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Chapter 396

2009 EDITION

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GENERAL PROVISIONS

396.015 Definitions. The terms "unorganized militia," "all or any part of the organized militia," and "organized militia or any force thereof," whenever used in this chapter and ORS chapters 398 and 399, unless a different meaning is plainly required by the context, shall be deemed to include any unit, command, component, element, headquarters, staff or cadre thereof as well as any member thereof. [1961 c.454 §5(4)]

396.020 [Repealed by 1961 c.454 §213]

396.025 Purposes; rules of construction. (1) It is the intent of this chapter and ORS chapters 398 and 399 to provide for the Oregon Military Department and for the State Militia and for the organization, equipment, regulation and use thereof.

(2) All matters relating to the organization, discipline and government of the organized militia, not otherwise provided for in this chapter and ORS chapters 398 and 399 or in military department regulations issued pursuant thereto, shall be decided by the customs and usage of the appropriate force or forces of the Armed Forces of the United States. [1961 c.454 §1; 1989 c.360 §2]

396.030 [Repealed by 1961 c.454 §213]

396.035 Construction against implied repeal. This chapter and ORS chapters 398 and 399 being a general law intended as a unified coverage of its subject matter, no part of them shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided. [1961 c.454 §2]

396.040 [Repealed by 1961 c.454 §213]

396.045 Severability; conflicts. (1) If any clause, sentence, paragraph or part of this chapter and ORS chapters 398 and 399 or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter and ORS chapters 398 and 399, and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which judgment shall have been rendered and to the person or circumstance involved. It is hereby declared to be the legislative intent that this chapter and ORS chapters 398 and 399 would have been adopted had such invalid provisions not been included.

(2) In so far as the provisions of this chapter and ORS chapters 398 and 399 are inconsistent with the provisions of any other Act, general or special, or of any local law, the provisions of this chapter and ORS chapters 398 and 399 shall be controlling. [1961 c.454 §§3,4]

396.050 [Repealed by 1961 c.454 §213]

396.060 [Repealed by 1961 c.454 §213]

396.070 [Repealed by 1961 c.454 §213]

396.080 [Repealed by 1961 c.454 §213]

396.090 [Repealed by 1961 c.454 §213]

396.100 [Repealed by 1961 c.454 §213]

COMPOSITION; COMMAND AND STAFF OFFICERS

396.105 Militia comprised of organized and unorganized militia. (1) The militia of the state shall be divided into the organized militia and the unorganized militia.

(2) The organized militia shall be composed of the Oregon Army National Guard and the Oregon Air National Guard, which forces together with an inactive National Guard shall comprise the Oregon National Guard; the Oregon State Defense Force whenever such a state force shall be duly organized; and such additional forces as may be created by the Governor.

(3) The unorganized militia shall consist of all able-bodied residents of the state between the ages of 18 and 45 who are not serving in any force of the organized militia or who are not on the state retired list and who are or who have declared their intention to become citizens of the United States; subject, however, to such exemptions from military duty as are created by the laws of the United States. [1961 c.454 §5(1),(2),(3); 1989 c.361 §2; 2005 c.512 §3]

396.110 [Repealed by 1961 c.454 §213]

396.115 Persons exempt from militia service. The following persons shall be exempt from militia service:

(1) Persons exempt from militia service by the laws of the United States.

(2) Regular or duly ordained ministers of religion, or duly elected church officials regularly conducting church services, or those recognized by their church as devoting the major portion of their time to the practice of religion.

(3) Students preparing for the ministry in accredited theological or divinity schools.

(4) Persons whose religious tenets or conscientious scruples forbid them to bear arms. [1961 c.454 §18]

396.120 Authority to administer oaths. (1) The following persons of the organized militia may administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for those purposes before those persons who shall have the general powers of a notary public:

(a) The State Judge Advocate and all Assistant State Judge Advocates.

(b) All law specialists.

(c) All summary courts-martial.

