

I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 31 (FC)

Introduced By:

R.J. Respicio
F. B. Aguon, Jr.
M. Cruz



AN ACT TO ADD CHAPTER 8 TO DIVISION 1, TITLE 22, GUAM
CODE ANNOTATED CREATING, "GUAM MILITARY SERVICE
RELIEF ACT OF 2005"

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Findings.** *I Liheslaturan Guåhan* finds that in order to
3 provide for, strengthen, and to respond to the national security under
4 emergent conditions which threaten the peace and security of the
5 United States and to enable those citizens of Guam who perform
6 service in the uniformed services to more successfully devote their
7 entire energy to the security needs of the nation and Guam,
8 provisions should be made to provide reemployment rights and
9 other benefits for persons who perform service in the uniformed
10 services of the United States. *I Liheslaturan Guåhan* further finds that it
11 is essential that all citizens who serve in the Reserve and National
12 Guard Component, to advance national interests and our nations
13 security, are protected. These patriotic individuals who leave their

1 employment, homes, and education should not be penalized nor
2 economically disadvantaged because of their uniformed service.

3 **Section 2. DIVISION 1, CHAPTER 8, TITLE 22, GUAM CODE**
4 **ANNOTATED, IS ADDED AS FOLLOWS :**

5

6 **“GUAM MILITARY SERVICE RELIEF ACT**

7 **SUBPART A. GENERAL PROVISIONS**

8 **§401. Title**

9 This Part may be cited as the "Guam Military Service Relief Act".

10 **§402. Purpose**

11 A. In order to provide for, strengthen, and expedite the national
12 security under emergent conditions which threaten the peace and
13 security of the United States and to enable those citizens of Guam
14 who perform service in the uniformed services to more successfully
15 devote their entire energy to the security needs of the nation and
16 Guam, provision is hereby made to provide reemployment rights and
17 other benefits for persons who perform service in the uniformed
18 services of the United States. It is herein declared to be the policy of
19 Guam that its citizens who serve their country and Guam and who
20 leave their employment, homes, and education shall not be penalized
21 nor economically disadvantaged because of their uniformed service.

22 B. The provisions of this Part shall be liberally construed for the
23 benefit of those called to serve their country in the armed forces. The

1 purpose of this Part is to prevent veterans from being disadvantaged
2 and to prohibit discrimination against persons because of their
3 uniformed service when they return to civilian life. It is the sense of
4 the legislature that the Government of Guam should be a model
5 employer in carrying out the provisions of this Part.

6 C. The provisions of this Part are intended to be supplemental to any
7 rights that persons called to military service have under any
8 applicable federal statutes, including but not limited to, the Soldiers'
9 and Sailors' Civil Relief Act of 1940, as amended, 50 U.S.C. 501 et seq.
10 and the Uniformed Services Employment and Reemployment Rights
11 Act, 38 U.S.C. 4301 et seq., and under any other applicable laws of
12 Guam.

13 D. Nothing in this Part shall supersede, nullify, or diminish any
14 federal or Guam law (including any local law or ordinance), contract,
15 agreement, policy, plan, practice, or other matter that establishes a
16 right or benefit that is more beneficial to, or is in addition to a right or
17 benefit provided for such person in this Part.

18 E. This Part supersedes any local law or ordinance, contract,
19 agreement, policy, plan, practice, or other matter that reduces, limits,
20 or eliminates in any manner any right or benefit provided by this
21 Part, including the establishment of additional prerequisites to the
22 exercises of any such right or the receipt of any such benefit.

23 **§403. Definitions**

1 As used in this Part, the following terms shall have the definitions
2 ascribed in this Section unless the context clearly requires otherwise:

3 (1) "Appointed official" means a person holding an appointive
4 position or office with any department, board, commission, or agency
5 of the state, or of any political subdivision or municipal corporation,
6 when the office or position is established by the Organic Act or laws
7 of Guam.

8 (2) "Benefit, benefit of employment, rights and benefits" means any
9 advantage, profit, privilege, gain, status, account, or interest other
10 than wages or salary for work performed that accrues by reason of an
11 employment contract or agreement or an employer policy, plan, or
12 practice and includes rights and benefits under a pension plan, a
13 health plan, an employee stock ownership plan, insurance coverage
14 and awards, bonuses, severance pay, supplemental unemployment
15 benefits, vacations, and the opportunity to select work hours or
16 location of employment.

