the limits of the United States. Any commissioned officer may also take acknowledgments from any person acknowledging who is a member of the Armed Forces within the limits of the US, and also their lawful dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**SOUTH CAROLINA** Code of Laws, 60-51.

1. Acknowledgments. The affidavit of one subscribing witness (see paragraphs 2 and 3 below) takes the place of an acknowledgment by a person executing the instrument.

2. Oaths and Sworn Instruments. Commissioned officers may administer oaths, and take affidavits and sworn statements, for a US Armed Forces member on active duty outside of the State of South Carolina, and for any US Armed Forces civilian employee on active duty outside the continental confines of the United States. No provision is made for spouses or dependents.

3. Affidavit for Recording Deeds and Other Instruments. All instruments to be recorded must be witnessed by two or more persons, and one of these subscribing witnesses must make an affidavit as to the proper execution of such instrument. The following format may be used for the venue and body of the affidavit, and the jurat (see figure 2) must be added.

With the US Armed Forces  
At (location)

Personally appeared before me (name of witness making affidavit) and made oath that he saw the within named (name of person executing the attached instrument) sign, seal, as his act and deed, and deliver the attached written instrument for the uses and purposes therein mentioned, and that he, with (name of other witness or witnesses), witnessed the execution thereof.

(Signature of witness making affidavit)

**SOUTH DAKOTA** S.D. 1960 Supp., Secs. 4S.0301-1 and 51.160S.1.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in

or with the US Armed Forces at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except that no provision is made for persons serving with the US Armed Forces other than officers of the Public Health Service.

**TENNESSEE** Tenn. Code Ann., Title 7, Secs. 305-307.

1. Acknowledgments. Commissioned officers may take acknowledgments of US Armed Forces members on active duty, and their spouses, if they are accompanying their husbands in such service, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**TEX.** Vernon's Civil Stat., Title 1, Art. 26; and Title 115, Ch. 2, Arts. 6602 and 6607.

1. Acknowledgments. Commissioned officers may take acknowledgments of US Armed Forces members, auxiliaries thereto, or their spouses, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, but are limited to US Armed Forces members and auxiliaries thereto.

**UTAH** Utah Code Ann., Title 57-2-1.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with the US Armed Forces at any place. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

**VERMONT** Vt. Stat. Ann., Title 12, Sec. 5855.

1. Acknowledgments. Commissioned officers with the rank of captain in the Army or Air Force, or higher rank, or any officer with equivalent rank in other branches of the US Armed Forces, may take acknowledgments of any person, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

**VIRGINIA** Va. Code, Secs. 55-114.1 and 55-115.

1. Acknowledgments. Commissioned officers and commissioned officers of any State National

Guard that is federally recognized may take the acknowledgment of US Armed Forces members on active duty and their spouses, at any place. Additionally, persons who are authorized to take acknowledgments under Title 10, United States Code, Section 936 (Art. 136, UMCJ), as that section existed on 30 October 1963, may take acknowledgments of (a) members of the Armed Forces at any place; (b) of persons employed by or accompanying such Armed Forces outside the United States and outside the Canal Zone, Guam, and the Virgin Islands; and (c) of any person subject to the Uniform Code of Military Justice outside the United States.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

VIRGIN ISLANDS 5 V.I. Code 694 and 28 V.I. Code 91.

1. Acknowledgments. Commissioned officers may take acknowledgments for those serving in or with the US Armed Forces at any place. No provision is made for spouses or dependents. (See paragraph 2a of this regulation for Federal authority to perform these functions.)

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

WASHINGTON Rev. Code of Wash., 73.20.010.

1. Acknowledgments. Commissioned officers may take acknowledgments of (a) US Armed Forces members at any place; (b) merchant seamen outside the limits of the United States and the District of Columbia, at any time; and (c) persons outside said limits by permission, assignment, or direction of any department or

official of the United States Government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged. No provision is made for spouses or dependents.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

WEST VIRGINIA W. Va. Code, Secs. 39-1-4a and 57-5-9.

1. Acknowledgments. Commissioned officers may take acknowledgments of US Armed Forces members, and their spouses, at any place.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments, except no provision is made for spouses. However, the body of the sworn instrument (see figure 2) must contain the statement: "I am a member of the US Armed Forces."