(d) All adjutants, assistant adjutants, acting adjutants, personnel adjutants and other persons of equivalent responsibility who may be assigned a different position title by their respective force.

(e) All legal officers.

(f) The president, law officer, trial counsel and assistant trial counsel for all general and special courts-martial.

(g) The president and the counsel for the court of any court of inquiry.

(h) All officers designated to take a deposition.

(i) All persons detailed to conduct an investigation.

(j) All other persons designated by military department regulations issued by the Governor.

(2) The signature without seal of any such person, together with the title of office, is prima facie evidence of authority. [1961 c.454 §198]

396.125 Governor as Commander in Chief; military regulations. (1) The Governor of the state, by virtue of office, is the Commander in Chief of the militia of the state, and may issue military regulations for the governance of the militia. Military regulations issued by the Governor shall have the same force and effect as the provisions of this chapter and ORS chapters 398 and 399. In issuing such regulations, the Governor may give consideration to the laws and regulations of the United States relating to the organization, discipline and training of the militia, to the provisions of this chapter and ORS chapters 398 and 399 and to the laws and regulations governing the United States Army and United States Air Force. The military regulations in force on July 15, 2005, shall remain in force until new regulations are approved and promulgated.

(2) The Governor may delegate to the Adjutant General authority to issue the regulations described in subsection (1) of this section for the governance of the militia. [1961 c.454 §6; 2005 c.512 §1]

396.128 Operation of regulations adopted by Adjutant General. If the Adjutant General adopts regulations for the organization, discipline and governance of the organized militia, the Adjutant General shall specify in the regulations a date on which the regulations become operative for the purposes of all conduct occurring on or after the specified date. The provisions of ORS chapters 396, 398 and 399 do not apply to any conduct occurring on or after the specified date. [2005 c.512 §47]

Note: 396.128 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 396 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

396.130 Service of organized militia outside state. (1) The Governor may order the organized militia or any part thereof to serve outside the borders of this state or of the United States in order to perform military duty of every description and to participate in parades, reviews, cruises, conferences, encampments, maneuvers or other training, and to participate in small arms and other military competitions and to attend service schools.

(2) The provisions of this chapter and ORS chapters 398 and 399 shall apply to the members of the organized militia while serving without the state and while going to and returning from such service without the state in like manner and to the same extent as while serving within the state. [1961 c.454 §15]

396.135 Militia call by United States. When the militia of the state or any part thereof is called forth under the Constitution and laws of the United States, the Governor shall order out for service the organized militia or such part thereof as may be necessary, and if the number available is insufficient the Governor may call for and accept from the unorganized militia as many volunteers as are required for service in the organized militia or the Governor may direct the members of the unorganized militia or such of them as the Governor may deem necessary to be drafted into the organized militia. [1961 c.454 §16]

396.140 Registration of unorganized militia; failure to appear. (1) Whenever the Governor deems it necessary, the Governor may direct the members of the unorganized militia to present themselves for and submit to registration at such time and place and in such manner as may be prescribed by military department regulations issued pursuant to this chapter and ORS chapters 398 and 399.

(2) Any member of the unorganized militia who is ordered to register under the provisions of this section or to be drafted into the organized militia under ORS 396.135, and who fails to appear at the time and place designated in such order, shall be guilty of a misdemeanor. [1961 c.454 §17]

396.145 Military staff of Governor; Military Council. (1) The military staff of the Governor shall consist of the Chief of Staff to the Governor, the Military Council

and such personal aides-de-camp as the Governor shall deem necessary.

(2) The Adjutant General shall be Chief of Staff to the Governor.

(3) The Military Council hereby is established as an advisory board to the Governor for the purpose of advising the Governor in all matters of military interest to the state. It shall consist of the Adjutant General and not fewer than 6 nor more than 10 officers of the Oregon National Guard selected for their knowledge of the service. The Oregon Army National Guard and the Oregon Air National Guard shall be represented on the Military Council in proportion to their total strength.