17 (3) "Compensation" means normal or regular base pay, but does not
18 include overtime, per diem, differential pay, or any other allowance
19 for other expense. "Compensation" for Government of Guam
20 employees as defined in Guam law shall also include such
21 supplemental pay or extra compensation paid by the Government of
22 Guam as authorized and provided by law.

1 (4) "Disability" means a physical or mental impairment, which
2 substantially limits one or more of the major life activities, or a record
3 of such impairment. Major life activities include caring for one's self,
4 walking, hearing, speaking, breathing, learning, performing manual
5 tasks, and working.

6 (5) "Elected official" means a person holding an office in a
7 governmental entity of Guam or any of its political subdivisions
8 which is filled by the vote of the appropriate electorate.

9 (6) "Employee" means any person employed by any private or public
10 employer. Employee shall also include an elected or appointed
11 official.

12 (7) "Employment" means a position as an employee with any private
13 or public employer. For purposes of this Part, employment shall
14 include commencement of employment, by any actions in
15 furtherance of employment, once an offer has been extended by an
16 employer and accepted by an employee. For purposes of this Part,
17 service in the military service, greater than thirty days shall not be
18 considered secondary employment.

19 (8) "Essential functions" means the fundamental job duties of the
20 employment position the disabled person held or desires.

21 (9) "Public retirement system" means any public retirement or
22 pension system, fund, or plan maintained primarily for officers and
23 employees of Guam or of any political subdivision thereof, or any

1 district, board, commission, or other agency of either, or of any other
2 such public entity.

3 (10) "Reasonable efforts", in the case of actions required of an
4 employer under this Part, means actions, including training provided
5 by an employer, that do not place an undue hardship upon the
6 employer.

7 (11) "Service in the uniformed services" means the performance of
8 duty on a voluntary or involuntary basis in a uniformed service
9 under competent authority and includes active duty, active duty for
10 training, initial active duty for training, inactive duty training, full-
11 time national guard duty, and a period for which a person is absent
12 from a position of employment for the purpose of an examination to
13 determine the fitness of the person to perform any such duty.

14 "Service in the uniformed services" also means service in the armed
15 forces of the United States pursuant to authorization by the United
16 States Congress or presidential proclamation pursuant to the War
17 Powers Resolution (50 U.S.C. 1541 et seq.). "Service in the uniformed
18 services" also means the active duty by members of the national
19 guard who are activated pursuant to a call of the Governor of Guam
20 or of the governor of any other state, territory or Commonwealth of
21 the United States as provided for by law.

22 (12) "Undue hardship", in the case of actions taken by an employer,
23 means actions requiring significant difficulty or expense, when

1 considered in light of the nature and cost of the actions needed under
2 this Part; the overall financial resources of the facility or facilities
3 involved in the provision of the action; the number of persons
4 employed at such facility; the effect on expenses and resources, or the
5 impact otherwise of such action upon the operation of the facility; the
6 overall financial resources of the employer; the overall size of the
7 business of an employer with respect to the number of its employees;
8 the number, type, and location of its facilities; and the type of
9 operation or operations of the employer, including the composition,
10 structure, and functions of the work force of such employer; the
11 geographic separateness, administrative, or fiscal relationship of the
12 facility or facilities in question to the employer.

13 (13) "Uniformed services" means the armed forces of the United
14 States as defined by 10 U.S.C. 101(a)(4), including reserved
15 components of the armed forces, the Army National Guard and the
16 Air National Guard, the commissioned corps of the Public Health
17 Service, and any other category of persons designated by the
18 President of the United States in time of war or emergency.

19 **SUBPART B. COMPENSATION**

20 **§404. Discrimination prohibited**

21 A. A person who is a member of, applies to be a member of,
22 performs, has performed, applies to perform, or has an obligation to
23 perform service in a uniformed service shall not be denied initial

1 employment, reemployment, retention in employment, promotion, or
2 any benefit of employment by an employer on the basis of that
3 membership, application for membership, performance of service,
4 application for service, or obligation.

5 B. An employer shall be considered to have denied a person initial
6 employment, reemployment, retention in employment, promotion, or
7 a benefit of employment in violation of this Section if the person's
8 membership, application for membership, service, application for
9 service, or obligation for service in the uniformed services is a
10 motivating factor in the employer's action, unless the employer can
11 prove that the action would have been taken in the absence of such
12 membership, application for membership, performance of service,
13 application for service, or obligation.

