

1 **Chapter 127A.**

2 **Militia.**

3 **Article 1.**

4 **Classification of Militia.**

5 **§ 127A-1. Composition of militia.**

6 The militia of the State shall consist of all able-bodied citizens of the State and of the  
7 United States and all other able-bodied persons who have or shall declare their intention to  
8 become citizens of the United States, subject to the qualifications prescribed in this Chapter,  
9 who shall be drafted into the militia or shall voluntarily accept commission, appointment, or  
10 assignment to duty therein. (1917, c. 200, s. 1; C.S., s. 6791; 1949, c. 1130, s. 1; 1957, c. 1043,  
11 s. 1; 1963, c. 1016, s. 2; 1967, c. 563, s. 1; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

12  
13 **§ 127A-2. Classification of militia.**

14 The militia shall be divided into the organized and unorganized militia. The organized  
15 militia shall consist of four classes: the North Carolina National Guard, the naval militia, the  
16 State defense militia and historic military commands. (1975, c. 604, s. 2; 2009-281, s. 1.)

17  
18 **§ 127A-3. Organized militia; National Guard.**

19 The North Carolina National Guard, both Army and Air, shall consist of regularly  
20 commissioned, warrant and enlisted personnel within the age limits established by regulations  
21 promulgated by the secretary of the appropriate service and shall be organized, governed,  
22 armed, equipped and have the duties and responsibilities provided in this Chapter. (1917, c.  
23 200, s. 2; C.S., s. 6792; 1949, c. 1130, s. 1; 1957, c. 136, s. 1; 1961, c. 192, s. 1; 1963, c. 1016,  
24 s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

25  
26 **§ 127A-4. Organized militia; naval militia.**

27 The naval militia shall consist of regularly commissioned, warrant and enlisted personnel  
28 within the age limits established by regulations promulgated by the secretary of the appropriate  
29 service and shall be organized, governed, armed, equipped and have the duties and  
30 responsibilities provided in this Chapter. (1917, c. 200, s. 3; C.S., s. 6793; 1949, c. 1130, s. 1;  
31 1975, c. 604, s. 2; 2011-195, s. 1(a).)

32  
33 **§ 127A-5. Organized militia; State defense militia.**

34 The State defense militia shall consist of commissioned, warrant and enlisted personnel  
35 called, ordered, appointed or enlisted therein by the Governor under the provisions of Article 5  
36 of this Chapter and shall be organized, governed, armed, equipped and have the duties and  
37 responsibilities provided in this Chapter. (1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2011-195, s.  
38 1(a).)

39  
40 **§ 127A-6. Organized militia; historic military commands.**

41 Historic military commands are those historic groups which remain active by meeting at  
42 least once a month and which follow military procedures. Only groups designated by the  
43 Governor shall fall within this branch of the militia. Any maximum age limits prescribed by  
44 this Chapter do not apply to members of historic military commands. (1957, c. 1043, s. 2;  
45 1967, c. 563, s. 2; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

46  
47 **§ 127A-7. Composition of unorganized militia.**

48 The unorganized militia shall consist of all other able-bodied citizens of the State and of the  
49 United States and all other able-bodied persons who have or shall declare their intention to  
50 become citizens of the United States, who shall be at least 17 years of age, except those who  
51 have been convicted of a felony or discharged from any component of the military under other

1 than honorable conditions. (1917, c. 200, s. 4; C.S., s. 6794; 1949, c. 1130, s. 1; 1963, c. 1016,  
2 s. 2; 1975, c. 604, s. 2; 1983, c. 314, s. 1; 2011-195, s. 1(a).)

3  
4 **§ 127A-8. Exemptions from duty with the militia.**

5 The officers, judicial and executive, of the government of the United States and the State of  
6 North Carolina, persons in the military or naval service of the United States, customhouse  
7 clerks, persons employed by the United States in the transmission of mail, artificers and  
8 personnel employed in the armories, arsenals and navy yards of the United States, pilots, and  
9 mariners actually employed in the sea service of any citizen or merchant within the United  
10 States shall be exempt from duty with the militia without regard to age, and all persons who,  
11 because of religious beliefs, claim exemption from duty with the militia, if the conscientious  
12 holding of the belief by that person is established under the regulations prescribed for  
13 exemption from service with the Armed Forces of the United States, shall be exempted from  
14 militia service in a combatant capacity; but no person so exempted shall be exempt from militia  
15 service in any capacity that shall be declared noncombatant for the Armed Forces of the United  
16 States. (1917, c. 200, s. 5; C.S., s. 6795; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

17  
18 **§ 127A-9. Number of troops authorized.**

19 In time of peace the State shall maintain only those troops that are authorized by the  
20 President of the United States; but nothing contained in this Chapter shall be construed as  
21 limiting the rights of the State in the use of the North Carolina National Guard or the State  
22 defense militia or both within its borders in time of peace. Nothing contained in this Chapter  
23 shall prevent the organization and maintenance of State police or constabulary. (1917, c. 200,  
24 s. 8; C.S., s. 6797; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

25  
26 **§ 127A-10. Corps entitled to retain privileges.**

27 Any corps of artillery, cavalry, or infantry existing in the State on the passage of the act of  
28 Congress of May 8, 1792, which by the laws, customs, or usages of the State has been in  
29 continuous existence since the passage of that act, under its provisions and under the provisions  
30 of section 232 and sections 1625 to 1660, both inclusive, of Title 16 of the revised statutes of  
31 1873 and the act of Congress of January 21, 1903, relating to the militia, shall be allowed to  
32 retain its ancient privileges, subject, nevertheless, to all duties required by law of the militia;  
33 but these organizations may be a part of the North Carolina National Guard, and entitled to all  
34 the privileges of this Chapter, and shall conform in all respects to the organization, discipline,  
35 and training of the North Carolina National Guard in time of war. For purposes of training and  
36 when on active duty in the service of the United States they may be assigned to higher units, as  
37 the President may direct, and shall be subject to the orders of officers under whom they shall be  
38 serving. (1917, c. 200, s. 87; C.S., s. 6798; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s.  
39 1(a).)

40  
41 **§§ 127A-11 through 127A-15. Reserved for future codification purposes.**

42  
43 Article 2.

44 General Administrative Officers.

45 **§ 127A-16. Governor as commander in chief.**

46 (a) The Governor shall be commander in chief of the militia and shall have power to  
47 call out the militia to execute the laws, secure the safety of persons and property, suppress riots  
48 or insurrections, repel invasions and provide disaster relief.

49 (b) The Governor shall have the additional power, subject to the availability of funding,  
50 to place individuals, units, or parts of units of the North Carolina National Guard in a State  
51 Active Duty status to assist with the planning, support, and execution of activities connected

1 with the swearing in and installation of the Governor and other members of the Council of  
2 State. (1917, c. 200, s. 11; C.S., s. 6799; 1975, c. 604, s. 2; 1999-442, s. 1.)

3  
4 **§ 127A-17. Commander in chief to prescribe regulations.**

5 The commander in chief shall have the power and the duty, from time to time, to issue  
6 orders and to prescribe regulations relating to the organized and unorganized militia that are  
7 necessary for the militia at all times to conform to the federal requirements of the United States  
8 government relating thereto. (1917, c. 200, s. 36; C.S., s. 6800; 1963, c. 1016, s. 2; 1975, c.  
9 604, s. 2; 2011-195, s. 1(a).)

10  
11 **§ 127A-17.1. Confidentiality of National Guard records.**

12 Notwithstanding any provision of Chapter 143B of the General Statutes, no records of the  
13 North Carolina National Guard in the Department of Public Safety shall be disclosed or used  
14 for any purpose except for official purposes, and no records shall be disclosed, destroyed or  
15 used in any manner which is in violation of any existing federal law or regulation. Nothing in  
16 this Chapter shall convert records which are the property of the federal government into State  
17 property. (1977, c. 70, s. 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

18  
19 **§ 127A-18. Personal staff of Governor.**

20 The Governor may detail not more than 10 active North Carolina National Guard members  
21 and two active naval militia members who shall in addition to their regular duties, perform the  
22 duties of aides-de-camp on the personal staff of the Governor. (1917, c. 200, s. 12; C.S., s.  
23 6801; 1959, c. 218, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

24  
25 **§ 127A-19. Adjutant General.**

26 The military head of the militia shall be the Adjutant General who shall hold the rank of  
27 major general. The Adjutant General shall be appointed by the Governor in the Governor's  
28 capacity as commander in chief of the militia, in consultation with the Secretary of Public  
29 Safety, and shall serve at the pleasure of the Governor. No person shall be appointed as  
30 Adjutant General who has less than five years' commissioned service in an active status in any  
31 component of the Armed Forces of the United States. The Adjutant General, while holding this  
32 office, may be a member of the active North Carolina National Guard or naval militia.

33 Subject to the approval of the Governor and in consultation with the Secretary of Public  
34 Safety, the Adjutant General may appoint (i) a deputy adjutant general who may hold the rank  
35 of major general, and (ii) an assistant adjutant general for Army National Guard, and an  
36 assistant adjutant general for Air National Guard, each of whom may hold the rank of brigadier  
37 general and who shall serve at the pleasure of the Governor. The Adjutant General may also  
38 employ staff members and other personnel as authorized by the Secretary and funded. (1917, c.  
39 200, s. 14; C.S., s. 6802; 1925, c. 54; 1939, c. 14; 1949, c. 1225; 1959, c. 218, s. 2; 1973, c.  
40 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1979, c. 481; 1995, c. 122, s. 1; 2005-314, s. 1;  
41 2008-162, s. 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

42  
43 **§ 127A-20. Administrative and operational relationships of the Adjutant General.**

44 In all administrative and operational matters affecting the militia while under State control,  
45 the Adjutant General shall be responsible to and subject to the direction and supervision of the  
46 Secretary of Public Safety. (1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s.  
47 19.1(g).)

48  
49 **§ 127A-21. United States property and fiscal officer.**

50 (a) The Governor of the State, in consultation with the Secretary of Public Safety, shall  
51 appoint, designate, or detail, subject to the approval of the Secretary of the Army and the

1 Secretary of the Air Force, a qualified commissioned officer of the North Carolina National  
2 Guard who is also a commissioned officer of the Army National Guard of the United States or  
3 the Air National Guard of the United States, as the case may be, to be the United States  
4 property and fiscal officer for North Carolina. If the officer is not on active duty, the President  
5 may order the officer to active duty, with the officer's consent, to serve as a property and fiscal  
6 officer.

7 (b) The status of the United States property and fiscal officer is that of a reserve  
8 commissioned officer of the United States Army or Air Force, as appropriate, on extended  
9 active duty and detailed for duty with the National Guard Bureau for administrative purposes.  
10 In the officer's capacity as United States property and fiscal officer, the officer will function  
11 under the direction of and cooperate fully with the State Adjutant General.

12 (c) The assumption and performance of duties and responsibilities, pay and allowances,  
13 and other personnel actions to include retention and retirement of an officer appointed and  
14 serving as the United States property and fiscal officer will be governed by regulations  
15 promulgated by the National Guard Bureau or pursuant to regulations promulgated by the  
16 secretary of the appropriate service. (1975, c. 604, s. 2; 1977, c. 70, s. 2; 2009-281, s. 1;  
17 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

18  
19 **§ 127A-22. North Carolina property and fiscal officer.**

20 (a) Upon full mobilization of the North Carolina National Guard into federal service to  
21 the extent that the functions of a United States property and fiscal officer no longer exist or are  
22 authorized under federal statutes, the Governor of the State, in consultation with the Secretary  
23 of Public Safety, may appoint, designate or detail a qualified individual to serve at the pleasure  
24 of the Governor as the North Carolina property and fiscal officer for any composition of a  
25 nonfederally recognized State National Guard or State defense militia organized under the  
26 provisions of this Chapter.

27 (b) In consideration of the North Carolina property and fiscal officer's services for the  
28 responsibility, care, utilization, and issue of State or federal facilities and property, under the  
29 jurisdiction of the State of North Carolina, the officer shall receive from the State a just and  
30 proper salary as authorized by the Governor; the salary to constitute a charge upon  
31 appropriations made to the Department of Public Safety.

32 (c) The North Carolina property and fiscal officer shall be an employee of the  
33 Department of Public Safety. The officer shall be required to give good and sufficient bond to  
34 the State, the amount thereof to be determined by the Governor, for the faithful performance of  
35 duties and for the safekeeping and proper distribution of the funds and property entrusted to the  
36 officer's care. The officer shall receipt for and account for all funds and property allotted to the  
37 officer's custody from the appropriation for military purposes by State and federal agencies, and  
38 shall make returns and reports through the Secretary of Public Safety concerning the property  
39 and funds as required by the Governor or State laws. (1917, c. 200, ss. 24, 25; C.S., ss. 6804,  
40 6805; 1929, c. 317, s. 1; 1957, c. 136, s. 3; 1963, c. 1016, s. 2; 1973, c. 620, s. 9; 1975, c. 604,  
41 s. 2; 1977, c. 70, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

42  
43 **§ 127A-23. Commissions for commandants and officers at qualified educational**  
44 **institutions.**

45 The Governor of North Carolina is authorized to appoint and commission, as staff officers  
46 of the North Carolina unorganized militia, the officers of any university, college, academy or  
47 other educational institution which qualifies as provided in this section. Any university,  
48 college, academy or other educational institution shall be qualified under this section when the  
49 institution has been regularly incorporated under and by virtue of the laws of North Carolina;  
50 the institution, as a part of its courses of study, regularly teaches military science and tactics;  
51 the Department of Defense at Washington, D.C., has detailed an officer of the Armed Forces of

1 the United States as professor or assistant professor of military science and tactics; the  
2 institution has been designated as qualified by the secretary of the appropriate service and has  
3 been made a unit of the Senior or Junior Reserve Officers' Training Corps, or the institution,  
4 not having a unit of the Reserve Officers' Training Corps, has been approved and authorized by  
5 the Secretary of Defense to participate in the National Defense Cadet Corps Training Program  
6 or other military training programs under Title 10, United States Code, sections 3540 and 4651.

7 Any qualified institution desiring the appointment of officers in the North Carolina  
8 unorganized militia shall make application to the Governor setting forth all requisite facts as to  
9 its qualifications, the names of the persons to be commissioned, the rank desired for each, and  
10 the person's position at the institution. The application shall be signed by the chancellor,  
11 president, superintendent or other presiding official, under the seal of the institution. Upon  
12 receipt of the application, the Governor may appoint and commission the officers of a qualified  
13 institution as follows: the chancellor, president, superintendent or other presiding official, as  
14 colonel; the vice-president, principal or other officer second in authority, as major; the  
15 professors and members of the faculty, as captains. The persons so commissioned shall have no  
16 connection with the North Carolina National Guard or other military forces of the State, nor  
17 shall they exercise any military authority other than in the discharge of their duties at their  
18 respective institutions. The commissions issued under this section may be terminated at the will  
19 of the Governor. (1919, c. 265, ss. 1, 2, 3; C.S., s. 6812; 1929, c. 61, s. 1; 1963, c. 1095; 1973,  
20 c. 476, s. 128; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

21  
22 **§§ 127A-24 through 127A-28. Reserved for future codification purposes.**

23  
24 Article 3.  
25 National Guard.