WISCONSIN Wis. Stat., Secs. 235.19(11) and 887.01(3).

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the US Armed Forces, or their dependents, wherever located.

2. Oaths and Sworn Instruments. Requisites are the same as for acknowledgments.

WYOMING Wy. Stat., Sec. 19-5.

1. Acknowledgments. Commissioned officers may take acknowledgments of persons serving in or with the Armed Forces, or their dependents, wherever located.

2. Oaths and Sworn Instruments. No local authority is granted for any US Armed Forces member to take oaths or sworn instruments.

JAY S. HAMMOND  
GOVERNOR



TERRY MILLER  
LIEUTENANT GOVERNOR

1030

STATE OF ALASKA  
LIEUTENANT GOVERNOR  
JUNEAU

March 16, 1981

The Honorable Brad Bradley  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Brad:

Your administrative assistant, Frank Lee, contacted my office for comments regarding proposed legislation to authorize commissioned officers of the armed forces of the United States to perform the function of a notary within the State of Alaska. I appreciate your staff bringing this to my office's attention, and we look forward to working with you on this issue.

I support the general intent of the proposal; I believe commissioned officers of the armed forces should be able to perform the function of a notary in the State of Alaska for military personnel, spouses, and dependents. It is my judgment, however, that commissioned officers should not perform notary functions for all other citizens. It is my understanding that most states have adopted the rule which I am advocating here.

Should you have any further questions concerning the development of your proposed legislation, please feel free to contact me or members of my staff.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Terry Miller".

Terry Miller  
Lieutenant Governor

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JAY S. HAMMOND  
GOVERNOR



TERRY MILLER  
LIEUTENANT GOVERNOR

STATE OF ALASKA  
LIEUTENANT GOVERNOR  
JUNEAU

May 7, 1981

The Honorable Brad Bradley  
State Senator  
Pouch V  
Juneau, Alaska 99811

Dear Brad:

This is to express my support for SSSB 375, an act authorizing commissioned officers and commanders of units of the armed forces of the United States to perform the functions of a notary public in the State of Alaska. The passage of this bill will provide a needed service for the military personnel stationed in Alaska and will make the daily conduct of business more convenient for them.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Terry Miller", written over a faint dotted line.

Terry Miller  
Lieutenant Governor

DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS ALASKAN AIR COMMAND  
ELMENDORF AIR FORCE BASE, ALASKA 99506

AB 630  
23 FEB 1981



Honorable W. E. Bradley  
Alaska Senate  
Pouch V  
Juneau AK 99811

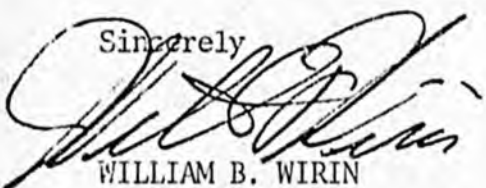
Dear Mr Bradley

Alaska is the only state which does not recognize acknowledgement, oath, or sworn statement by a commissioned officer. This poses a hardship on those military members who are stationed at remote sites both in Alaska and overseas where no notary public is available. Every other state allows a commissioned officer to perform the above acts for all active duty members and quite often for their spouses and dependents. Many states also allow commissioned officers to take sworn instruments from those civilian employees serving with the Armed Services while outside the United States. A few states even allow commissioned officers to perform all the above functions for anyone, anywhere. I have attached a summary of the laws of the various states so you can have a feel for what the other states have done in this area.

I request your assistance in correcting this impediment in the Alaska law. Attached is my proposal which would allow any commissioned officer or commander of any military unit to take acknowledgements and sworn instruments. Commanders are included because at some of our remote installations a noncommissioned officer can be the commander.

Let me know if I can provide any more information or assistance in this matter. Any assistance you can provide will be appreciated.