14 C. An employer may not discriminate in employment against or take
15 an adverse employment action against any person because such
16 person has taken an action to endorse a protection afforded any
17 person under this Part, has testified or otherwise made statement in
18 or in connection with any proceeding under this Part, has assisted or
19 otherwise participated in an investigation under this Part, or has
20 exercised a right provided for in this Part. The prohibition provided
21 for in this Subsection shall apply with respect to a person regardless
22 of whether that person has performed service in the uniformed
23 services and shall apply to any position of employment, including a

1 position that is for a brief, non-recurrent period and there is no
2 reasonable expectation that such employment will continue
3 indefinitely or for a significant period.

4 **405. Compensation**

5 A.(1) Except as otherwise provided in this Subsection, any employer
6 in Guam is hereby authorized to pay compensation to any employee
7 who leaves employment to perform service in the uniformed
8 services. If the employer elects to pay the compensation, it shall be
9 paid on a uniform basis to all such employees of that employer.

10 (2) After military leave with pay provided for in Guam law has been
11 exhausted, any Government of Guam employee called to active duty
12 service in the uniformed services of the United States pursuant to a
13 declaration of war, congressional authorization, or presidential
14 proclamation pursuant to the War Powers Resolution (50 U.S.C. 1541
15 et seq.), or national emergency whose military base pay is less than
16 their Guam base pay may be paid the difference between their
17 military base pay and their Guam base pay in their regular position.

18 The payment shall be made in the same frequency and manner as the
19 employee's regular Government of Guam pay. Any employee
20 receiving the pay differential shall provide to their employer all such
21 documentation appropriate to ensure that the amount of the payment
22 is accurately calculated. Any employee who elects to use their annual
23 leave during active service shall not be eligible for receipt of the pay

1 differential unless otherwise provided by Guam law or regulation. If
2 the Government of Guam elects to pay the compensation, it shall be
3 paid on a uniform basis to all such employees of the Government of
4 Guam.

5 B. The payment of compensation subsequent to the employee's
6 release from service in the uniformed services and upon
7 reemployment with their former employer shall be governed by then
8 applicable provisions of Guam law or regulation.

9 C. The payment of compensation and benefits to elected officials
10 shall be paid in accordance with the then applicable provisions of
11 Guam law or regulation.

12 **SUBPART C. LEAVE STATUS**

13 **§406. Leave status**

14 A. Any government employee who leaves employment in order to
15 perform service in the uniformed services shall be treated as being on
16 military leave of absence during the period of service in the
17 uniformed services, provided that the employee applies for
18 reemployment in accordance with section 410 of this statute.

19 B. The government employee, at their option, may use any amount
20 or combination of their accrued annual leave, paid military leave,
21 vacation, or compensatory leave standing to their credit during the
22 period of service in the uniformed services.

1 C. The government employee shall continue to accrue sick leave,
2 annual leave, vacation leave, or military leave on the same basis as he
3 would have accrued such leave during the period of service in the
4 uniformed services.

5 D. The Government of Guam may not deduct from the
6 compensation paid to an employee in service in the uniformed
7 services any cost of replacing said employee during said employee's
8 service in the uniformed services.

9 **SUBPART D. INSURANCE**

10 **§407. Life and health and accident insurance**

11 A. The provisions of this Section shall be applicable to any group life
12 insurance, group insurance, family group, blanket and franchise
13 health and accident insurance, and health care services plan provided
14 by any private or public employer in Guam.

15 B. Any employee shall have the right to maintain the insurance or
16 plan coverage enumerated in Subsection A by furnishing their
17 employer with sums equal to that which would have been deducted
18 from their compensation for such coverage. Upon timely receipt of
19 the employee's contributions required by the insurance policy or plan
20 provisions, the employer shall provide the applicable insurer or
21 health maintenance organization with those contributions plus an
22 amount equal to what the employer would have contributed during
23 the period of service in the uniformed services. The employee shall

1 notify their employer of their election to continue insurance or plan
2 coverage at the time he enters service in the uniformed services.

3 C. Family members or dependent children of an employee who are
4 covered by any insurance policy or plan enumerated in Subsection A
5 herein who are subsequently called to service in the uniformed
6 services shall continue to be considered family members or
7 dependents under the provisions of the policy or plan without any
8 lapse of coverage, provided that all required contributions are paid in
9 accordance with the policy or plan provisions.