26 **§ 127A-29. National Guard.**

27 The North Carolina National Guard class of the four classes of the organized militia as  
28 established under G.S. 127A-2 is hereby designated the "North Carolina National Guard."  
29 Those elements of the North Carolina National Guard which receive federal recognition by the  
30 United States government shall hold a dual status both as State troops and as a reserve  
31 component of the Armed Forces of the United States. In its federal status, the North Carolina  
32 National Guard shall be subject to federal laws and regulations pertaining thereto. The Adjutant  
33 General shall insure compliance with those federal laws and regulations and with all State laws  
34 and orders of the Governor not inconsistent with them. (1975, c. 604, s. 2; 2009-281, s. 1;  
35 2011-195, s. 1(a).)

36  
37 **§ 127A-30. Organization of National Guard units.**

38 Except as otherwise specifically provided by the laws of the United States, the organization  
39 of the North Carolina National Guard, including the composition of all its units, shall be the  
40 same as that which is or may hereafter be prescribed for the regular United States Army or Air  
41 Force subject in time of peace to general exceptions authorized by the Secretary of Defense.  
42 (1917, c. 200, s. 7; C.S., s. 6808; 1959, c. 218, s. 4; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195,  
43 s. 1(a).)

44  
45 **§ 127A-31. Location of units.**

46 The Governor shall determine and fix the location of the units and headquarters of the  
47 North Carolina National Guard within the State; but no organization of the North Carolina  
48 National Guard, members of which shall be entitled to and shall have received compensation  
49 under the provisions of the act of Congress approved June 3, 1916, as amended, shall be  
50 disbanded without the consent of the President, nor without that consent shall the  
51 commissioned or enlisted strength of any such organization be reduced below the minimum

1 that is now or shall be hereafter prescribed therefor by the President. (1917, c. 200, s. 9; C.S.,  
2 s. 6809; 1921, c. 120, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

3  
4 **§ 127A-32. Officers appointed and commissioned; oath of office.**

5 All officers of the North Carolina National Guard shall be appointed and commissioned by  
6 the Governor as follows, viz.:

- 7 (1) Except as otherwise specifically provided by the laws of the United States,  
8 the qualifications for appointment as an officer in the North Carolina  
9 National Guard shall be the same as those prescribed for the regular  
10 establishment, subject to general exceptions authorized by the Secretary of  
11 Defense.  
12 (2) Candidates for appointment shall make written application therefor on forms  
13 prescribed by the secretary of the appropriate service, to the Adjutant  
14 General, State of North Carolina, through command channels for comment  
15 by endorsements thereon.  
16 (3) No person shall hereafter be appointed an officer of the North Carolina  
17 National Guard unless the person has established to the satisfaction of a  
18 board of officers that person's physical, moral, and professional  
19 qualifications to perform the duties of the grade and position for which  
20 examined, subject to general exceptions authorized by the Secretary of  
21 Defense. The board shall consist of three or more commissioned officers of  
22 the appropriate service, appointed under regulations promulgated by the  
23 secretary of the appropriate service.  
24 (4) Candidates appointed as officers of the North Carolina National Guard shall  
25 take and subscribe to the following oath of office:

26 "I, (First Name – Middle Name – Last Name), do solemnly swear that I  
27 will support and defend the Constitution of the United States and the  
28 Constitution of the State of North Carolina against all enemies, foreign and  
29 domestic; that I will bear true faith and allegiance to the same; that I will  
30 obey orders of the President of the United States and of the Governor of the  
31 State of North Carolina; that I make this obligation freely, without any  
32 mental reservation or purpose of evasion, and that I will well and faithfully  
33 discharge the duties of the office of (Grade) (Branch) in the National Guard  
34 of the State of North Carolina upon which I am about to enter, so help me  
35 God." (1917, c. 200, s. 15; C.S., s. 6811; 1921, c. 120, s. 3; 1959, c. 218, s.  
36 5; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

37  
38 **§ 127A-33. Promotion of officers by seniority and in accordance with regulations.**

39 The promotion of all officers shall be by seniority as far as practicable and in the best  
40 interest of the service within the organization, and in accordance with regulations promulgated  
41 by the secretary of the appropriate service. (1917, c. 200, s. 17; C.S., s. 6814; 1921, c. 120, s.  
42 4; 1959, c. 218, s. 7; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

43  
44 **§ 127A-34. Relative rank among officers of same grade.**

45 Officers of the North Carolina National Guard in the same grade rank among themselves  
46 according to the date of rank established by regulations promulgated by the secretary of the  
47 appropriate service and the Adjutant General of the State of North Carolina. (1917, c. 200, s.  
48 19; C.S., s. 6816; 1921, c. 120, s. 5; 1927, c. 227, s. 1; 1959, c. 218, s. 8; 1961, c. 192, s. 2;  
49 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1.)

1 **§ 127A-35. Elimination and disposition of officers; efficiency board; transfer to inactive**  
2 **status.**

3 (a) Whenever the efficiency or general fitness, including physical fitness, of a North  
4 Carolina National Guard officer is in question, the Adjutant General, State of North Carolina,  
5 may order the officer to appear before an efficiency board to determine whether or not the  
6 appointment of the officer should be withdrawn. The efficiency board will be composed of not  
7 less than three commissioned officers, all senior in rank to the officer undergoing investigation.  
8 A member of the board serving in a legal or medical advisory capacity may be junior to any  
9 person, other than a judge advocate, law specialist, or medical officer being considered. The  
10 findings of an efficiency board are not final until reviewed and approved by the Secretary of  
11 Public Safety and the Governor of the State of North Carolina.

12 (b) Commissions of officers of the North Carolina National Guard may be vacated upon  
13 resignation, absence without leave for 30 days, pursuant to sentence of a court martial, or  
14 pursuant to regulations promulgated by the secretary of the appropriate service.

15 (c) Officers of the North Carolina National Guard may, upon their own request, be  
16 transferred to the inactive North Carolina National Guard, subject to exceptions authorized by  
17 the Adjutant General, State of North Carolina, or the Secretary of Defense. (1917, c. 200, s. 28;  
18 C.S., s. 6818; 1959, c. 218, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2009-281, s. 1; 2011-145,  
19 s. 19.1(g); 2011-195, s. 1(a).)  
20

21 **§ 127A-36. Retirement of officers.**

22 Retirement of officers shall be regulated so as to conform to federal laws and regulations of  
23 the United States relating to retirement of National Guard officers. (1917, c. 200, s. 29; C.S., s.  
24 6819; 1949, c. 1130, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1.)  
25

26 **§ 127A-37. Enlistments in National Guard; oath of enlistment.**

27 (a) Enlistments in the North Carolina National Guard shall be for the periods and  
28 subject to the qualifications as prescribed by the secretary of the appropriate service.

29 (b) Enlisted persons shall not be recognized as members of the North Carolina National  
30 Guard until they shall have subscribed to the following oath of enlistment:

31 "I do hereby acknowledge to have voluntarily enlisted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in  
32 the (Army) (Air) National Guard of the State of North Carolina and as a Reserve of the (Army)  
33 (Air Force) with membership in the (Army National Guard of the United States) (Air National  
34 Guard of the United States) for a period of (Years – Months – Days) under the conditions  
35 prescribed by law, unless sooner discharged by proper authority.

36 "I, (First Name – Middle Name – Last Name), do solemnly swear (or affirm) that I will  
37 support and defend the Constitution of the United States and of the State of North Carolina  
38 against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and  
39 that I will obey the orders of the President of the United States and the Governor of North  
40 Carolina and the orders of the officers appointed over me, according to law, regulations, and  
41 the Uniform Code of Military Justice, so help me God." (1917, c. 200, s. 30; C.S., s. 6820;  
42 1921, c. 120, s. 6; 1957, c. 136, s. 6; 1959, c. 218, s. 10; 1975, c. 604, s. 2; 1999, c. 456, s. 59;  
43 2009-281, s. 1; 2011-195, s. 1(a).)  
44

45 **§ 127A-38. Discharge of enlisted personnel.**

46 (a) Enlisted personnel discharged from service in the North Carolina National Guard  
47 shall receive a discharge in writing in the form and with the classification that is or shall be  
48 prescribed under regulations promulgated by the appropriate service.

49 (b) Discharges may be given prior to the expiration of terms of enlistment under  
50 regulations prescribed by the Adjutant General, State of North Carolina, or pursuant to

1 regulations promulgated by the secretary of the appropriate service. (1917, c. 200, s. 32; C.S.,  
2 s. 6822; 1959, c. 218, s. 12; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

3  
4 **§ 127A-39. Membership continued in the National Guard.**

5 When called or ordered into federal service and discharged therefrom, members shall  
6 continue their membership in the North Carolina National Guard until the expiration of their  
7 enlistment or appointment, unless sooner terminated by proper authority. (1921, c. 120, s. 8;  
8 C.S., s. 6822(a); 1959, c. 218, s. 13; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

9  
10 **§ 127A-40. Pensions for the members of the North Carolina National Guard.**

11 (a) Every member and former member of the North Carolina National Guard who  
12 meets the requirements of this section shall receive, commencing at age 60, a pension of  
13 ninety-five dollars (\$95.00) per month for 20 years' creditable military service with an  
14 additional nine dollars fifty cents (\$9.50) per month for each additional year of such service;  
15 provided, however, that the total pension shall not exceed one hundred ninety dollars (\$190.00)  
16 per month. The requirements for a pension are that each member shall:

- 17 (1) Have served and qualified for at least 20 years' creditable military service,  
18 including National Guard, reserve and active duty, under the same  
19 requirement specified for entitlement to retired pay for nonregular service  
20 under Chapter 67, Title 10, United States Code.  
21 (2) Have at least 15 years of the aforementioned service as a member of the  
22 North Carolina National Guard.  
23 (3) Have received an honorable discharge from the North Carolina National  
24 Guard.

25 (b) Payment to a retired member of the North Carolina National Guard under the  
26 provisions of this section will cease at the death of the individual and no payment will be made  
27 to beneficiaries or to the decedent's estate, except that the legal representative of a retired  
28 member who dies shall be entitled to a full check for the month in which the death occurred.

29 (c) No individual receiving retired pay as a result of length of service, age or physical  
30 disability retirement from any of the regular components of the Armed Forces of the United  
31 States will be eligible for benefits under this section.

32 (d) Nothing contained in this section shall preclude or in any way affect the benefits  
33 that an individual may be entitled to from State, federal or private retirement systems.

34 (e) Repealed by Session Laws 1989, c. 792, s. 2.3.

35 (f) The Secretary of Public Safety shall determine the eligibility of North Carolina  
36 National Guard members for the benefits provided in this section and shall certify those eligible  
37 to the State Treasurer. In addition, the Department of Public Safety shall, on and after July 1,  
38 1983, provide the Department of State Treasurer with an annual census population, by age and  
39 the number of years of creditable service, for all former members of the North Carolina  
40 National Guard in receipt of a pension as well as for all active members of the North Carolina  
41 National Guard who are not in receipt of a pension and who have seven and more years of  
42 creditable service. The Department of Public Safety shall also provide the State Treasurer a  
43 census population of all former members of the North Carolina National Guard who are not in  
44 receipt of a pension and who have 15 and more years of creditable service. The Department of  
45 State Treasurer shall make pension payments to those persons certified from the North Carolina  
46 National Guard Pension Fund, which shall include general fund appropriations made to the  
47 Department of State Treasurer. The Department of State Treasurer shall have performed an  
48 annual actuarial valuation of the fund and shall have the financial responsibility for maintaining  
49 the fund on a generally accepted actuarial basis. The Department of Public Safety shall provide  
50 the Department of State Treasurer with whatever assistance is required by the State Treasurer in  
51 carrying out the State Treasurer's financial responsibilities.

1 (g) The provisions of this section shall apply to any member or former member of the  
2 North Carolina National Guard who is qualified for the above retirements with eligibility  
3 commencing at age 60 or July 1, 1974, whichever is the later date.

4 (h) If, for any reason, the North Carolina National Guard Pension Fund shall be  
5 insufficient to pay in full any pension benefits, or other charges, then all benefits or payments  
6 shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue  
7 with respect to any amount by which a pension or benefit payment shall have been reduced.

8 (h1) Any member or former member of the North Carolina National Guard who is  
9 qualified for benefits under this section and who is a member of a domiciled employees' or  
10 retirees' association that has at least 2,000 members, the majority of whom are active or retired  
11 employees of the State or public school employees, may authorize, in writing, the periodic  
12 deduction from the member's retirement benefits a designated lump sum to be paid to the  
13 employees' or retirees' association. The authorization shall remain in effect until revoked by the  
14 member. A plan of deductions pursuant to this subsection shall become void if the employees'  
15 or retirees' association engages in collective bargaining with the State, any political subdivision  
16 of the State, or any local school administrative unit.

17 (i) Pensions for members of the North Carolina National Guard shall be subject to  
18 future legislative change or revision. (1973, c. 625, s. 1; c. 1241, ss. 1-3; 1975, c. 604, s. 2;  
19 1977, c. 70, s. 2; 1979, c. 870; 1983, c. 761, ss. 250, 251; 1989, c. 792, s. 2.3; 2002-126, s.  
20 6.4(g); 2005-276, s. 29.27; 2006-66, s. 22.20; 2007-323, s. 28.21A; 2009-66, s. 10; 2009-281, s.  
21 1; 2009-451, s. 26.21; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

#### 22 23 **§ 127A-41. Uniforms, arms and equipment.**

24 The North Carolina National Guard shall, as far as practicable, be uniformed, armed, and  
25 equipped with the same type of uniforms, arms and equipment as is or shall be provided for the  
26 appropriate regular service. (1917, c. 200, s. 37; C.S., s. 6824; 1959, c. 218, s. 15; 1975, c. 604,  
27 s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

#### 28 29 **§ 127A-41.1. Stay of legal and court proceedings because of State military service.**

30 At any stage of any legal proceeding in any court in which a person called into service of  
31 the State by the Governor is involved, either as plaintiff or defendant, during the period of  
32 service or within 60 days after the conclusion of the period of active service, all actions and  
33 proceedings:

- 34 (1) May be stayed by the court on its own motion; or  
35 (2) Shall be stayed on application by the member or by a person acting on behalf  
36 of the member, unless, in the opinion of the court, the ability of the plaintiff  
37 to prosecute the action or the defendant to conduct a defense is not  
38 materially affected by reason of the military service. (1997-153, s. 5;  
39 2011-195, s. 1(a).)

#### 40 41 **§ 127A-41.2. Operation of post exchanges.**

42 (a) The North Carolina National Guard is authorized to operate post exchanges.

43 (b) The North Carolina National Guard is authorized to enter into agreements with the  
44 Army & Air Force Exchange Service to operate post exchanges. (2007-60, s. 2; 2009-281, s.  
45 1.)