Sincerely

  
WILLIAM B. WIRIN  
Colonel, USAF  
Staff Judge Advocate

2 Atch  
1. Summary of State Laws  
2. Proposed Law

COI. WILLIAM B. WIRIN  
STAFF JUDGE ADVOCATE  
ALASKAN AIR COMMAND  
ELMENDORF A.F.B.  
ALASKA 99506

## 19. — Exhaustion of administrative remedies

Requirement that Army enlisted man, whose active duty enlistment had expired while he had been "lost" by the Army, stay at Army fort, at which he had requested discharge papers, pending processing did not constitute a "confinement" of such magnitude as to warrant habeas corpus relief, in nature of order excusing him from any confinement or duty that regulations or Army practice would otherwise impose, pending exhaustion of administrative remedies; to grant such relief as "pendent" to proceedings, basic thrust of which was premature, could only place a premium on premature litigation, an unwarranted burden on the Army as well as on the courts. *Emma v. Armstrong*, C.A.Mass. 1973, 473 F.2d 656. Certiorari denied 94 S.Ct. 87, 414 U.S. 870, 38 L.Ed.2d 88.

Until his status was formally changed, Army enlisted man, whose four-year active enlistment had expired during time he was "lost" by the Army, should have reported, as requested, to Fort Devens, Massachusetts, at which he had requested discharge papers, to stay pending initial determination by the Army whether he was truthful in disclaiming knowledge of orders to report to Fort Bliss, Texas, following expiration of one month's leave in Rhode Island, and whether by twice contacting recruiting station, he had acted reasonably thereafter; such request was not outside the Army's powers; thus, enlisted man, who sought discharge by way of habeas corpus, had not exhausted Army administrative remedies. *Id.*

Serviceman alleging that he had wrongly been required to make up lost time was not barred from resort to habeas corpus for failure to exhaust administrative remedies, in not appealing to Board for Correction of Army Records, where similar kinds of cases were infrequent, where it was unlikely that favorable recommendation by Board would be followed, where serviceman's extended service time was near termination, where issues involved were

essentially legal, involving statutory interpretation, and where decision was explicitly restricted to the facts involved. *Beaty v. Keenan*, C.A.Cal.1969, 420 F.2d 55.

Where petitioner knew that a sergeant of special processing detachment was investigating his absence from assigned base and therefore had reason to believe that decision to extend his estimated termination of service was to be made by commanding officer of special processing detachment and petitioner could have applied to commanding officer to oppose extension of estimated termination of service date, Inspector General's erroneously advising him that the termination had been extended by post custodian of records did not entitle petitioner to writ of habeas corpus. *U.S. ex rel. Gaston v. Cassidy*, D.C.N.Y.1969, 296 F.Supp. 386.

Soldier, who, after being found guilty of absence without leave for period extending beyond date of expiration of his period of enlistment, was required to serve balance of enlistment period, under this section, authorized by Army to add to soldier's term of enlistment so-called "bad time", was not entitled to habeas corpus release upon claim that he had been denied procedural due process in Army's refusal to consider his good faith belief that he had been discharged, in absence of his having availed himself of administrative appeal provided in such cases. *U.S. ex rel. Parsley v. Moses*, D.C.N.J.1956, 138 F.Supp. 799.

## 20. Subrogation

Former sections 629 and 847a of this title, former section 751 et seq. of Title 5 and former section 421 et seq. of Title 38 indicate that Congress did not intend that, for tortious injuries to soldier in time of war, the government should be subrogated to the soldier's claim for damages. *Standard Oil Co. of Cal. v. U.S.*, C.C.A.Cal.1946, 153 F.2d 958, affirmed 67 S.Ct. 1604, 332 U.S. 301, 91 L.Ed. 2067.

## § 973. Duties: officers on active duty; performance of civil functions restricted

(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b) Except as otherwise provided by law, no regular officer of an armed force on active duty may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The

acceptance of such a civil office or the exercise of such a civil office terminates his military appointment.

(Added Pub.L. 90-235, § 4(a)(5)(A), Jan. 2, 1968, 81 Stat. 1065; Pub.L. 96-513, Title I, § 116, Dec. 12, 1980, 94 Stat. 2878.)