10 D. Any employee who leaves employment to perform service in the
11 uniformed services and who reapplies for coverage, after release, as
12 provided for in Section 406 of this Act, shall be reinstated, including
13 all of their family members and dependents previously covered, with
14 the group insurance program or medical and health care coverage
15 without any clause or restriction because of a preexisting condition
16 and any eligible dependent covered under a plan or policy
17 enumerated in Subsection A of this Section who is called to service in
18 the uniformed services and whose coverage under a plan or policy is
19 not maintained during such service, after release and upon
20 application of the policyholder of the plan or policy, shall be
21 reinstated with the group policy or plan without any clause or
22 restriction because of a preexisting condition.

1 E. The provisions of this Section shall not be construed to invalidate
2 the provision of any life insurance policy excluding or restricting
3 coverage in the event of death as provided for in Guam law.

4 F. The provisions of this Section shall not invalidate any legitimate
5 exclusions to coverage of any policy or plan enumerated in
6 Subsection A herein.

7 **SUBPART E. WORKERS' COMPENSATION BENEFITS**

8 **§408. Workers' compensation benefits; supplementary earnings**
9 **benefits; voluntary suspension**

10 A. Any employee receiving supplemental earnings benefits pursuant
11 to the Workers' compensation provisions of Guam law who is called
12 to service in the uniformed services, and is found to be medically
13 deployable militarily, and is subsequently deployed, shall, at their
14 option, be allowed to suspend any such benefit payments for which
15 the employee would otherwise be eligible during their period of
16 service in the uniformed services.

17 B. The director of workers' compensation of the Department of Labor
18 shall, by rule, prescribe the method by which such employee may
19 request the suspension of benefits.

20 C. During the period of such voluntary suspension, the provisions of
21 Guam law pertaining to termination of such supplemental earnings
22 benefits, if otherwise applicable, shall not apply to such individual.

1 D. The employee shall be restored to the same benefits he would
2 have received had he not been called to service in the uniformed
3 services, provided that he makes an application to resume such
4 benefits after their release from service in the uniformed services or
5 release from hospitalization incidental to their service in the
6 uniformed services as provided for in Section 406 of this Act.

7 **SUBPART F. REEMPLOYMENT RIGHTS**

8 **§409. Right of reinstatement to former employment**

9 A. Any person who is absent from a position of employment with an
10 employer that has more than 100 employees by reason of service in
11 the uniformed services shall be entitled to the reemployment rights
12 and benefits and other employment benefits of this Part, within ten
13 days of application for reemployment, if all of the following
14 conditions are met:

15 (1) The person (or an appropriate officer of the uniformed service in
16 which such service is performed) has given advance written or verbal
17 notice of such service to such person's employer.

18 (2) The cumulative length of the absence and of all previous absences
19 from a position of employment with that employer by reason of
20 service in the uniformed services does not exceed five years.

21 (3) Except as provided in Subsection F, the person reports to, or
22 submits an application for reemployment to, such employer in
23 accordance with the provisions of Subsection E.

1 B. No notice is required under Subsection A if the giving of such
2 notice is precluded by military necessity or, under all of the relevant
3 circumstances, the giving of such notice is otherwise impossible or
4 unreasonable. A determination of military necessity for the purposes
5 of this Subsection shall be made pursuant to regulations prescribed
6 by the uniformed services and shall not be subject to judicial review.

7 C. Subsection A shall apply to a person who is absent from a position
8 of employment by reason of service in the uniformed services if such
9 person's cumulative period of service in the uniformed services, with
10 respect to the employer relationship for which a person seeks
11 reemployment, does not exceed five years, except that any such
12 period of service shall not include any service:

13 (1) That is required, beyond five years, to complete an initial period
14 of obligated service.

15 (2) During which such person was unable to obtain orders releasing
16 such person from a period of service in the uniformed services before
17 the expiration of such five-year period and such inability was
18 through no fault of such person.

19 (3) Performed to fulfill additional training requirements determined
20 to be necessary for professional development, or for completion of
21 skill training or retraining.

22 (4) Performed by a member of a uniformed service who has been:

1 (a) Ordered to or retained on active duty in time of war or national
2 or state emergency.

3 (b) Ordered to or retained on active duty (other than for training)
4 under any provision of law during a war or during a national
5 emergency declared by the president or the congress or emergency
6 declared by the governor or the legislature.

7 (c) Ordered to active duty in support of a critical mission or
8 requirement of the uniformed services.