#### 46 47 **§ 127A-42. Distinguished Service Medal by Governor of North Carolina.**

48 There is hereby created the North Carolina Distinguished Service Medal which shall be of  
49 appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu  
50 thereof. This medal and appurtenances thereto shall be of a design approved by the Governor.  
51 Upon the recommendation of the Secretary of Public Safety and a board consisting of the

1 Adjutant General and all other general officers and officers assigned to authorized  
2 general-officer-grade vacancies of the North Carolina National Guard, the Governor is  
3 authorized to present the medal to any member or former member of the Armed Forces of the  
4 United States discharged under honorable conditions, who has distinguished himself or herself  
5 by exceptionally meritorious conduct in the performance of outstanding service to the North  
6 Carolina National Guard. The Governor, on the Governor's own authority, may award the  
7 medal to the Secretary of Public Safety, the Adjutant General, or any other active or inactive  
8 general officer or flag officer of the Armed Forces of the United States who has distinguished  
9 himself or herself by especially meritorious conduct in the performance of his or her duties.  
10 (1955, c. 255, s. 2; 1963, c. 1016, s. 2; 1973, c. 1124; 1975, c. 604, s. 2; 1977, c. 230, s. 1;  
11 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)  
12

13 **§ 127A-43. North Carolina National Guard Meritorious Service Medal.**

14 There is hereby created the North Carolina National Guard Meritorious Service Medal  
15 which shall be of appropriate design, and a ribbon, together with a rosette or other device to be  
16 worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the  
17 Governor or the Governor's designee. The Governor or the Governor's designee is authorized to  
18 award this medal upon the recommendation of the Secretary of Public Safety in consultation  
19 with the Adjutant General and a board of officers appointed by the Adjutant General. Any  
20 member or former member of the Armed Forces of the United States discharged under  
21 honorable conditions, who has distinguished himself or herself by heroism, meritorious  
22 achievement, or meritorious service to the North Carolina National Guard, is eligible for this  
23 award. The Governor, on the Governor's own authority, may award the medal to the Secretary  
24 of Public Safety, the Adjutant General or any other active or inactive general officer or flag  
25 officer of the Armed Forces of the United States who has distinguished himself or herself by  
26 heroism, meritorious achievement, or meritorious service to the North Carolina National Guard.  
27 The required heroism, achievement, or service, while of a lesser degree than that required for  
28 awarding of the North Carolina Distinguished Service Medal, must nevertheless be  
29 accomplished with distinction. (1973, c. 966, s. 1; 1975, c. 604, s. 2; 1977, c. 230, s. 2;  
30 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)  
31

32 **§ 127A-44. North Carolina National Guard Commendation Medal.**

33 There is hereby created the North Carolina National Guard Commendation Medal which  
34 shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn  
35 in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the  
36 Governor or the Governor's designee. The Adjutant General of North Carolina or the Adjutant  
37 General's designee, who shall not be below the rank of colonel (O-6), may award this medal.  
38 Any member or former member of the Armed Forces of the United States discharged under  
39 honorable conditions, who distinguishes himself or herself by example or the performance of a  
40 specific act in behalf of the North Carolina National Guard, is eligible for this award. (1975, c.  
41 604, s. 2; 1977, c. 230, s. 3; 1991, c. 367, s. 2; 2011-195, s. 1(a).)  
42

43 **§ 127A-44.1. North Carolina National Guard Achievement Medal.**

44 There is hereby created the North Carolina National Guard Achievement Medal which shall  
45 be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu  
46 thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or  
47 the Governor's designee. The Adjutant General of North Carolina or the Adjutant General's  
48 designee, who shall not be below the rank of lieutenant colonel (O-5), may award this medal.  
49 Any member or former member of the Armed Forces of the United States discharged under  
50 honorable conditions, who distinguishes himself or herself by example or the performance of a

1 specific act in behalf of the North Carolina National Guard, is eligible for this award. (1991, c.  
2 367, s. 3; 2011-195, s. 1(a).)

3  
4 **§ 127A-45. North Carolina National Guard State Active Duty Award.**

5 There is hereby created the North Carolina National Guard State Active Duty Award which  
6 shall be a ribbon of appropriate design. This ribbon and appurtenances thereto shall be of a  
7 design approved by the Governor or the Governor's designee. The Adjutant General of North  
8 Carolina may present this ribbon to members of the North Carolina National Guard who, by  
9 order of the Governor, satisfactorily serve a tour of State active duty. To be worthy of this  
10 award, the nature of the tour of State active duty must have been a distinct and notable service  
11 to the State or to a community, as determined by the Adjutant General of North Carolina. On or  
12 after July 1, 1991, this award may also be presented to active guard personnel and reserve  
13 personnel who satisfactorily participate in tours of State active duty. (1973, c. 966, s. 2; 1975,  
14 c. 604, s. 2; 1991, c. 367, s. 1; 2011-195, s. 1(a).)

15  
16 **§ 127A-45.1. North Carolina National Guard Governor's Unit Citation.**

17 There is hereby created the North Carolina National Guard Governor's Unit Citation which  
18 shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by  
19 the Governor or the Governor's designee. The Governor or the Governor's designee is  
20 authorized to present the unit citation, upon recommendation of the Adjutant General, subject  
21 to the approval of the Secretary, to any unit of North Carolina National Guard distinguishing  
22 itself by extraordinary heroism or meritorious service while in a State active duty status. The  
23 unit must display such gallantry, determination, and esprit de corps in accomplishing its  
24 mission under conditions which set it apart and above other units. (1977, c. 229, s. 1;  
25 2009-281, s. 1; 2011-195, s. 1(a).)

26  
27 **§ 127A-45.2. North Carolina National Guard Meritorious Unit Citation.**

28 There is hereby created the North Carolina National Guard Meritorious Unit Citation which  
29 shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by  
30 the Governor or the Governor's designee. The Adjutant General is authorized to present this  
31 citation to any unit of the North Carolina National Guard distinguishing itself through heroism  
32 or meritorious service to the State of North Carolina. The required heroism or meritorious  
33 service, while of a lesser degree than that required for the award of the North Carolina National  
34 Guard Governor's Unit Citation, must nevertheless have been accomplished with distinction.  
35 (1977, c. 229, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

36  
37 **§ 127A-45.2A. North Carolina National Guard Outstanding Unit Award.**

38 There is hereby created the North Carolina National Guard Outstanding Unit Award which  
39 shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by  
40 the Governor or the Governor's designee. The Adjutant General may present this citation to any  
41 unit of the North Carolina National Guard distinguishing itself through meritorious  
42 achievement or service to the State of North Carolina. The required meritorious service, while  
43 of a lesser degree than that required for the award of the North Carolina National Guard  
44 Meritorious Unit Citation, must nevertheless have been accomplished with distinction. (1991,  
45 c. 367, s. 4; 2011-195, s. 1(a).)

46  
47 **§ 127A-45.3. North Carolina National Guard Distinguished Civilian Service Medal.**

48 There is hereby created the North Carolina National Guard Distinguished Civilian Service  
49 Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof,  
50 and citation certificate, of a design approved by the Governor or the Governor's designee. The  
51 Governor or the Governor's designee is authorized to award this medal upon the

1 recommendation of the Adjutant General of North Carolina and a board of officers and  
2 noncommissioned officers appointed by the Adjutant General, to United States citizens and  
3 governmental officials at the policy development level who render distinguished service to the  
4 North Carolina National Guard. (1977, c. 796; 2009-281, s. 1; 2011-195, s. 1(a).)

5  
6 **§ 127A-45.4. North Carolina National Guard Outstanding Civilian Service Medal.**

7 There is hereby created the North Carolina National Guard Outstanding Civilian Service  
8 Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof,  
9 and citation certificate, of a design approved by the Governor or the Governor's designee. The  
10 Adjutant General of North Carolina is authorized to award this medal upon the  
11 recommendation of a board of officers and noncommissioned officers, appointed by the  
12 Adjutant General, to United States citizens and governmental officials who render outstanding  
13 service to the North Carolina National Guard. (1977, c. 796; 2009-281, s. 1; 2011-195, s. 1(a).)

14  
15 **§ 127A-45.5. North Carolina National Guard Meritorious Civilian Service Award.**

16 There is hereby created the North Carolina National Guard Meritorious Civilian Service  
17 Award which shall consist of a certificate of a design approved by the Governor or the  
18 Governor's designee. The Adjutant General of North Carolina or the Adjutant General's  
19 designee, who shall not be below the grade of general officer, is authorized to confer this  
20 award. This award may be granted to individuals, organizations, corporations, associations and  
21 other groups, making a substantial contribution to the North Carolina National Guard. (1977, c.  
22 796; 2009-281, s. 1; 2011-195, s. 1(a).)

23  
24 **§ 127A-45.5A. Other awards.**

25 The Adjutant General may, from time to time, create other awards and medals to recognize  
26 meritorious service or outstanding achievement. The creation of the awards and medals shall be  
27 approved by the Governor. The Governor or the Governor's designee shall approve the design  
28 of the awards and medals. (1991, c. 367, s. 5; 2011-195, s. 1(a).)

29  
30 **§ 127A-46. Authority to wear medals, ribbons and other awards.**

31 The Adjutant General may prescribe those medals, ribbons and other awards and  
32 decorations that may be worn by members of the militia, not inconsistent with regulations of  
33 the respective Armed Forces of the United States. (1939, c. 344; 1959, c. 218, s. 16; 1967, c.  
34 563, s. 4; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

35  
36 **§ 127A-47. Courts-martial for National Guard.**

37 Courts-martial for military personnel of the North Carolina National Guard not in the  
38 service of the United States shall be of three kinds, namely, general courts-martial, special  
39 courts-martial, and summary courts-martial. They shall be constituted, have cognizance of the  
40 same subjects, and possess like powers as similar courts provided for by the Uniform Code of  
41 Military Justice and Manual for Courts-Martial, United States. The proceedings of  
42 courts-martial of the North Carolina National Guard shall follow the forms and modes of  
43 procedure prescribed for such similar courts. (1917, c. 200, s. 55; C.S., s. 6825; 1963, c. 1018,  
44 s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 1; 2011-195, s. 1(a).)

45  
46 **§ 127A-48. General courts-martial.**

47 General courts-martial for military personnel of the North Carolina National Guard not in  
48 the service of the United States may be convened by orders of the Governor of the State or of  
49 the Adjutant General, and these courts shall have the power to impose punishments in like  
50 manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for  
51 Courts-Martial, United States, as shall be in use by the Armed Forces of the United States at the

1 time of the offense, except that (i) no court shall have the authority to impose confinement as  
2 part of the sentence unless the court consisted of a military judge and not less than five  
3 members, except that a defendant who requests a military judge alone may be sentenced to  
4 confinement, and (ii) no court shall have the authority to impose confinement in excess of one  
5 year and one day as part of a sentence. (1917, c. 200, s. 56; C.S., s. 6826; 1957, c. 136, s. 7;  
6 1963, c. 1018, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 2; 2011-195, s. 1(a).)

7  
8 **§ 127A-49. Special courts-martial; appointments, power and authority.**

9 In the North Carolina National Guard, not in the service of the United States, special  
10 courts-martial may be appointed by any of the following:

- 11 (1) The commander of a brigade, regiment, comparable or higher command of  
12 the North Carolina Army National Guard, provided that the commander is a  
13 general officer.
- 14 (2) The commander of a wing, group, separate squadron, comparable or higher  
15 command of the North Carolina Air National Guard, provided that the  
16 commander is a general officer.
- 17 (3) The commander or officer in charge of any North Carolina National Guard  
18 command when empowered by the Governor or the Adjutant General of  
19 North Carolina, provided that the commander or officer is a general officer.

20 Except as to commissioned officers, special courts-martial shall have the power and  
21 authority to try any person subject to military law for any crimes or offenses within the  
22 jurisdiction of a general military court. Special courts-martial shall have the power to impose  
23 punishments in like manner and to the extent prescribed by the Uniform Code of Military  
24 Justice and Manual for Courts-Martial, United States, as shall be in use by the Armed Forces of  
25 the United States at the time of the offense, except that (i) no court shall have the authority to  
26 impose confinement as part of the sentence unless the court consisted of a military judge and  
27 not less than three members except that a defendant who requests a military judge alone may be  
28 sentenced to confinement, and (ii) no court shall have the authority to impose confinement in  
29 excess of six months as part of a sentence. (1917, c. 200, s. 57; C.S., s. 6827; 1957, c. 136, s. 8;  
30 1963, c. 1018, s. 3; 1973, c. 1123; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 3; 2011-195,  
31 s. 1(a).)

32  
33 **§ 127A-50. Summary courts-martial.**

34 In the North Carolina National Guard, not in the service of the United States, summary  
35 courts-martial may be appointed by any of the following:

- 36 (1) Any person who may convene a general or special court-martial.
- 37 (2) The commander of a battalion, comparable or higher command of the North  
38 Carolina Army National Guard, provided that the commander is an officer of  
39 the grade of major or above.
- 40 (3) The commander of a detached squadron, comparable or higher command of  
41 the North Carolina Air National Guard, provided that the commander is an  
42 officer of the grade of major or above.

43 The court shall consist of one officer who shall have the power to administer oaths and try  
44 enlisted personnel of each respective command for breaches of discipline and violations of laws  
45 governing those organizations. These courts shall also have the power to impose punishments  
46 in like manner and to the extent prescribed by the Uniform Code of Military Justice and  
47 Manual for Courts-Martial, United States, as shall be in use by the Armed Forces of the United  
48 States at the time of the offense, except that no court shall have the authority to impose  
49 confinement as part of a sentence. There shall be no right to demand trial by court-martial.  
50 (1917, c. 200, s. 58; C.S., s. 6828; 1957, c. 136, s. 9; 1963, c. 1018, s. 4; 1975, c. 604, s. 2;  
51 1983, c. 315, s. 1; 2009-281, s. 1; 2010-193, s. 4; 2011-195, s. 1(a).)

1  
2 **§ 127A-50.1. Military judges.**

3 The Adjutant General shall appoint military judges to preside over courts-martial of the  
4 North Carolina National Guard not in federal service. Minimum requirements for appointment  
5 as a military judge are:

- 6 (1) Certification as a military judge by the Judge Advocate General of the  
7 United States Army, Air Force, Navy, Marines, or Coast Guard.  
8 (2) Designation as a judge advocate by the Judge Advocate General of the  
9 United States Army, Navy, Air Force, Marines, or Coast Guard.  
10 (3) Membership in the North Carolina National Guard, the National Guard of  
11 another state, or the active or reserve components of the Armed Forces of the  
12 United States. (1987, c. 649, s. 1; 2010-193, s. 5; 2011-195, s. 1(a).)  
13

14 **§ 127A-51. Nonjudicial punishment.**

15 Any commander of the North Carolina National Guard, not in the service of the United  
16 States, may, in addition to or in lieu of admonition or reprimand, impose nonjudicial  
17 punishment in like manner and to the extent prescribed by Article 15 of the Uniform Code of  
18 Military Justice and Manual for Courts-Martial, United States, as shall be currently in use by  
19 the Armed Forces of the United States except that there shall be no right to demand trial by  
20 court-martial. (1957, c. 136, s. 10; 1975, c. 604, s. 2; 1983, c. 315, s. 2; c. 316, s. 1; 2009-281,  
21 s. 1; 2010-193, s. 6; 2011-195, s. 1(a).)  
22

23 **§ 127A-52. Jurisdiction of courts-martial.**

24 The jurisdiction of courts-martial of the North Carolina National Guard, not in the service  
25 of the United States, shall be as prescribed by the Manual for Courts-Martial, United States, as  
26 shall be currently in use by the Armed Forces of the United States. Such courts-martial shall  
27 have jurisdiction to try accused persons for offenses committed while serving without the State  
28 and while going to and returning from service without the State in like manner and to the same  
29 extent as while serving within the State. (1957, c. 136, s. 10; 1975, c. 604, s. 2; 1983, c. 316, s.  
30 2; 2009-281, s. 1; 2010-193, s. 7; 2011-195, s. 1(a).)  
31

32 **§ 127A-53. Manual for Courts-Martial.**

33 Trials and proceedings by all courts and boards shall be in accordance with the Manual for  
34 Courts-Martial, United States, as shall be currently in use by the Armed Forces of the United  
35 States, except as modified by this Chapter. (1917, c. 200, s. 64; C.S., s. 6831; 1957, c. 136, s.  
36 14; 1975, c. 604, s. 2; 1983, c. 316, s. 3; 2010-193, s. 8; 2011-195, s. 1(a).)  
37

38 **§ 127A-54. Pretrial confinement; sentences; where executed.**

39 (a) A defendant may be arrested and placed under pretrial confinement in a local  
40 government confinement facility, but a determination shall be made under subsection (b) of this  
41 section whether he or she shall remain confined pending the court-martial. If the defendant is  
42 not released from confinement, he or she shall be transferred into the custody of the Sheriff of  
43 Wake County and confined in the Wake County confinement facility pending trial. All costs of  
44 transportation and confinement are to be paid from funds appropriated to the Department of  
45 Public Safety as reimbursements to the local government or agency providing the transportation  
46 and confinement.