## Historical Note

1980 Amendment. Pub.L. 96-513, § 116(c), substituted "officers on active duty" for "regular officers" in the catchline. *Effectiveness* 15, 1981, b

Subsec. (a). Pub.L. 96-513, § 116(a), substituted "of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard". *Effectiveness* 701 of Pub. Date of 198 101 of this

Subsec. (b). Pub.L. 96-513, § 116(b), substituted "regular officer of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard". *Legislativ and purpos Code Cong also, Publ and Adm.N*

## Cross References

Performance of duties of Secretaries of Air Force, Army, or Navy, or of a civil office within meaning of this section—  
Chief of Staff or Air Force officers, see section 8017 of this title.  
Chief of Staff or Army officers, see section 3017 of this title.  
Chief of Naval Operations, Vice Chief of Naval Operations, or other officers, see section 5036 of this title.  
Reduction in retired or retirement pay during term of employment, see section 5306 of this title.  
Government Organization and Employees.

## Library References

Armed Services  $\Rightarrow$  15. C.J.S. Army

## Notes of Decisions

Civil office 1  
Persons entitled to maintain action 2

## 1. Civil office

Term "civil office" as used in this section providing that no officer on active list of armed forces may hold civil office by election or appointment does not include commission as state notary public; military appointment of Navy lieutenant was therefore not terminated when he accepted appointment as California notary public. *Riddle v. Warner*, C.A.Cal.1975, 522 F.2d 882.

## 2. Persons entitled to maintain action

Plaintiff could not successfully claim standing to sue on basis of his status as a citizen in action challenging legality of defendant serving simultaneously as an assistant to President of the United States and as an officer of

essentially legal, involving statutory interpretation, and where decision was explicitly restricted to the facts involved. *Beaty v. Keenan*, C.A.Cal.1969, 420 F.2d 55.

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#### Officers on active duty; performance of civil duties

Force on active duty may accept employment if him to be separated from his organization, as with the performance of his military duties.

Provided by law, no regular officer of an armed force hold a civil office by election or appointment, states, a Territory or possession, or a State. The

acceptance of such a civil office or the exercise of its functions by such an officer terminates his military appointment.

(Added Pub.L. 90-235, § 4(a)(5)(A), Jan. 2, 1968 81 Stat. 759, and amended Pub.L. 96-513, Title I, § 116, Dec. 12, 1980, 94 Stat. 2878.)

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Subsec. (b). Pub.L. 96-513, § 116(b), substituted "regular officer of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

Effective Date of 1980 Amendment. Amendment by Pub.L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub.L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub.L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 90-235, see 1967 U.S. Code Cong. and Adm. News, p. 2635. See also, Pub.L. 96-513, 1980 U.S. Code Cong. and Adm. News, p. 6333.

#### Cross References

Performance of duties of Secretaries of Air Force, Army, or Navy not considered as holding civil office within meaning of this section—  
 Chief of Staff or Air Force officers, see section 8017 of this title.  
 Chief of Staff or Army officers, see section 3017 of this title.  
 Chief of Naval Operations, Vice Chief of Naval Operations, or Naval or Marine Corps officers, see section 5036 of this title.  
 Reduction in retired or retirement pay during term of employment, see section 5532 of Title 5, Government Organization and Employees

#### Library References

Armed Services  15.

C.J.S. Armed Services §§ 5, 28, 31, 33.

#### Notes of Decisions

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 Persons entitled to maintain action 2

##### 1. Civil office

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##### 2. Persons entitled to maintain action

Plaintiff could not successfully claim standing to sue on basis of his status as a citizen in action challenging legality of defendant serving simultaneously as an assistant to President of the United States and as an officer of

the Army holding the rank of General, since plaintiff did not rely on the precise self-operative provision of U.S.C.A. Const. Art. 1, § 6, cl. 2, seeking to maintain independence among governmental branches but rather on a congressional enactment seeking to guard against potential for undue influence. *Morrison v. Callaway*, D.C.D.C.1974, 369 F.Supp. 1160.

Plaintiff did not have standing as taxpayer to bring action challenging legality of defendant's simultaneous service as an assistant to the President of the United States and as an officer of the Army holding the rank of General under provision of this section stating that no officer on active list of regular Army may hold civil office under United States and that acceptance of civil office or exercise of its functions terminates military appointment. *Id.*