9 D.(1) An employer is not required to reemploy a person under this
10 Part if:

11 (a) The employer's circumstances have so changed as to make such
12 reemployment impossible or unreasonable.

13 (b) Such employment would impose an undue hardship on the
14 employer.

15 (c) The employment from which the person leaves to serve in the
16 uniformed services is for a brief, non-recurrent period and there is no
17 reasonable expectation that such employment will continue
18 indefinitely or for a significant period.

19 (2) The employer shall have the burden of proving the impossibility
20 or unreasonableness, undue hardship, or the brief or non-recurrent
21 nature of the employment without a reasonable expectation of
22 continuing indefinitely or for a significant period.

1 E.(1) Subject to Paragraph (2), a person referred to in Subsection A
2 shall, upon the completion of a period of service in the uniformed
3 services, notify the employer referred to in such Subsection of the
4 person's intent to return to a position of employment with such
5 employer as follows:

6 (a) In the case of a person whose period of service in the uniformed
7 services was less than thirty-one days, by reporting to the employer
8 in the following manner:

9 (i) Not later than the beginning of the first full regularly scheduled
10 work period on the first full calendar day following the completion of
11 the period of service and the expiration of eight hours after a period
12 allowing for the safe transportation of the person from the place of
13 that service to the person's residence.

14 (ii) As soon as possible after the expiration of the eight-hour period
15 referred to in Item (i), if reporting within that period is impossible or
16 unreasonable through no fault of the person.

17 (b) In the case of a person who is absent from a position of
18 employment for a period of any length for the purposes of an
19 examination to determine the person's fitness to perform service in
20 the uniformed services, by reporting in the manner and time referred
21 to in Subparagraph (a).

22 (c) In the case of a person whose period of service in the uniformed
23 services was for more than thirty days but less than one hundred

1 eighty-one days, by submitting an application for reemployment
2 with the employer not later than fourteen days after the completion
3 of the period of service or if submitting such application within such
4 period is impossible or unreasonable through no fault of the person,
5 the next first full calendar day when submission of such application
6 becomes possible.

7 (d) In the case of a person whose period of service in the uniformed
8 services was for more than one hundred eighty days, by submitting
9 an application for reemployment with the employer not later than
10 ninety days after the completion of the period of service.

11 (2)(a) A person who is hospitalized for, or convalescing from, an
12 illness or injury incurred in, or aggravated during, the performance
13 of service in the uniformed services shall, at the end of the period that
14 is necessary for the person to recover from such illness or injury,
15 report to the person's employer (in the case of a person described in
16 Subparagraph (a) or (b) of Paragraph (1)) or submit an application for
17 reemployment with such employer (in the case of a person described
18 in Subparagraph (c) or (d) of such Paragraph). Except as provided in
19 Subparagraph (b), such period of recovery may not exceed two years.

20 (b) Such two-year period shall be extended by the minimum time
21 required to accommodate the circumstances beyond such person's
22 control which make reporting within the period specified in
23 Subparagraph (a) impossible or unreasonable.

1 (3) A person who fails to report or apply for employment or
2 reemployment within the appropriate period specified in this
3 Subsection shall not automatically forfeit such person's entitlement to
4 the rights and benefits referred to in Subsection A but shall be subject
5 to the conduct rules, established policy, and general practices of the
6 employer pertaining to explanations and discipline with respect to
7 absence from scheduled work.

8 F.(1) A person who submits an application for reemployment in
9 accordance with Subparagraph (c) or (d) of Paragraph E(1) or (2) shall
10 provide to the person's employer (upon the request of such
11 employer) documentation to establish the following:

12 (a) The person's application is timely.

13 (b) The person has not exceeded the service limitations set forth in
14 Paragraph A(2) (except as permitted under Subsection C).

15 (c) The person's entitlement to the benefits under this Section has not
16 been terminated by reason of dishonorable discharge from service in
17 the uniformed services.

18 (2) Documentation of any matter referred to in Paragraph (1) that
19 satisfies regulations prescribed by the adjutant general shall satisfy
20 the documentation requirements in such Paragraph.

21 (3)(a) Except as provided in Subparagraph (b), the failure of a person
22 to provide documentation that satisfies regulations prescribed
23 pursuant to Paragraph (2) shall not be a basis for denying

1 reemployment in accordance with the provisions of this Part if the
2 failure occurs because such documentation does not exist or is not
3 readily available at the time of the request of the employer. If, after
4 such reemployment, documentation becomes available that
5 establishes that such person does not meet one or more of the
6 requirements referred to in Subparagraphs (a), (b), and (c) of
7 Paragraph (1), the employer of such person may terminate the
8 employment of the person and the provision of any rights or benefits
9 afforded the person under this Part.