47 (b) The provisions of Article 26 of Chapter 15A of the General Statutes shall apply to  
48 any defendant who has been placed into pretrial confinement, in the same manner as if the  
49 defendant had been placed into confinement for an alleged violation of the criminal laws of this  
50 State. Nothing in this section is intended to abridge the right of habeas corpus.

1 (c) Any defendant whose sentence by a military court includes confinement shall be  
2 placed into the custody of the Division of Adult Correction of the Department of Public Safety.  
3 The Division of Adult Correction of the Department of Public Safety is authorized to transfer  
4 physical custody of the defendant to a local confinement facility. (1917, c. 200, s. 61; C.S., s.  
5 6832; 1975, c. 604, s. 2; 2010-193, s. 9; 2011-145, s. 19.1(g), (h).)

6  
7 **§ 127A-55. Forms for courts-martial procedure.**

8 In the North Carolina National Guard, not in the service of the United States, forms for  
9 courts-martial procedure shall be substantially as those set forth in the Appendices, Manual for  
10 Courts-Martial, United States, as shall be currently in use by the Armed Forces of the United  
11 States, with any modifications required by this Chapter. (1957, c. 136, s. 13; 1975, c. 604, s. 2;  
12 1983, c. 316, s. 4; 2009-281, s. 1; 2010-193, s. 10; 2011-195, s. 1(a).)

13  
14 **§ 127A-56. Powers of courts-martial.**

15 In the North Carolina National Guard, not in the service of the United States, presidents of  
16 courts-martial and summary court officers shall have power to issue warrants to arrest an  
17 accused person and to bring the person before a court for trial whenever the person has  
18 disobeyed an order in writing from the convening authority to appear before the court, a copy  
19 of the charge or charges having been delivered to the accused with the order, and to issue  
20 subpoenas and subpoenas duces tecum, and to enforce by attachment attendance of witnesses  
21 and the production of books, papers, records and other articles subject to a subpoena duces  
22 tecum, and to sentence for a refusal to be sworn or to answer as provided in actions before civil  
23 courts. The presiding officer shall also have power to punish for contempt occurring in the  
24 presence of the court. (1917, c. 200, s. 60; C.S., s. 6830; 1957, c. 136, s. 12; 1975, c. 604, s. 2;  
25 1983, c. 316, s. 5; 2009-281, s. 1; 2010-193, s. 11; 2011-195, s. 1(a).)

26  
27 **§ 127A-57. Execution of processes and sentences.**

28 All warrants and other processes authorized by this Chapter and sentences of any of the  
29 military courts of this State shall be executed by any sheriff, deputy sheriff, or State or local  
30 law enforcement officer into whose hands they may be placed for service or execution, and the  
31 officer shall make return thereof to the officer issuing or imposing the same. The service or  
32 execution of process or sentence shall be made by the officer without tender or advancement of  
33 fee therefor; but all costs in these cases shall be paid from funds appropriated to the Department  
34 of Public Safety. (1917, c. 200, s. 62; C.S., s. 6833; 1973, c. 108, s. 80; 1975, c. 604, s. 2;  
35 2010-193, s. 12; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

36  
37 **§ 127A-58:** Repealed by Session Laws 2010-193, s. 13, effective December 1, 2010.

38  
39 **§ 127A-59. (See note for contingency) Sentences.**

40 When any sentence to fine or imprisonment is imposed by any military court of this State, it  
41 shall be the duty of the military judge, president of the court, or summary court officer, upon  
42 the approval of the court's findings and sentence, to make out and sign a certificate entitling the  
43 case, giving the name of the accused, the date and place of trial, the date of approval of  
44 sentence, and the terms of the sentence. The trial counsel shall deliver the certificate to the  
45 Clerk of the Superior Court of Wake County, and it shall thereupon be the duty of the clerk to  
46 take the actions necessary to carry the sentence into execution in the same manner as prescribed  
47 by law for the collection of fines, or commitment to service of terms of imprisonment, in  
48 criminal cases determined in the courts of this State. The Administrative Office of the Courts  
49 shall ensure that the State's criminal history records include pertinent information relating to a  
50 court-martial under this Chapter in a like manner as a comparable offense under the State's

1 criminal laws would be recorded. (1917, c. 200, s. 63; C.S., s. 6834; 1973, c. 108, s. 81; 1975,  
2 c. 604, s. 2; 2010-193, s. 14; 2011-195, s. 1(a).)

3  
4 **§ 127A-60. Approval of sentence.**

5 No sentence imposed by a special or general court-martial of the North Carolina National  
6 Guard, not in the service of the United States, shall be executed until approved by the  
7 Governor. Any officer convicted by a general court-martial and dismissed from the service  
8 shall be forever disqualified from holding a commission in the militia. (1917, c. 200, s. 65;  
9 C.S., s. 6835; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 15; 2011-195, s. 1(a).)

10  
11 **§ 127A-61. Disposition of fines.**

12 Fines imposed by courts-martial under this Chapter shall be disposed of as prescribed in  
13 Article IX, Sec. 7, of the Constitution of North Carolina. (1975, c. 604, s. 2.)

14  
15 **§ 127A-62. Appeals; discretionary review.**

16 (a) Jurisdiction. – Court-martial judgments which include a sentence to confinement  
17 shall have a right of appeal to the Wake County Superior Court. The provisions of G.S.  
18 15A-1451 shall apply to appeals under this section.

19 (b) Filing and Service. – An appeal under this section must be made in writing and filed  
20 with the Clerk of Superior Court of Wake County within 10 days after the approval of the  
21 sentence by the Governor. A copy of the petition shall be filed with the military court and the  
22 military trial counsel of record. For the purposes of a filing fee, the appeal shall be treated as an  
23 administrative appeal to the Superior Court.

24 (c) Assertion of Errors. – All errors, including, but not limited to, the following, must  
25 be asserted or shall be deemed waived:

26 (1) Any error of law, including the following:

- 27 a. The court erroneously failed to dismiss the charge prior to the  
28 court-martial.  
29 b. The court's ruling was contrary to law with regard to motions made  
30 before or during the trial or with regard to the admission or exclusion  
31 of evidence.  
32 c. The evidence, at the close of all the evidence, was insufficient to  
33 justify submission of the case to the court-martial panel, whether or  
34 not a motion so asserting was made before verdict.  
35 d. The court erroneously instructed the court-martial panel.

36 (2) The verdict is contrary to the weight of the evidence.

37 (3) For any other cause, the defendant did not receive a fair and impartial trial.

38 (d) Appointment of Superior Court Judge. – The appeal shall be heard by a judge  
39 assigned by the Chief Justice of the North Carolina Supreme Court, to be heard at a session of  
40 the Wake County Superior Court designated by the Chief Justice.

41 (e) Applicable Law. – The presiding judge, in determining whether there were errors,  
42 shall apply the law as provided for trial by courts-martial under this Article.

43 (f) Setting Aside of Findings or Sentence. – The findings or sentence, or both, may be  
44 modified or set aside, in whole or in part, by the court on the ground of newly discovered  
45 evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error  
46 prejudicial to the substantial rights of the accused.

47 (g) Hearings and Rehearings. – The court may remand the matter to the court-martial  
48 for evidentiary hearings or other proceedings, to be conducted by a military judge alone, that it  
49 deems necessary prior to the court's final disposition of the case. If the court sets aside the  
50 findings or sentence, the court may, except when the setting aside is based on lack of sufficient  
51 evidence in the record to support the findings, order a rehearing. If the court sets aside the

1 findings and sentence and does not order a rehearing, the court shall dismiss the charges. If the  
2 court orders a rehearing, but the convening authority finds a rehearing impractical, the  
3 convening authority shall dismiss the charges.

4 (h) Counsel. –

5 (1) The Staff Judge Advocate of the North Carolina National Guard shall:

6 a. Designate a judge advocate who is qualified and certified under  
7 Article 27(b) of the Uniform Code of Military Justice, and who is a  
8 member of the North Carolina Bar, to represent the defendant.

9 b. Designate a judge advocate who is qualified and certified under  
10 Article 27(b) of the Uniform Code of Military Justice, and who is a  
11 member of the North Carolina Bar, to represent the State.

12 (2) The counsel designated to represent the defendant under sub-subdivision a.  
13 of subdivision (1) of this subsection shall not be the counsel who represented  
14 the defendant at the court-martial.

15 (3) Where a defendant alleges ineffective assistance of prior counsel as a ground  
16 for relief, the defendant shall be deemed to waive the attorney-client  
17 privilege with respect to both oral and written communications between the  
18 defendant and the prior counsel to the extent the defendant's prior counsel  
19 reasonably believes the communications are necessary to defend against the  
20 allegations of ineffectiveness. This waiver of the attorney-client privilege  
21 shall be automatic upon the filing of the pleadings alleging ineffective  
22 assistance of prior counsel, and the Wake County Superior Court need not  
23 enter an order waiving the privilege.

24 (4) The Adjutant General, upon the recommendation of the Staff Judge  
25 Advocate, shall place the designated judge advocates described in this  
26 subsection onto State active duty for the periods of time necessary for either  
27 counsel to provide adequate representation to the respective parties, if  
28 regularly scheduled unit training periods are insufficient. The Staff Judge  
29 Advocate shall verify to the Adjutant General whether any such additional  
30 periods of time are necessary.

31 (i) Discretionary Review. – Review of decisions by the Wake County Superior Court  
32 shall be pursuant to G.S. 7A-31.1.

33 (j) The rules for practice and procedure for review of courts-martial by the Wake  
34 County Superior Court shall be consistent with those prescribed for review of administrative  
35 appeals by the Superior Court, except as modified by this section. (2010-193, s. 16; 2011-195,  
36 s. 1(a).)

37  
38 **§ 127A-63. Reserved for future codification purposes.**

39  
40 **§ 127A-64. Availability of resources for National Guard Family Assistance Centers;  
41 report.**

42 (a) To the extent feasible and practicable, State and local agencies who provide services  
43 directed at individuals who have served in the active or reserve components of the Armed  
44 Forces of the United States and their families shall make personnel and other resources  
45 available to the National Guard Family Assistance Centers.

46 (b) The Department of Public Safety shall report annually to the Chairs of the House of  
47 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to  
48 the House of Representatives Committee on Homeland Security, Military, and Veterans Affairs  
49 on the activities of the National Guard Family Assistance Centers. This report shall include  
50 information on services provided as well as on the number and type of members of the active or

1 reserve components of the Armed Forces of the United States, veterans, and family members  
2 served. (2011-145, s. 19.1(g); 2011-185, s. 1.)

3  
4 **§ 127A-65. Reserved for future codification purposes.**

5  
6 **§ 127A-66. Reserved for future codification purposes.**

7  
8 Article 4.  
9 Naval Militia.

10 **§ 127A-67. Organization and equipment.**

11 The organization of the naval militia shall be units of convenient size, in each of which the  
12 number and rank of officers and the distribution of the total enlisted strength among the several  
13 ratings of petty officers and other enlisted personnel shall be such as are prescribed by the  
14 Secretary of the Navy, who may also prescribe the number of officers and the number of petty  
15 officers and other enlisted personnel required for the organization of the units into larger bodies  
16 for administrative and other purposes, and the arms and equipment of the naval militia shall be  
17 those which are now or may hereafter be prescribed by the Secretary of the Navy. (1917, c.  
18 200, s. 66; C.S., s. 6836; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

19  
20 **§ 127A-68. Officers appointed to naval militia.**

21 Officers of the United States Navy and Marine Corps may, with the approval of the  
22 Secretary of the Navy, be appointed by the Governor and commissioned as officers of the naval  
23 militia. (1917, c. 200, s. 67; C.S., s. 6837; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

24  
25 **§ 127A-69. Officers assigned to duty.**

26 Line officers of the naval militia may be for line duties only, for engineering duties only, or  
27 for aeronautic duties only. (1917, c. 200, s. 68; C.S., s. 6838; 1975, c. 604, s. 2.)

28  
29 **§ 127A-70. Discipline in naval militia.**

30 The naval militia shall be subject to the system of discipline prescribed for the United  
31 States Navy and Marine Corps, and the commanding officer of a naval militia unit or a naval  
32 militia officer in command of naval militia forces on shore or on any vessel of the United States  
33 Navy loaned to the State, or on any vessel on which such forces are training, whether within or  
34 without the State, or wherever, either within or without the State, naval militia forces of the  
35 State shall be assembled pursuant to orders, shall have power without trial by courts-martial to  
36 impose upon members of the naval militia the punishments which the commanding officer of a  
37 vessel of the United States Navy is authorized by law to impose. (1917, c. 200, s. 69; C.S., s.  
38 6839; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

39  
40 **§ 127A-71. Disbursing and accounting officer.**

41 The Governor shall appoint a disbursing officer, approved by and of a rank prescribed by  
42 the Secretary of the Navy, to perform the duties the Secretary of the Navy may prescribe. The  
43 Governor shall also appoint the disbursing officer, or another officer of the appropriate finance  
44 office of the naval militia that the Governor may elect, as accounting officer for each unit  
45 thereof, or at the Governor's option for each larger unit or combination of units, who shall be  
46 responsible for the proper accounting for all public property issued to and for the use of the unit  
47 or larger unit or combination of units. (1917, c. 200, s. 70; C.S., s. 6840; 1975, c. 604, s. 2;  
48 2011-195, s. 1(a).)

49  
50 **§ 127A-72. Rendition of accounts.**

1 Accounting officers shall render accounts as prescribed by the Governor or by the Secretary  
2 of the Navy, and shall be required to give good and sufficient bond to the State and to the  
3 United States, in the sums that the Governor or the Secretary of the Navy directs, and  
4 conditioned upon the faithful accounting for all public property and for the safekeeping of the  
5 part thereof in the personal custody of the officer. Accounting officers may issue any or all  
6 such property to other officers or enlisted personnel of the naval militia under applicable rules  
7 and regulations. (1917, c. 200, s. 71; C.S., s. 6841; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

8  
9 **§ 127A-73. Disbandment of naval militia.**

10 No part of the naval militia which is entitled to compensation under the provisions of an act  
11 of Congress approved August 29, 1916, shall be disbanded without the consent of the  
12 President. (1917, c. 200, s. 86; C.S., s. 6842; 1975, c. 604, s. 2.)