10 (b) An employer who reemploys a person absent from a position of
11 employment for more than ninety days may require that the person
12 provide the employer with the documentation referred to in
13 Subparagraph (a) before beginning to treat the person as not having
14 incurred a break in service for pension purposes.

15 (4) An employer may not delay or attempt to defeat a reemployment
16 obligation by demanding documentation that does not then exist or is
17 not then readily available.

18 G. The right of a person to reemployment under this Part shall not
19 entitle such person to retention, preference, or displacement rights
20 over any person with a superior claim under the provisions of Title 5,
21 United States Code, relating to veterans and other preference
22 eligibles.

1 H. In any determination of a person's entitlement to protection under
2 this Part, the timing, frequency, and duration of the person's training
3 or service, or the nature of such training or service (including
4 voluntary service) in the uniformed services, shall not be a basis for
5 denying protection of this Part if the service does not exceed the
6 limitations set forth in Subsection C and the notice requirements
7 established in Paragraph A(1) and the notification requirements
8 established in Subsection E are met.

9 I. Any employee, who applies for reemployment in accordance with
10 the provisions of this law, shall be entitled to complete any training
11 program that was applicable to their former position of employment
12 during their period of service in the uniformed services.

13 J. Any employee who is restored to or employed in a position in
14 accordance with the provisions of this Section shall not be discharged
15 from such position without cause within one year after such
16 restoration or reemployment.

17 K. Notwithstanding any provision of law to the contrary, an
18 employee shall be reinstated to their former position as a teacher
19 immediately upon application and shall be entitled to receive that
20 compensation which he would have received if he would have been
21 employed on a nine-month basis and had prorated their salary over
22 twelve months. The employee shall be reinstated prior to the end of
23 the twelve-month period.

1 L. A person who is reemployed under this Part is entitled to the
2 seniority and other rights and benefits determined by seniority that
3 the person had on the date of the commencement of service in the
4 uniformed services plus the additional seniority and rights and
5 benefits that such person would have attained if the person had
6 remained continuously employed.

7 **SUBPART G. TAXES AND OTHER ASSESSMENTS**

8 **§410. Exemptions from payment of reinstatement fees; motor**
9 **vehicle**

10 The reinstatement fees imposed by Guam law and regulation shall
11 not be assessed and collected against any person who performs
12 service in the uniformed services whose compulsory liability
13 insurance has been cancelled or terminated due to the failure by the
14 person who performs service in the uniformed services to pay their
15 premiums during their period of military service. However, the
16 person who performs service in the uniformed services must comply
17 with all other requirements of Guam law, as applicable, relative to
18 the reinstatement of their motor vehicle registration.

19 **§411. License validity; renewals; suspension of fees**

20 The payment of any reinstatement or licensing fee or the application
21 for renewal of any license imposed by the Government of Guam or
22 any public or governmental entity which the person who performs
23 service in the uniformed services validly holds at the time he enters

1 service in the uniformed services shall be suspended until ninety
2 days after their release from service in the uniformed services or
3 discharge from hospitalization incidental to their service in the
4 uniformed services, provided that the person complies with all of the
5 licensing requirements including the payment of fees before the
6 expiration of ninety days after their release from service in the
7 uniformed services or discharge from hospitalization incidental to
8 their service in the uniformed services. Any license covered by this
9 Section which the person validly held at the time he entered service
10 in the uniformed services shall remain in force and effect until ninety
11 days after their release from service in the uniformed services,
12 provided that the licensing requirements are complied with,
13 including the payment of any licensing and renewal fees owed.

14 **§412. Professional and occupational licenses; renewal fees waived;**
15 **educational requirements**

16 The person who performed service in the uniformed services shall be
17 exempted from the payment of any reinstatement or licensing
18 renewal fee required by any profession or occupation governed by
19 Guam law, regulation or ordinance, which may be applicable to any
20 such person who performed service in the uniformed services during
21 their period of service in the uniformed services except those
22 licensing or renewal fees owed for the year in which he is released
23 from service in the uniformed services or discharged from

1 hospitalization incidental to their service in the uniformed services.
2 The person who performed service in the uniformed services shall
3 have ninety days after their release from service in the uniformed
4 services or hospitalization incidental to their service in the uniformed
5 services, to pay the licensing or renewal fees then owed. The person
6 who performed service in the uniformed services shall be exempted
7 from compliance with any continuing educational requirements
8 applicable to such license during their period of service in the
9 uniformed services, except those required for the year in which he is
10 released from service in the uniformed services or discharged from
11 hospitalization incidental to their service in the uniformed services.