13  
14 **§ 127A-74. Courts-martial for naval militia.**

15 Courts-martial for the naval militia, not in the service of the United States, shall be  
16 organized, have the same powers, functions and authorities, and follow the same procedures as  
17 courts-martial for the North Carolina National Guard as set forth in G.S. 127A-47 through  
18 127A-62. (1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

19  
20 **§§ 127A-75 through 127A-79. Reserved for future codification purposes.**

21  
22 Article 5.

23 State Defense Militia.

24 **§ 127A-80. Authority to organize and maintain North Carolina State Defense Militia.**

25 (a) The Governor is authorized to organize any part of the unorganized militia as a State  
26 force for discipline and training, into companies, battalions, regiments, brigades or similar  
27 organizations, as deemed necessary for the defense of the State; to maintain, uniform and equip  
28 this military force within the appropriations available; to exercise discipline in the same manner  
29 as is now or may hereafter be provided by the laws of the State for the North Carolina National  
30 Guard. The military force shall be subject to the call or the order of the Governor to execute the  
31 law and secure the safety of persons and property, suppress riots or insurrections, repel  
32 invasions or provide disaster relief, as may now or hereafter be provided by law for the North  
33 Carolina National Guard or for the State militia.

34 (b) The military force shall be designated as the "North Carolina State Defense Militia"  
35 and shall be composed of personnel of the unorganized militia as may volunteer for service  
36 therein or be drafted as provided by law. To be eligible for service in an enlisted status, a  
37 person must be at least 17 years of age. To be eligible for service as an officer, a person must  
38 be at least 18 years of age. The force and its personnel shall be additional to and distinct from  
39 the North Carolina National Guard organized under existing law. A person may not become a  
40 member of the defense militia established under this section, if a member of a reserve  
41 component of the Armed Forces of the United States.

42 (c) The Governor is hereby authorized: to prescribe rules and regulations governing the  
43 appointment of officers, the enlistment of other personnel, the organization, administration,  
44 equipment, discipline and discharge of the personnel of the military force; to requisition from  
45 the Secretary of Defense arms and equipment that are in possession of and can be spared by the  
46 Department of Defense; and to furnish the facilities of available armories, equipment, State  
47 premises and property, for the purpose of drill and instruction.

48 (d) The force shall not be called, ordered, or in any manner drafted, as such, into the  
49 military service of the United States, but no person shall by reason of membership therein, be  
50 exempt from military service under any federal law.

1 (e) The Governor is hereby authorized to transfer to the benefit of the State defense  
2 militia any available and unexpended funds which the Governor finds necessary for its use  
3 from any appropriations to the North Carolina National Guard by the General Assembly, and  
4 for the same purpose to allot monies from the Contingency and Emergency Fund with the  
5 concurrence of the Council of State. Upon disbandment of the State defense militia any monies  
6 or balance to the credit of any unit of this organization shall be paid into the State treasury for  
7 the benefit of the North Carolina National Guard, and all property, clothing, and equipment  
8 belonging to the State shall be transferred to the account of the North Carolina National Guard  
9 for disposition in accordance with the best interests of the State and as deemed advisable by the  
10 Governor. Upon disbandment of any unit of the State defense militia prior to the disbandment  
11 of the entire organization, the Governor is authorized to direct the transfer of any State property  
12 or balance of funds of the disbanded unit to any other unit, including any new unit or units  
13 organized to fill vacancies, or otherwise, as the Governor may direct.

14 (f) The State defense militia shall be subject to the military laws of the State not  
15 inconsistent with or contrary to the provisions contained in this Article with the following  
16 exceptions:

17 The provisions of G.S. 127A-117, 127A-118, and 127A-139 as amended, shall not be  
18 applicable to the personnel and units of the State defense militia.

19 (g) There shall be allowed annually to each unit or company of the State defense militia  
20 the funds necessary for armory rent, heat, light, stationery, printing, and other expenses.

21 (h) All payments are to be made by the Secretary of Public Safety in accordance with  
22 State laws in semiannual installments on the first day of July and the first day of January of  
23 each year, but no payment shall be made unless all assemblies and duties required by law are  
24 duly performed by all organizations named.

25 (i) The commander of each organization participating in the appropriation herein  
26 named shall render an itemized statement of all funds received from any source whatsoever for  
27 the support of the organization in the manner and on the forms prescribed by the Secretary of  
28 Public Safety. Failure on the part of any commander to submit promptly when due the financial  
29 statement of the organization will be sufficient cause to withhold all appropriations for the  
30 organization. (1941, c. 43; 1943, c. 166; 1945, c. 209, s. 1; c. 835; 1957, c. 1083; 1963, c.  
31 1016, s. 1; 1975, c. 604, s. 2; 1977, c. 70, s. 2; c. 553; 1983, c. 314, ss. 2, 3; 2009-281, s. 1;  
32 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

### 33 34 **§ 127A-81. State defense militia cadre.**

35 (a) The Governor is authorized: to organize and regulate part of the unorganized militia  
36 as a State defense militia cadre in units or commands which the Governor may deem necessary  
37 to provide a cadre for an active State defense militia; to prescribe regulations for the  
38 maintenance of the property and equipment of the cadre, for the exercise of its discipline, and  
39 for its training and duties.

40 (b) The cadre shall be designated the "North Carolina State Defense Militia Cadre" and  
41 shall be composed of a force of officers and enlisted personnel raised by appointment of the  
42 Governor, or otherwise, as may be provided by law. The Secretary of Public Safety may  
43 reimburse cadre members for expenses actually incurred, not to exceed the amount  
44 appropriated and authorized for the purpose by the General Assembly.

45 (c) The Governor's authority under this Article shall not be subject to regulations  
46 prescribed by the Secretary of Defense. Age and membership requirements for the State  
47 defense militia generally, as set forth in G.S. 127A-80, shall apply. The training of the cadre  
48 need not be in accordance with training regulations issued by the Department of Defense. The  
49 provisions of G.S. 127A-80(c), (d), (g), (h) and (i) shall also apply to cadres.

50 (d) The total authorized strength of the cadre, its authorized officer and enlisted  
51 strength, the composition of each of its units or commands, and the allocation of cadre units or

1 commands among the counties, cities, and towns of the State, shall be as prescribed by the  
2 Governor in suitable regulations enforced through the Adjutant General, or as otherwise  
3 provided by law.

4 (e) The duties of the State defense militia cadre shall be as ordered and directed by the  
5 Governor from time to time, or in regulations, and may include authority to take charge of  
6 armories and other military installations and real properties used by the North Carolina  
7 National Guard, together with any other property that the regulations may provide, when and if  
8 the North Carolina National Guard, or any part thereof, is inducted into the service of the  
9 United States, or, for any extended period of time, is absent on any duty from its home station.  
10 In addition, the cadre shall have duties appropriate to the organization, maintenance, and  
11 training of a military cadre to act as a nucleus for the organization of an active State defense  
12 militia whenever the necessity may arise. (1963, c. 1016, s. 1; 1975, c. 604, s. 2; 1977, c. 70, s.  
13 2; 1983, c. 314, s. 4; 1991 (Reg. Sess., 1992), c. 1030, s. 35; 2009-281, s. 1; 2011-145, s.  
14 19.1(g); 2011-195, s. 1(a).)

15  
16 **§§ 127A-82 through 127A-86. Reserved for future codification purposes.**

17  
18 Article 6.

19 Unorganized Militia.

20 **§ 127A-87. Unorganized militia ordered out for service.**

21 The commander in chief may at any time, in order to execute the law, secure the safety of  
22 persons and property, suppress riots or insurrections, repel invasions or provide disaster relief,  
23 in addition to the North Carolina National Guard, the State defense militia and the naval militia,  
24 order out the whole or any part of the unorganized militia. When the militia of this State or a  
25 part thereof is called forth under the Constitution and laws of the United States, the Governor  
26 shall first order out for service the North Carolina National Guard, the State defense militia or  
27 naval militia, or any part thereof that may be necessary, and if the number available is  
28 insufficient, the Governor shall then order out any part of the unorganized militia that the  
29 Governor may deem necessary. During the absence or organizations of the North Carolina  
30 National Guard or naval militia in the service of the United States, their state designations shall  
31 not be given to new organizations. (1917, c. 200, s. 46; C.S., s. 6860; 1963, c. 1016, s. 2; 1975,  
32 c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

33  
34 **§ 127A-88. Manner of ordering out unorganized militia.**

35 The Governor shall, when ordering out the unorganized militia, designate the number. The  
36 Governor may order them out either by calling for volunteers or by draft. The Governor may  
37 attach them to the several organizations of the North Carolina National Guard, the State  
38 defense militia or naval militia, as may be best for the service. (1917, c. 200, s. 47; C.S., s.  
39 6861; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

40  
41 **§ 127A-89. Draft of unorganized militia.**

42 If the unorganized militia is ordered out by draft, the Governor shall designate the persons  
43 in each county to make the draft, and prescribe rules and regulations for conducting it. (1917,  
44 c. 200, s. 48; C.S., s. 6862; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

45  
46 **§ 127A-90. Punishment for failure to appear.**

47 Every member of the militia ordered out for duty, or who shall volunteer or be drafted, who  
48 does not appear at the time and place ordered, shall be liable to punishment as determined by a  
49 court-martial. (1917, c. 200, s. 49; C.S., s. 6863; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

50  
51 **§ 127A-91. Promotion of marksmanship.**

1 The Adjutant General is authorized to detail a commissioned officer of the North Carolina  
2 National Guard or member of the State defense militia to promote rifle marksmanship among  
3 the State defense militia and the unorganized militia of the State. The officer or member so  
4 detailed shall serve without pay and it shall be the duty of the officer or member to organize  
5 and supervise rifle clubs in schools, colleges, universities, clubs and other groups, under rules  
6 and regulations prescribed by the Adjutant General and in a manner that will make them, when  
7 duly organized, acceptable for membership in the National Rifle Association. Provided, that  
8 these duties and efforts shall in nowise interfere or conflict with clubs of schools or units  
9 operating in Reserve Officers' Training Corps or similar schools under the supervision of  
10 instructors of the Armed Forces of the United States. (1937, c. 449; 1963, c. 1016, s. 2; 1975,  
11 c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

12  
13 **§§ 127A-92 through 127A-96. Reserved for future codification purposes.**

14  
15 Article 7.

16 Regulations as to Active Service.

17 **§ 127A-97. National Guard and naval militia first ordered out.**

18 In all cases the North Carolina National Guard and naval militia as provided for in this  
19 Chapter shall be first ordered into service. (1917, c. 200, s. 44; C.S., s. 6857; 1975, c. 604, s. 2;  
20 2009-281, s. 1; 2011-195, s. 1(a).)

21  
22 **§ 127A-98. Regulations enforced on active State service.**

23 Whenever any portion of the militia is called into active State service to execute the law,  
24 secure the safety of persons and property, suppress riots or insurrections, repel invasions or  
25 provide disaster relief, the provisions of the Uniform Code of Military Justice of the United  
26 States, governing the Armed Forces of the United States, and the regulations prescribed for the  
27 Armed Forces of the United States, and the regulations issued thereunder, shall be enforced and  
28 regarded as part of this Chapter until this portion of the militia is relieved from the duty. As to  
29 offenses committed when the provisions of the Uniform Code of Military Justice of the United  
30 States are so enforced, courts-martial shall possess, in addition to the jurisdiction and power of  
31 sentence and punishment herein vested in them, all additional jurisdiction and power of  
32 sentence and punishment exercisable by like courts under the provisions of the Uniform Code  
33 of Military Justice of the United States or regulations or laws governing the Armed Forces of  
34 the United States or the customs and usages thereof; but no punishment under the Code that  
35 extends to the taking of life shall in any case be inflicted except in case of war, invasion, or  
36 insurrection, declared by a proclamation of the Governor to exist and then only after approval  
37 by the Governor of the sentence inflicting that punishment. Imprisonment other than in  
38 guardhouse shall be executed in county jails or other prisons designated by the Governor for  
39 that purpose. (1917, c. 200, s. 45; C.S., s. 6858; 1963, c. 1018, s. 6; 1975, c. 604, s. 2;  
40 2011-195, s. 1(a).)

41  
42 **§ 127A-99. Regulations governing unorganized militia.**

43 Whenever any part of the unorganized militia is ordered out, it shall be governed by the  
44 same rules and regulations and be subject to the same penalties as the North Carolina National  
45 Guard or naval militia. (1917, c. 200, s. 35; C.S., s. 6859; 1975, c. 604, s. 2; 2009-281, s. 1;  
46 2011-195, s. 1(a).)

47  
48 **§§ 127A-100 through 127A-104. Reserved for future codification purposes.**

49  
50 Article 8.

51 Pay of Militia.

1    **§ 127A-105. Rations and pay on State service.**

2       The militia of the State, both officers and enlisted personnel, when called into the service of  
3   the State by the Governor shall receive the same pay as when called or ordered into the service  
4   of the United States, and shall be rationed or paid the equivalent thereof, provided that no  
5   officer or enlisted personnel shall receive less than 18 times the minimum hourly wage per day  
6   as provided for in G.S. 95-25.3(a). (1813, c. 850, s. 5, P.R.; R.C., c. 70, s. 84; Code, s. 3248;  
7   Rev., s. 4856; 1907, c. 316; 1917, c. 200, s. 50; C.S., s. 6864; 1935, c. 452; 1959, c. 218, s. 17;  
8   1975, c. 604, s. 2; 1997-153, s. 2; 1997-443, s. 7.12(c).)

9  
10   **§ 127A-106. Paid by the State.**

11       When the militia or any portion thereof is ordered by the Governor into State service, the  
12   pay (including payment for any leave earned as a result of more than 30 days of continuous  
13   service), subsistence, transportation and other necessary expenses incident thereto shall be paid  
14   by the State Treasurer, upon the approval of the Governor. (1917, c. 200, s. 52; C.S., s. 6866;  
15   1975, c. 604, s. 2; 1993, c. 257, s. 12; 1997-153, s. 6; 1997-443, s. 7.12(c); 2011-195, s. 1(a).)

16  
17   **§ 127A-107. Rate of pay for other service.**

18       The Governor may, whenever the public service requires it, order upon special or regular  
19   duty any officer or enlisted member of the North Carolina National Guard or naval militia, and  
20   the expenses and compensation therefor of the officer or enlisted member shall be paid out of  
21   the appropriations made to the Department of Public Safety. The officers or enlisted members  
22   shall receive the same rate of pay as officers and enlisted members of the same grade and like  
23   service of the Armed Forces of the United States, provided that no such officer or enlisted  
24   member shall receive less than 18 times the minimum hourly wage per day as provided for in  
25   G.S. 95-25.3(a). Officers and enlisted members when on duty in connection with examining  
26   boards, efficiency boards, advisory boards, courts of inquiry or similar duty shall be allowed  
27   per diem and subsistence prescribed for lawful State boards and commissions generally for  
28   such duty. Officers and enlisted members serving on general or special courts-martial shall  
29   receive the base pay of their rank. No staff officer or enlisted member who receives a salary  
30   from the State as such shall be entitled to any additional compensation other than actual and  
31   necessary expenses incurred while traveling upon orders issued by the proper authority. (1917,  
32   c. 200, s. 51; C.S., s. 6865; 1935, c. 451; 1949, c. 1130, s. 4; 1959, c. 218, s. 18; 1963, c. 1019,  
33   s. 1; 1969, c. 986; 1971, c. 204; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2;  
34   1997-153, s. 3; 1997-443, s. 7.12(c); 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

35  
36   **§ 127A-108. Pay and care of soldiers, airmen and sailors disabled in service.**

37       A member of the North Carolina National Guard, the State defense militia, or the naval  
38   militia who without fault or negligence on the member's part is disabled through illness, injury,  
39   or disease contracted or incurred while on duty or by reason of duty in the service of the State  
40   or while reasonably proceeding to or returning from duty shall receive the actual necessary  
41   expenses for care and medicine and medical attention at the expense of the State and if the  
42   disability temporarily incapacitates the member from pursuing the member's usual business or  
43   occupation the member shall receive during his or her incapacity the pay and allowances that  
44   are provided for the same grade and rating in like circumstances in the active Armed Forces of  
45   the United States. If the member is permanently disabled, the member shall receive the  
46   pensions and benefits that persons under similar circumstances in the Armed Forces of the  
47   United States receive from the United States. In case a member dies as a result of such an  
48   injury, illness or disease within one year after it has been incurred or contracted, the surviving  
49   spouse, minor children, or dependent parents of the member shall receive the pension and  
50   benefits as persons under similar circumstances receive from the United States.

1 The cost incurred by reason of this section shall be paid out of the Contingency and  
2 Emergency Fund, or another fund designated by law.

3 The Adjutant General, with the approval of the Governor, shall make and publish  
4 regulations pursuant to this section that are necessary for its implementation. Before the name  
5 of any person is placed on the disability or pension rolls of the State under this section, proof  
6 shall be made in accordance with these regulations that the applicant is entitled to the care,  
7 pension, or benefit.

8 Nothing in this section shall in any way limit or condition any other payment to a member  
9 that the law allows, except that any payments made under the provisions of Chapter 97 of the  
10 General Statutes or under federal statutes as now or hereafter amended shall be deducted from  
11 the payments made under this section. (1917, c. 200, s. 54; C.S., s. 6868; 1959, c. 218, s. 19; c.  
12 763; 1965, c. 1058; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

13  
14 **§ 127A-109. Pay of general and field officers.**

15 General and field officers when away from their home stations visiting the organizations of  
16 their commands, for inspection and instruction under orders from proper authority, shall receive  
17 actual necessary expenses and the pay of their rank. (1917, c. 200, s. 53; C.S., s. 6867; 1975, c.  
18 604, s. 2.)

19  
20 **§ 127A-110. Proceedings against third party injuring or killing organized militia  
21 personnel.**

22 (a) The right of a member of the North Carolina National Guard, the State defense  
23 militia, or the naval militia to compensation and other benefits under G.S. 127A-108 shall not  
24 be affected by the fact that the injury or death was caused under circumstances creating a  
25 liability in some person other than the State, or "third party," to pay damages therefor. The  
26 respective rights and interests of the member under this Article, and the State, if any, in respect  
27 of the common-law cause of action against a third party and the damages recovered shall be as  
28 set forth in this section.

29 (b) The member or personal representative if the member be dead, shall have the  
30 exclusive right to proceed to enforce the liability of the third party by appropriate proceedings  
31 if the proceedings are instituted not later than 12 months after the date of injury or death,  
32 whichever is later. During this 12-month period, and at any time thereafter if summons is  
33 issued against the third party during the 12-month period, the member or personal  
34 representative shall have the right to settle with the third party and to give a valid and complete  
35 release of all claims to the third party by reason of the injury or death, subject to the provisions  
36 of subsection (h) of this section.

37 (c) If settlement is not made and summons is not issued within the 12-month period  
38 described in subsection (b) of this section, then all rights of the member, or personal  
39 representative if the member be dead, against the third party shall pass by operation of the  
40 period fixed by the statute of limitations applicable to these rights and if the State has not  
41 settled with or instituted proceedings against the third party within this time, then all such rights  
42 shall revert to the member or personal representative 60 days before the expiration of the  
43 applicable statute of limitations.

44 (d) The person in whom the right to bring a proceeding or make settlement is vested  
45 shall, during the continuation thereof, also have the exclusive right to make settlement with the  
46 third party and the release of the person having the right shall fully acquit and discharge the  
47 third party except as provided by subsection (h) of this section. A proceeding so instituted by  
48 the person having the right shall be brought in the name of the member or personal  
49 representative and the State shall not be a necessary or proper party thereto. If the member or  
50 personal representative refuses to cooperate with the State by being the party plaintiff, then the

1 action shall be brought in the name of the State and the member or personal representative shall  
2 be made a party plaintiff or party defendant by order of court.

3 (e) The amount of compensation and other benefits paid or payable on account of the  
4 injury or death shall not be admissible in evidence in any proceeding against the third party. If  
5 the third party defending the proceeding, by answer duly served on the State, sufficiently  
6 alleges that actionable negligence of the State joined and concurred with the negligence of the  
7 third party in producing the injury or death, then an issue shall be submitted to the jury in the  
8 case as to whether actionable negligence of the State joined and concurred with the negligence  
9 of the third party in producing the injury or death. The State shall have the right to appear, to be  
10 represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the jury  
11 as to this issue as fully as though it were a party although not named or joined as a party to the  
12 proceeding. The issue as to the State's negligence shall be the last of the issues submitted to the  
13 jury. If the verdict is that actionable negligence of the State did join and concur with that of the  
14 third party in producing the injury or death, then the court shall reduce the damages awarded by  
15 the jury against the third party by the amount which the State would otherwise be entitled to  
16 receive therefrom by way of subrogation hereunder and the entire amount recovered, after such  
17 reduction, shall belong to the member or personal representative free of any claim by the State  
18 and the third party shall have no further right by way of contribution or otherwise against the  
19 State, except any right which may exist by reason of an express contract of indemnity between  
20 the State and the third party, which was entered into prior to the injury to the member.

21 (f) (1) Any amount obtained by any person by settlement with, judgment against, or  
22 otherwise from the third party by reason of the injury or death shall be  
23 disbursed by order of the court for the following purposes and in the  
24 following order of priority:

- 25 a. First to the payment of actual court costs taxed by judgment.
- 26 b. Second to the payment of the fee of the attorney representing the  
27 person making settlement or obtaining judgment, and this fee shall  
28 not exceed one third of the amount obtained or recovered of the third  
29 party.
- 30 c. Third to the reimbursement of the State for all benefits by way of  
31 compensation or medical treatment expense paid or to be paid by the  
32 State pursuant to G.S. 127A-108.
- 33 d. Fourth to the payment of any amount remaining to the member or  
34 personal representative.

35 (2) The attorney fee paid under subdivision (1) of this section [subsection] shall  
36 be paid by the member and the State in direct proportion to the amount each  
37 shall receive under sub-subdivisions (1)c. and d. of this subsection and shall  
38 be deducted from the payments when distribution is made.

39 (g) In any proceeding against or settlement with the third party, every party to the claim  
40 for compensation shall have a lien to the extent of the party's interest under subsection (f) of  
41 this section upon any payment made by the third party by reason of the injury or death, whether  
42 paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or  
43 otherwise and the lien may be enforced against any person receiving the funds. Neither the  
44 member or personal representative nor the State shall make any settlement with or accept any  
45 payment from the third party without the written consent of the other and no release to or  
46 agreement with the third party shall be valid or enforceable for any purpose unless both State  
47 and member or personal representative join therein; provided, that this sentence shall not apply  
48 if the State is made whole for all benefits paid or to be paid by the member or personal  
49 representative under this Chapter less attorney's fees as provided by subsection (f) of this  
50 section and the release to or agreement with the third party is executed by the member. The  
51 Attorney General shall have the right on behalf of the State to reduce by compromise its claim.

1 (h) Institution of proceedings against or settlement with the third party, or acceptance of  
2 benefits under this Chapter, shall not in any way or manner affect any other remedy which any  
3 party to the claim for compensation may have except as otherwise specifically provided in this  
4 Chapter, and the exercise of one remedy shall not in any way or manner be held to constitute an  
5 election of remedies so as to bar the other. (1967, c. 1081, s. 1; 1975, c. 604, s. 2; 2011-195, s.  
6 1(a).)

7  
8 **§ 127A-111. Civilian leave option.**

9 (a) A member of the North Carolina National Guard called into service of the State by  
10 the Governor shall have the right to take leave without pay from his or her civilian  
11 employment. No member of the North Carolina National Guard shall be forced to use or  
12 exhaust his or her vacation or other accrued leaves from his or her civilian employment for a  
13 period of active service. The choice of leave shall be solely within the discretion of the  
14 member.

15 (b) The Commissioner of Labor shall enforce the provisions of this section pursuant to  
16 Chapter 95 of the General Statutes. (1997-153, s. 4.)

17  
18 **§§ 127A-112 through 127A-115. Reserved for future codification purposes.**

19  
20 Article 9.

21 Privilege of Organized State Militia and Reserve Components of the Armed Forces of the  
22 United States.

23 **§ 127A-116. Leaves of absence for State officers and employees.**

24 The Governor or the Governor's designee shall promulgate appropriate policy and  
25 regulations relating to leaves of absence for short periods of military training and for State or  
26 federal military duty or special emergency management service of all officers and employees of  
27 the State and its political subdivisions, including officers and employees of public educational  
28 facilities under the sponsorship of the State, without loss of pay, time or efficiency rating.  
29 (1917, c. 200, s. 88; C.S., s. 6869; 1937, c. 224, s. 1; 1949, c. 1274; 1975, c. 604, s. 2;  
30 2001-513, s. 23(b).)

31  
32 **§ 127A-117. Contributing members.**

33 Each organization of the North Carolina National Guard and naval militia may, besides its  
34 regular and active members, enroll contributing members on payment in advance by each  
35 person desiring to become a contributing member of not less than ten dollars (\$10.00) per  
36 annum, which money shall be paid into the unit fund. Each contributing member shall be  
37 entitled to receive from the commanding officer thereof a certificate of membership. (1917, c.  
38 200, s. 90; C.S., s. 6871; 1967, c. 218, s. 3; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s.  
39 1(a).)

40  
41 **§ 127A-118. Organizations may own property; actions.**

42 Organizations of the North Carolina National Guard and naval militia shall have the right to  
43 own and keep real and personal property, which shall belong to the organization; and the  
44 commanding officer of any organization may recover for its use debts or effects belonging to it,  
45 or damages for injury to the property. An action for recovery of debts, effects, or damages must  
46 be brought in the name of the commanding officer of the organization before any court of  
47 justice within the State having jurisdiction; and no suit or complaint pending in his or her name  
48 shall be abated by his or her ceasing to be commanding officer of the organization; but upon  
49 motion of the commander succeeding him or her the new commander shall be admitted to  
50 prosecute the suit or complaint in like manner and with like effect as if it had been originally

1 commenced by him or her. (1917, c. 200, s. 92; C.S., s. 6872; 1975, c. 604, s. 2; 2009-281, s.  
2 1; 2011-195, s. 1(a.)

3  
4 **§ 127A-119. When families of soldiers, airmen and sailors supported by county.**

5 When any citizen of the State is absent on duty as a member of the North Carolina National  
6 Guard, State defense militia or naval militia, and the member's family members are unable to  
7 support themselves during the member's absence, the board of commissioners of the member's  
8 county, on application, shall make a reasonable allowance towards their maintenance. (1917, c.  
9 200, s. 93; C.S., s. 6873; 1963, c. 1019, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s.  
10 1(a.)

11  
12 **§§ 127A-120 through 127A-124. Reserved for future codification purposes.**

13  
14 Article 10.  
15 Care of Military Property.

16 **§ 127A-125. Custody of military property.**

17 All public military property, except when used in the performance of military duty, shall be  
18 kept in armories, or other properly designated places of deposit; and it shall be unlawful for any  
19 person charged with the care and safety of public military property to allow it out of his or her  
20 custody, except as specified in this section. (1917, c. 200, s. 38; C.S., s. 6874; 1975, c. 604, s.  
21 2; 2011-195, s. 1(a.)

22  
23 **§ 127A-126. Other suitable storage facilities.**

24 All public military property of every description which may not be distributed among the  
25 units of the North Carolina National Guard or State defense militia according to law shall be  
26 stored and kept at suitable storage facilities as determined by the Adjutant General. (1917, c.  
27 200, s. 39; C.S., s. 6875; 1959, c. 218, s. 20; 1963, c. 1019, s. 3; 1975, c. 604, s. 2; 2009-281, s.  
28 1; 2011-195, s. 1(a.)

29  
30 **§ 127A-127. Property kept in good order.**

31 Every officer and enlisted member belonging to any unit equipped with public military  
32 property shall keep and preserve the property in good order; and for neglect to do so may be  
33 punished as a court-martial may direct. (1917, c. 200, s. 40; C.S., s. 6877; 1959, c. 218, s. 22;  
34 1975, c. 604, s. 2; 2011-195, s. 1(a.)

35  
36 **§ 127A-128. Equipment and vehicles.**

37 Equipment and vehicles issued by the Department of Defense to the North Carolina  
38 National Guard or State defense militia shall be used solely for military purposes, except in  
39 those specific cases where nonmilitary use is authorized by the Department of Defense or the  
40 Governor. Necessary expense in maintaining equipment and vehicles, not provided for by the  
41 federal government, shall be a proper charge against State funds appropriated for the North  
42 Carolina National Guard: Provided, the expense shall be specifically authorized by the  
43 Governor and certified by the Adjutant General. (1917, c. 200, s. 41; C.S., s. 6878; 1921, c.  
44 120, s. 9; 1959, c. 218, s. 23; 1963, c. 1019, s. 4; 1967, c. 563, s. 5; 1975, c. 604, s. 2;  
45 2009-281, s. 1; 2011-195, s. 1(a.)

46  
47 **§ 127A-129. Transfer of property.**

48 All officers accountable or responsible for public funds, property, or books, before being  
49 relieved from the duty, shall turn them over according to the regulations prescribed by the  
50 Governor. (1917, c. 200, s. 42; C.S., s. 6879; 1975, c. 604, s. 2; 2011-195, s. 1(a.)

1 **§ 127A-130. Replacement of lost or damaged property.**

2 Whenever any military property issued to the North Carolina National Guard or State  
3 defense militia shall have been lost, damaged, or destroyed, and upon report of a disinterested  
4 surveying officer it shall appear that the loss, damage, or destruction of property was due to  
5 carelessness or neglect, or that its loss, damage or destruction could have been avoided by  
6 exercise of able care, the money value of the property shall be charged to the responsible  
7 officer or enlisted member, and the pay of the officers and enlisted members from both federal  
8 and State funds at any time accruing may be stopped and applied to the payment of any such  
9 indebtedness until it is discharged. (1917, c. 200, s. 43; C.S., s. 6880; 1959, c. 218, s. 24; 1963,  
10 c. 1019, s. 5; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

11  
12 **§ 127A-131. Unlawful conversion or willful destruction of military property.**

13 (a) If any person shall willfully or wantonly destroy or injure, willfully retain after  
14 demand made or otherwise convert to the person's own use any property of the State or of the  
15 United States issued for the purpose of arming or equipping the militia of the State or if any  
16 person shall purchase any property of the State or of the United States knowing it to be  
17 unlawfully obtained, the person shall be guilty of a Class 1 misdemeanor.