12 The person who performed service in the uniformed services shall
13 complete such requirements within one hundred eighty days from
14 their release from service in the uniformed services or discharge from
15 hospitalization incidental to their service in the uniformed services.

16 Any applicable license shall continue in force and effect, provided
17 that both the renewal fees and the educational requirements are
18 completed within the periods provided herein.

19 **SUBPART H. GENERAL RELIEF**

20 **§413. Superior Court of Guam; jurisdiction; venue; preference**
21 **docket**

1 A. In the case of an action against the Government of Guam or any
2 private employer, the Superior Court of Guam shall have jurisdiction
3 to hear actions to enforce the provisions of this Part.

4 B. The Superior Court of Guam shall have jurisdiction, upon the
5 filing of a complaint, motion, petition, or other appropriate pleading
6 by or on behalf of the person claiming a right or benefit under this
7 Part:

8 (1) To require the employer to comply with the provisions of this
9 Chapter.

10 (2) To require the employer to compensate the person for any loss of
11 wages or benefits suffered by reason of such employer's failure to
12 comply with the provisions of this Chapter.

13 (3) To require the employer to pay the person an amount equal to the
14 amount of lost wages or benefits as liquidated damages, if the court
15 determines that the employer's failure to comply with the provisions
16 of this Chapter was willful.

17 (4) Any compensation under Paragraphs (1), (2), and (3) shall be in
18 addition to and shall not diminish any of the other rights and benefits
19 provided for in this Chapter.

20 C. The Superior Court shall give preference in scheduling such
21 actions, upon the motion of any person in the uniformed services, or
22 their attorney, who presents certification that the person has

1 performed service in the uniformed services or is in service in the
2 uniformed services.

3 **§414. Enforcement of Soldiers' and Sailors' Civil Relief Act of 1940,**
4 **as amended; Uniformed Services Employment and Reemployment**
5 **Rights Act; notice requirements**

6 A.(1) The provisions of the Soldiers' and Sailors' Civil Relief Act of
7 1940, as amended, (50 App. U.S.C. 501 et seq.) (SSCRA) and the
8 Uniformed Services Employment and Reemployment Rights Act (38
9 U.S.C. 4301 et seq.) (USERRA) are adopted and made a part of this
10 Part, and all of the benefits, protections, and rights provided in
11 SSCRA and USERRA shall be applicable to all persons called to
12 service in the uniformed services as defined in Section 403 of this Act
13 and shall be enforceable pursuant to the provisions of this Section.

14 (2) The Government of Guam Department of Labor and/or any
15 successor agency in interest shall make available the following notice
16 that every employer shall post in a conspicuous place in each
17 employment establishment:

18 "If you are in the national guard, military reserves, or active in the
19 military, you have certain protected employment and reemployment
20 rights, freedom from discrimination rights, and civil relief rights
21 under federal law 38 U.S.C. 4301 et seq. (USERRA) and 50 App.
22 U.S.C. 501 et seq. (SSCRA) and Guam law Section 401 et seq.
23 (GMSRA). If you feel that you have been discriminated against or

1 denied such rights on account of your service in the uniformed
2 services, contact the Employer Support Guard and Reserve
3 Committee at 1-800-336-4590."

4 B. The Superior Court of Guam shall have jurisdiction over
5 proceedings involving the Soldiers' and Sailors' Civil Relief Act of
6 1940, as amended, and the Uniformed Services Employment and
7 Reemployment Rights Act, which shall be governed by the rules
8 applicable to ordinary proceedings.

9 C. The Superior Court of Guam and the Guam Supreme Court shall
10 give preference in scheduling such proceedings, upon the motion of
11 any person in the uniformed services, or the person's attorney, who
12 presents certification that the person has performed service in the
13 uniformed services or is in service in the uniformed services.

14 **§415. Award of attorney fees**

15 In any proceeding employed to enforce any of the provisions of the
16 Guam Military Service Relief Act, the court may award reasonable
17 litigation expenses and costs, including but not limited to the
18 payment of reasonable attorney fees.