18 (b) Any person, firm or corporation receiving in pledge or buying from any other  
19 person, firm or corporation for the purpose of resale any goods, to include arms, ammunition,  
20 explosives, equipment, clothing, supplies and materials, which may reasonably be thought to be  
21 the property of the Armed Forces of the United States and their reserve components or of the  
22 militia of the State of North Carolina, shall keep a register and shall enter therein a true and  
23 accurate record of each purchase, showing the name, social security number and address of the  
24 person from whom purchased, the name and address of the firm or corporation from whom  
25 purchased, together with the amount paid for each item or lot of small items, the date of  
26 purchase, the serial numbers of all items bearing serial numbers, and any other marks, brands or  
27 descriptions which will serve to identify the items purchased. The register shall be at all times  
28 open to the inspection of the public. Any person, firm or corporation failing to comply with this  
29 provision shall be guilty of a Class 1 misdemeanor; and any person, firm or corporation making  
30 a false entry in such register shall be guilty of a Class 1 misdemeanor. (1876-7, c. 272, s. 19;  
31 Code, s. 3274; Rev., ss. 3536, 3537; C.S., ss. 6881, 6882; 1959, c. 218, s. 25; 1963, c. 1019, s.  
32 6; 1975, c. 604, s. 2; 1993, c. 539, s. 936; 1994, Ex. Sess., c. 24, s. 14(c); 2011-195, s. 1(a).)

33  
34 **§§ 127A-132 through 127A-136. Reserved for future codification purposes.**

35  
36 Article 11.

37 Support of Militia.

38 **§ 127A-137. Requisition for federal funds.**

39 The Governor shall make requisition upon the secretary of the appropriate service for the  
40 State allotment from federal funds as may be appropriate for the support of the militia. (1917,  
41 c. 200, s. 23; C.S., s. 6887; 1921, c. 120, s. 10; 1963, c. 1019, s. 8; 1975, c. 604, s. 2; 2011-195,  
42 s. 1(a).)

43  
44 **§ 127A-138. Local appropriations; unit funds.**

45 (a) Every municipality and county within the State is hereby authorized and empowered  
46 to appropriate for the benefit of any unit or units of the militia the amounts of public funds from  
47 year to year as the governing body of the municipality or county may deem wise, patriotic and  
48 expedient; and is further authorized, either alone or in connection with others, to provide heat,  
49 electricity, water, telephone service and other costs of operation and maintenance of any  
50 armory. These appropriations may be funded by the levy of property taxes pursuant to G.S.

1 153A-149 and G.S. 160A-209 or by the allocation of other revenues whose use is not otherwise  
2 restricted by law.

3 (b) Any funds donated to any unit or units of the militia by local governments, civic  
4 organizations or private sources, short-term rental of their armory buildings, or funds earned  
5 through vending machine commissions and items of similar nature shall remain at the unit or  
6 units to be expended in accordance with rules and regulations prescribed by the Secretary.  
7 (1947, c. 1010, s. 8; 1975, c. 604, s. 2; 1979, c. 701, s. 1; 2011-195, s. 1(a).)

8  
9 **§ 127A-139. Allowances made to different organizations and personnel.**

10 (a) There may be allowed each year to the following officers, under rules and  
11 regulations prescribed by the Secretary of Public Safety, as follows: to general officers, and  
12 commanders of divisions, corps, groups, brigades, regiments, separate battalions, squadrons or  
13 similar organizations, not to exceed two hundred and twenty-five dollars (\$225.00); to  
14 commanding officers of companies, batteries, troops, detachments and similar units not to  
15 exceed two hundred dollars (\$200.00); to executive officers, adjutants, plans and training  
16 officers, logistical officers and commissioned officers in comparable assignments in divisions,  
17 corps, groups, brigades, regiments, battalions, squadrons and similar organizations, not to  
18 exceed two hundred dollars (\$200.00). No officer shall be entitled to receive any part of the  
19 amounts named in this subsection unless the officer has performed satisfactorily all duties  
20 required of the officer by law and regulations and has pursued any course of instruction that  
21 may from time to time be required.

22 (b) There may be allowed annually to the supply sergeant of each company, battery,  
23 troop, detachment, and similar organizations, a sum of money not to exceed one hundred  
24 dollars (\$100.00) for services satisfactorily performed.

25 (c) There shall be allowed annually sufficient funds to be allocated by the Secretary of  
26 Public Safety among the federally recognized units of the North Carolina National Guard and  
27 their headquarters, a pistol team, a rifle team, aviation support facilities, and aviation flight  
28 activities for administrative and operating expenses, including heat, electricity, telephone,  
29 postage, office supplies and equipment, minor repairs and replacement of equipment, and any  
30 other expenses and special items of equipment not otherwise provided that may be authorized  
31 in accordance with North Carolina National Guard rules and regulations.

32 (d) Repealed by Session Laws 1979, c. 701, s. 2.

33 (e) The commanding officers of all organizations participating in the appropriations  
34 herein made shall render an itemized statement of all funds received from any source whatever  
35 for the support of their respective organizations in the manner and on the forms prescribed by  
36 the Secretary through the Adjutant General. Failure on the part of any officer to submit  
37 promptly when due the financial statement of the officer's organization will be sufficient cause  
38 to withhold all appropriations for the organization. (1917, c. 200, s. 97; 1919, c. 311; C.S., s.  
39 6889; 1921, c. 120, s. 11; 1923, c. 24; 1924, c. 6; 1927, c. 227, s. 2; 1949, c. 1130, s. 5; 1951, c.  
40 1144, s. 1; 1953, c. 1246; 1959, c. 421; 1963, c. 1020; 1967, c. 563, s. 6; 1973, c. 1460; 1975, c.  
41 604, s. 2; 1977, c. 70, s. 2; 1979, c. 701, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s.  
42 1(a).)

43  
44 **§§ 127A-140 through 127A-144. Reserved for future codification purposes.**

45  
46 Article 12.  
47 General Provisions.

48 **§ 127A-145. Reports of officers.**

49 All officers of the North Carolina National Guard, the State defense militia, and the naval  
50 militia shall make returns and reports to the Governor, the Secretary of Defense, or to officers

1 designated by them, at the times and in the form from time to time prescribed. (1917, c. 200, s.  
2 21; C.S., s. 6890; 1963, c. 1019, s. 10; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

3  
4 **§ 127A-146. Officer to give notice of absence.**

5 When any officer shall have occasion to be absent from the officer's usual residence one  
6 week or more, the officer shall notify the officer next in command, and also the officer's next  
7 superior officer in command, of the officer's intended absence, and shall arrange for the officer  
8 next in command to handle and attend to all official communications. (1917, c. 200, s. 22;  
9 C.S., s. 6891; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

10  
11 **§ 127A-147. Orders, rules, regulations and Uniform Code of Military Justice applicable**  
12 **to militia when not in service of United States.**

13 The North Carolina National Guard, State defense militia and naval militia, when not in the  
14 service of the United States, shall be governed by State law, the orders, rules and regulations of  
15 the Adjutant General, regulations promulgated by the secretary of the appropriate service of the  
16 Armed Forces of the United States, and the Uniform Code of Military Justice, as amended from  
17 time to time. (1917, c. 200, s. 34; C.S., s. 6892; 1963, c. 1018, s. 7; 1975, c. 604, s. 2;  
18 2009-281, s. 1; 2010-193, s. 21; 2011-195, s. 1(a).)

19  
20 **§ 127A-148. Commander may prevent trespass and disorder.**

21 The commander upon any occasion of duty may place in arrest during the continuance  
22 thereof any person who shall trespass upon the campground, parade ground, armory, or other  
23 place devoted to that duty, or who shall in any way or manner interrupt or molest the orderly  
24 discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to  
25 or returning from any duty. The commander may prohibit and prevent the sale or use of all  
26 spirituous liquors, wine, ale, beer, or cider, the holding of huckster or auction sales, and all  
27 gambling within the limits of the post, campground or place of encampment, parade or drill  
28 under his or her command, or within any limits not exceeding one mile therefrom that the  
29 commander may prescribe. The commander may in the commander's discretion abate as  
30 common nuisance all such sales. (1917, c. 200, s. 94; C.S., s. 6893; 1975, c. 604, s. 2;  
31 2011-195, s. 1(a).)

32  
33 **§ 127A-149. Power of arrest in certain emergencies.**

34 In the event members of the North Carolina National Guard or State defense militia are  
35 called out by the Governor pursuant to the authority vested in the Governor by the Constitution,  
36 they shall have the power of arrest reasonably necessary to accomplish the purpose for which  
37 they have been called out. (1959, c. 453; 1963, c. 1019, s. 11; 1975, c. 604, s. 2; 2009-281, s.  
38 1; 2011-195, s. 1(a).)

39  
40 **§ 127A-150. Immunity of guardsmen from civil and criminal liability.**

41 (a) A member of the North Carolina National Guard or State defense militia, while  
42 acting in aid of civil authorities and in the line of duty, shall have the immunities of a  
43 law-enforcement officer.

44 (b) Members of the North Carolina National Guard or State defense militia shall have  
45 the immunities of a law-enforcement officer whenever they are called upon to execute the laws;  
46 engage in disaster relief; suppress or prevent actual or threatened riot or insurrection; repel  
47 invasion; or apprehend or disperse any sniper, rioters, mob or unlawful assembly.

48 (c) Any civil claim against a member of the North Carolina National Guard or State  
49 defense militia allegedly arising from the action or inaction of the member of the North  
50 Carolina National Guard or State defense militia while in line of duty shall be filed within two

1 years of the date of the occurrence or forever barred. (1969, c. 969; 1975, c. 604, s. 2;  
2 2009-281, s. 1; 2011-195, s. 1(a).)

3  
4 **§ 127A-151. Organizing company without authority.**

5 If any person shall organize a military company, or drill or parade under arms as a military  
6 body, except under the militia laws and regulations of the State, or shall exercise or attempt to  
7 exercise the power or authority of a military officer in this State, without holding a commission  
8 from the Governor, the person shall be guilty of a Class 1 misdemeanor. (1893, c. 374, s. 38;  
9 Rev., s. 3538; C.S., s. 6894; 1975, c. 604, s. 2; 1993, c. 539, s. 937; 1994, Ex. Sess., c. 24, s.  
10 14(c); 2011-195, s. 1(a).)

11  
12 **§ 127A-152. Placing name on muster roll wrongfully.**

13 If any officer of the militia of the State shall knowingly or willfully place, or cause to be  
14 placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the  
15 name of any enlisted member who is dead or who has been discharged, transferred, or has lost  
16 membership for any cause whatsoever, or who has been convicted of any infamous crime, the  
17 officer shall be guilty of a Class 1 misdemeanor. (1893, c. 374, s. 33; Rev., s. 3539; C.S., s.  
18 6895; 1975, c. 604, s. 2; 1993, c. 539, s. 938; 1994, Ex. Sess., c. 24, s. 14(c); 2011-195, s. 1(a).)

19  
20 **§ 127A-153. Protection of uniform.**

21 (a) The wearing of any military uniform of the United States by members of the militia  
22 shall be pursuant to applicable regulations promulgated by the respective branches of the  
23 Armed Forces of the United States and regulations of the Adjutant General of North Carolina  
24 not inconsistent with federal uniform regulations.

25 (b) The wearing of any military uniform of the State by members of the militia shall be  
26 pursuant to applicable regulations promulgated by the Adjutant General of North Carolina.

27 (c) Members of the militia who violate the regulations referred to in subsections (a) and  
28 (b) of this section shall, upon conviction by a court-martial, be punished in like manner and to  
29 the extent prescribed by Article 134 of the Uniform Code of Military Justice and Manual for  
30 Courts-Martial, United States, as shall be in use by the Armed Forces of the United States at the  
31 time of the offense.

32 (d) Persons not subject to courts-martial who violate the regulations referred to in  
33 subsections (a) and (b) of this section may be charged and tried in the State courts and upon  
34 conviction shall be punished as provided in subsection (c) of this section. (1921, c. 120, s. 12;  
35 C.S., s. 6895(a); 1963, c. 1017; 1975, c. 604, s. 2; 2010-193, s. 22; 2011-195, s. 1(a).)

36  
37 **§ 127A-154. Upkeep of properties.**

38 There shall be paid from the appropriations for the North Carolina National Guard the  
39 amounts necessary for the maintenance, upkeep, and improvement of State military properties  
40 and facilities. Provided, these expenditures shall be approved and authorized by the Governor.  
41 (1921, c. 120, s. 13; C.S., s. 6895(b); 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

42  
43 **§ 127A-155. When officers authorized to administer oaths.**

44 Officers of the North Carolina National Guard are authorized to administer oaths in all  
45 circumstances pertaining to any military matter whenever an oath is required. (1949, c. 1130, s.  
46 6; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

47  
48 **§§ 127A-156 through 127A-160. Reserved for future codification purposes.**

1 **§ 127A-161. Definitions.**

2 As used in this Article, the following terms mean:

- 3 (1) Armory. – Any building or building complex and related facilities, including  
4 the lands for them, which are intended to be utilized by the militia for  
5 training, administration, storage, and the maintenance and servicing of  
6 equipment.
- 7 (2) Armory site. – That land, meeting federal and State specifications, upon  
8 which an armory may be constructed.
- 9 (3) Department. – The North Carolina Department of Public Safety.
- 10 (4) Facilities. – Those adjuncts to an armory, including but not limited to yards,  
11 storage buildings, sheds, ramps, racks, target ranges, furniture, fixtures and  
12 other equipment and installations.
- 13 (5) Funds. – Any monies appropriated by any municipality, county, the State or  
14 the United States government and made available for the purpose of  
15 acquiring armory sites or constructing or repairing any armory, warehouse,  
16 or other facility for the use of any unit or for any other purpose in connection  
17 with the housing, training, instruction or promotion of the interest of any  
18 unit.
- 19 (6) Municipality. – Any incorporated city, town or village.
- 20 (7) Unit. – Any organizational entity of the militia. (1947, c. 1010, s. 1; 1973, c.  
21 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s. 19.1(g); 2011-195,  
22 s. 1(a).)
- 23

24 **§ 127A-162. Authority to foster development of armories and facilities.**

25 The Department of Public Safety is authorized and empowered to foster the development in  
26 North Carolina of adequate armories and other necessary facilities for the proper housing,  
27 instruction, training and administration of all units and facilities necessary for the proper  
28 protection, care, maintenance, repair, issue and upkeep of public and military property issued to  
29 or for the use of any unit. (1947, c. 1010, s. 4; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70,  
30 s. 2; 2011-145, s. 19.1(g).)

31

32 **§ 127A-163. Powers of Department specified.**

33 The Department of Public Safety is further authorized and empowered:

- 34 (1) To act as an agency of the State of North Carolina for the purpose of setting  
35 up and administering any statewide plan for the acquisition of armories and  
36 armory sites, for the construction and maintenance of armories and for  
37 providing facilities which are now or may be necessary in order to comply  
38 with any federal law and in order to receive, administer and disburse any  
39 funds which may be provided by act of Congress for such purpose;
- 40 (2) When acting as an agency of the State of North Carolina under subdivision  
41 (1) of this section, to promulgate statewide plans for the acquisition of  
42 armories and armory sites, for the construction and maintenance of armories  
43 and other facilities that are desirable or necessary to meet the requirements  
44 and receive the benefits of any federal legislation with respect thereto;
- 45 (3) To receive and administer any funds which may be appropriated by any act  
46 of Congress or otherwise for the acquisition of armories and armory sites,  
47 for the construction and maintenance of armories, and for providing facilities  
48 that may at any time become available for those purposes;
- 49 (4) To receive and administer any other funds which may be available in  
50 furtherance of any activity in which the Department of Public Safety is

1 authorized and empowered to engage under the provisions of this Article;  
2 and

- 3 (5) To adopt rules to carry out the intent and purpose of this Article. (1947, c.  
4 1010, s. 5; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145,  
5 s. 19.1(g); 2011-195, s. 1(a).)  
6

7 **§ 127A-164. Power to acquire land, make contracts, etc.**

8 In furtherance of the duties, power, and authority given herein, the Department of Public  
9 Safety is authorized and empowered within the limitations of G.S. 143-341 to accept and hold  
10 title to real property in the name of the State of North Carolina, and to enter in contracts and do  
11 any and all things necessary to carry out any statewide programs for the acquisition of armories  
12 and armory sites, the construction and maintenance of armories, and to provide facilities which  
13 may be considered by it as necessary for any unit and which may be authorized by act of  
14 Congress or otherwise. (1947, c. 1010, s. 6; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s.  
15 2; 2011-145, s. 19.1(g).)  
16

17 **§ 127A-165. Counties and municipalities may lease, convey or acquire property for use as**  
18 **armory.**

19 Every municipality and county of the State of North Carolina is hereby authorized and  
20 empowered to lease or convey by deed to the State of North Carolina:

- 21 (1) Any existing armory and the land adjacent thereto;  
22 (2) Any real property suitable for the construction of an armory, warehouse or  
23 other facility; and  
24 (3) Any real property suitable for use in the administration, instruction and  
25 training of any unit.

26 Every municipality and county is further authorized and empowered to acquire any real  
27 property which may be suitable for use as an armory or for the construction of an armory  
28 thereon, or for any other purpose of a unit. The contracting of an indebtedness and the  
29 expenditure of public funds by any municipality or county to comply with the provisions of this  
30 Article are hereby declared to be a necessary expense and for a public purpose. (1947, c. 1010,  
31 s. 7; 1949, c. 1066, s. 1; 1975, c. 604, s. 2.)  
32

33 **§ 127A-166. Prior conveyances validated.**

34 All conveyances of real property made before April 20, 1949, by any municipality or  
35 county of the State of North Carolina to the State of North Carolina for armory purposes are  
36 hereby validated and ratified in every respect. (1949, c. 1066, s. 2; 1975, c. 604, s. 2.)  
37

38 **§ 127A-167. Appropriations to supplement available funds authorized.**

39 Any city or town and any county in the State, separately or jointly, may make  
40 appropriations to supplement available federal or State funds to be used for the construction of  
41 armory facilities for the North Carolina National Guard. Appropriations made under authority  
42 of this Article shall be in the amounts and in the proportions deemed adequate and necessary by  
43 the governing body of the county and/or municipality desiring to participate in the armory  
44 construction program. (1955, c. 1181, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s.  
45 1(a).)  
46

47 **§ 127A-168. Local financial support.**

48 Each county and city in this State is authorized to make appropriations for the purposes of  
49 this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S.  
50 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.  
51 (1955, c. 1181, s. 2; 1961, c. 1042; 1973, c. 803, s. 12; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

1  
2 **§ 127A-169. Unexpended portion of State appropriation.**

3 The unexpended portion of any appropriation from the General Fund of the State for the  
4 purposes set out in this Article, remaining at the end of any biennium, shall not revert to the  
5 General Fund of the State, but shall constitute part of a permanent fund to be expended from  
6 time to time in the manner and for the purposes set out in this Article. (1949, c. 1202, s. 2;  
7 1975, c. 604, s. 2; 2011-195, s. 1(a).)

8  
9 **§§ 127A-170 through 127A-174. Reserved for future codification purposes.**

10  
11 Article 14.

12 National Guard Mutual Assistance Compact.

13 **§ 127A-175. Purposes.**

14 (a) Provide for mutual aid among the party states in the utilization of the National  
15 Guard to cope with emergencies.

16 (b) Permit and encourage a high degree of flexibility in the deployment of National  
17 Guard forces in the interest of efficiency.

18 (c) Maximize the effectiveness of the National Guard in those situations which call for  
19 its utilization under this Compact.

20 (d) Provide protection for the rights of National Guard personnel when serving in other  
21 states on emergency duty. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1.)

22  
23 **§ 127A-176. Entry into force and withdrawal.**

24 (a) This Compact shall enter into force when enacted into law by any two states.  
25 Thereafter, this Compact shall become effective as to any other state upon its enactment  
26 thereof.

27 (b) Any party state may withdraw from this Compact by enacting a statute repealing the  
28 same, but no such withdrawal shall take effect until one year after the governor of the  
29 withdrawing state has given notice in writing of such withdrawal to the governors of all other  
30 party states. (1969, c. 674, s. 1; 1975, c. 604, s. 2.)

31  
32 **§ 127A-177. Definitions; mutual aid.**

33 (a) As used in this Article:

34 (1) "Emergency" means an occurrence or condition, temporary in nature, in  
35 which police and other public safety officials and locally available National  
36 Guard forces are, or may reasonably be expected to be, unable to cope with  
37 substantial and imminent danger to the public safety.

38 (2) "Requesting state" means the state whose governor requests assistance in  
39 coping with an emergency.

40 (3) "Responding state" means the state furnishing aid, or requested to furnish  
41 aid.

42 (b) Upon request of the governor of a party state for assistance in an emergency, the  
43 governor of a responding state shall have authority under this Compact to send without the  
44 borders of the responding state and place under the temporary command of the appropriate  
45 National Guard or other military authorities of the requesting state all or any part of the  
46 National Guard forces of the responding state as the governor of the responding state may deem  
47 necessary, and the exercise of the governor's discretion in this regard shall be conclusive.

48 (c) The governor of a party state may withhold the National Guard forces of that  
49 governor's state from such use and recall any forces or part or member thereof previously  
50 deployed in a requesting state.

1 (d) Whenever National Guard forces of any party state are engaged in another state in  
2 carrying out the purposes of this Compact, the members thereof so engaged shall have the same  
3 powers, duties, rights, privileges and immunities as members of National Guard forces in such  
4 other state. The requesting state shall save members of the National Guard forces of responding  
5 states harmless from civil liability for acts or omissions in good faith which occur in the  
6 performance of their duty while engaged in carrying out the purposes of this Compact, whether  
7 the responding forces are serving the requesting state within its borders or are in transit to or  
8 from such service.

9 (e) Subject to the provisions of subsections (f), (g) and (h) of this section, all liability  
10 that may arise under the laws of the requesting state, the responding state, or a third state on  
11 account of or in connection with a request for aid, shall be assumed and borne by the requesting  
12 state.

13 (f) Any responding state rendering aid pursuant to this Compact shall be reimbursed by  
14 the requesting state for any loss or damage to, or expense incurred in the operation of any  
15 equipment answering a request for aid, and for the cost of the materials, transportation and  
16 maintenance of National Guard personnel and equipment incurred in connection with such  
17 request: Provided, that nothing herein contained shall prevent any responding state from  
18 assuming such loss, damage, expense or other cost.

19 (g) Each party state shall provide, in the same amounts and manner as if they were on  
20 duty within their state, for the pay and allowances of the personnel of its National Guard units  
21 while engaged without the state pursuant to this Compact and while going to and returning  
22 from such duty pursuant to this Compact. Such pay and allowances shall be deemed items of  
23 expense reimbursable under subsection (f) of this section by the requesting state.

24 (h) Each party state providing for the payment of compensation and death benefits to  
25 injured members and the representatives of deceased members of its National Guard forces in  
26 case such members sustain injuries or are killed within their own state, shall provide for the  
27 payment of compensation and death benefits in the same manner and on the same terms in case  
28 such members sustain injury or are killed while rendering aid pursuant to this Compact. Such  
29 compensation and death benefits shall be deemed items of expense reimbursable pursuant to  
30 subsection (f) of this section. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s.  
31 1(a).)

### 32 **§ 127A-178. Delegation.**

34 Nothing in this Compact shall be construed to prevent the governor of a party state from  
35 delegating any of the governor's responsibilities or authority respecting the National Guard,  
36 provided that such delegation is otherwise in accordance with law. For purposes of this  
37 Compact, however, the governor shall not delegate the power to request assistance from  
38 another state. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

### 39 **§ 127A-179. Limitations.**

41 Nothing in this Compact shall:

- 42 (1) Expand or add to the functions of the National Guard, except with respect to  
43 the jurisdictions within which such functions may be performed;
- 44 (2) Authorize or permit National Guard units to be placed under the field  
45 command of any person not having the military or National Guard rank or  
46 status required by law for the field command position in question. (1969, c.  
47 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

### 48 **§ 127A-180. Construction and severability.**

49 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
50 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision  
51

1 of this Compact is declared to be contrary to the constitution of any state or of the United States  
2 or the applicability thereof to any government, agency, person or circumstance is held invalid,  
3 the validity of the remainder of this Compact and the applicability thereof to any government,  
4 agency, person or circumstance shall not be affected thereby. If this Compact shall be held  
5 contrary to the constitution of any state participating herein, the Compact shall remain in full  
6 force and effect as to the remaining party states and in full force and effect as to the state  
7 affected as to all severable matters. (1969, c. 674, s. 1; 1975, c. 604, s. 2.)  
8

9 **§ 127A-181. Payment of liability to responding state.**

10 Upon presentation of a claim therefor by an appropriate authority of a state whose National  
11 Guard forces have aided this State pursuant to the Compact, any liability of this State pursuant  
12 to G.S. 127A-177(f) shall be paid out of the general fund. (1969, c. 674, s. 1; 1975, c. 604, s. 2;  
13 2009-281, s. 1; 2011-195, s. 1(a).)  
14

15 **§ 127A-182. Status, rights and benefits of forces engaged pursuant to Compact.**

16 In accordance with G.S. 127A-177(h), members of the National Guard forces of this State  
17 shall be deemed to be in State service at all times when engaged pursuant to this Compact, and  
18 shall be entitled to all rights and benefits provided pursuant to the laws of this State. (1969, c.  
19 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)  
20

21 **§ 127A-183. Injury or death while going to or returning from duty.**

22 All benefits to be paid under G.S. 127A-177(h) shall include any injury or death sustained  
23 while going to or returning from such duty. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2011-195, s.  
24 1(a).)  
25

26 **§ 127A-184. Authority of responding state required to relieve from assignment or  
27 reassign officers.**

28 Nothing in this Compact shall authorize or permit state officials or military officers of the  
29 requesting state to relieve from assignment or reassign officers or noncommissioned officers of  
30 National Guard units of the responding state without authorization by the appropriate  
31 authorities of the responding state. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1;  
32 2011-195, s. 1(a).)  
33

34 **§§ 127A-185 through 127A-189. Reserved for future codification purposes.**  
35

36 Article 15.

37 North Carolina National Guard Tuition Assistance Act of 1975.

38 **§ 127A-190:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
39 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.  
40

41 **§ 127A-191:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
42 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.  
43

44 **§ 127A-192:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
45 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.  
46

47 **§ 127A-193:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
48 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.  
49

50 **§ 127A-194:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
51 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

1  
2 § **127A-195:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
3 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

4  
5 § **127A-196:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
6 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

7  
8 § **127A-197:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
9 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

10  
11 § **127A-198:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
12 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

13  
14 § **127A-199:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
15 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

16  
17 § **127A-200:** Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through  
18 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

19  
20 Article 16.

21 National Guard Reemployment Rights.

22 § **127A-201. Entitlement.**

23 Any member of the North Carolina National Guard who, at the direction of the Governor,  
24 enters State duty, is entitled, upon honorable release from State duty, to all the reemployment  
25 rights provided for in this Article. (1979, c. 155, s. 1.)

26  
27 § **127A-202. Rights.**

28 Upon release from State duty, the employee shall make written application to the  
29 employee's previous employer for reemployment within five days of the employee's release  
30 from duty or from hospitalization continuing after release. If the employee is still qualified for  
31 the employee's previous employment, the employee shall be restored to his previous position or  
32 to a position of like seniority, status and salary, unless the employer's circumstances now make  
33 the restoration unreasonable. If the employee is no longer qualified for the employee's previous  
34 employment, the employee shall be placed in another position, for which the employee is  
35 qualified, and which will give the employee appropriate seniority, status and salary, unless the  
36 employer's circumstances now make the placement unreasonable. (1979, c. 155, s. 1;  
37 2011-195, s. 1(a).)

38  
39 § **127A-202.1. Discrimination against persons who serve in the North Carolina National  
40 Guard and acts of reprisal prohibited.**

41 (a) It is the policy of this State that all individuals shall be afforded the right to perform,  
42 apply to perform, or have an obligation to perform service in the North Carolina National  
43 Guard without fear of discrimination or retaliatory action from their employer or prospective  
44 employer on the basis of that membership, application for membership, performance of service,  
45 application for service, or obligation.

46 (b) An individual who is a member of the North Carolina National Guard who  
47 performs, has performed, applies to perform, or has an obligation to perform service in the  
48 North Carolina National Guard shall not be denied initial employment, reemployment,  
49 retention in employment, promotion, or any benefit of employment by an employer on the basis  
50 of that membership, application for membership, performance of service, application for  
51 service, or obligation.

1 (c) A person shall be considered to have denied a member of the North Carolina  
2 National Guard initial employment, reemployment, retention in employment, promotion, or a  
3 benefit of employment in violation of this section if the member's membership, application for  
4 membership, performance of service, application for service, or obligation for service in the  
5 North Carolina National Guard is a motivating factor in that person's action, unless the person  
6 can prove by the greater weight of the evidence that the same unfavorable action would have  
7 taken place in the absence of the member's membership, application for membership,  
8 performance of service, application for service, or obligation.

9 (d) Nothing in this section shall be construed to require a person to pay salary or wages  
10 to a member of the North Carolina National Guard during the member's period of active  
11 service.

12 (e) The Commissioner of Labor shall enforce the provisions of this section according to  
13 Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued  
14 pursuant to that Article.

15 (f) This section shall also apply when a member of the North Carolina National Guard  
16 is called into active duty at the direction of the President, the Governor, or by any other  
17 competent authority. (1997-153, s. 1; 2004-130, s. 3.)  
18

19 **§ 127A-203. Penalties for denial.**

20 If any employer, public or private, fails or refuses to comply with G.S. 127A-202, the  
21 superior court for the district of the employer's place of business may, upon the filing of a  
22 motion, petition, or other appropriate pleading by the employee, require the employer to  
23 comply with G.S. 127A-202 and to compensate the employee for any loss of wages or benefits  
24 suffered by reason of the employer's unlawful failure or refusal. (1979, c. 155, s. 1.)