(4) Personal aides-de-camp to the Governor may be selected from the commissioned officers of the Oregon National Guard or from reserve officers of the Armed Forces of the United States who are residents of Oregon and who are not serving on extended active duty. Officers detailed under this section shall not be relieved from their ordinary duties except when actually on duty with the Governor.

(5) The military staff of the Governor shall, in addition to its other duties, perform such ceremonial functions and duties as the Governor may prescribe. [1961 c.454 §7; 2005 c.512 §4]

396.150 Adjutant General; appointment and tenure; qualifications; grade. (1) The Governor shall appoint an Adjutant General who shall hold office for a four-year term or until relieved by reason of resignation, withdrawal of federal recognition or for cause to be determined by a court-martial. The current term of an Adjutant General continues until its prescribed expiration date while such Adjutant General is serving in a federal active duty status under an order or call by the President of the United States. Voluntary entry onto extended active duty by a person holding the office of Adjutant General is an automatic resignation of such officer.

(2) A person is eligible for appointment to the office of Adjutant General if the person is an officer of the Oregon National Guard, federally recognized in the grade of lieutenant colonel or higher, and has completed at least six years' service in the Oregon National Guard as a federally recognized officer.

(3) The Adjutant General may be appointed in the grade of lieutenant colonel or higher, but not exceeding that of lieutenant general. If appointed in a lower grade, the Adjutant General may be promoted by the Governor to any grade not exceeding that of lieutenant general. [1961 c.454 §8; 2009 c.434 §1]

396.155 Adjutant General; compensation; bond; traveling expenses. (1) The Adjutant General shall receive such salary as may be provided by law or, if not so provided, as may be fixed by the Governor.

(2) Before entering upon the duties of office, the Adjutant General shall give to the state a fidelity bond in such penal sum as may be fixed by law or, if not so fixed, as may be fixed by the Governor, with a corporate surety who is authorized to do business in this state. The premium for such bond shall be paid by the military department.

(3) The Adjutant General shall be reimbursed for actual and necessary traveling expenses. [1961 c.454 §9]

396.160 Adjutant General; duties. (1) The Adjutant General shall be the Director of the Oregon Military Department, and Chief of Staff to the Governor. The Adjutant General shall be the Commander of the Oregon National Guard.

(2) The Adjutant General shall be charged, under the direction of the Governor, with the supervision of all matters pertaining to the administration, discipline, mobilization, organization and training of the Oregon National Guard and the Oregon State Defense Force.

(3) The Adjutant General shall perform all duties required by the laws of the United States and of the State of Oregon, and the regulations issued thereunder, now or hereafter promulgated.

(4) The Adjutant General may employ such deputies, assistants and other personnel as the Adjutant General shall deem necessary to assist the Adjutant General in the performance of those duties required of the Adjutant General as Director of the Oregon Military Department. The Adjutant General shall fix the compensation of such deputies, assistants and other personnel in accordance with then existing state laws, budgetary restrictions and employment policies.

(5) The Adjutant General shall supervise the preparation and submission of all returns and reports pertaining to the militia of the state as may be required by the United States.

(6) The Adjutant General shall be the channel of official military correspondence with the Governor, and shall, on or before November 1 of each year, make a report to the Governor of the transactions, expenditures and condition of the Oregon National Guard. The report shall include the report of the United States Property and Fiscal Officer.

(7) The Adjutant General shall be the custodian of records of officers and enlisted personnel and all other records and papers

required by law or regulations to be filed in the office of the Adjutant General. The Adjutant General may deposit with the State Archivist for safekeeping in the official custody, records of the office of the Adjutant General that are used for historical purposes rather than the administrative purposes assigned to the office of the Adjutant General by law.

(8) The Adjutant General shall attest and record all military commissions issued by the Governor and keep a roll of all commissioned officers, with dates of commission and all changes occurring in the commissioned forces.

(9) The Adjutant General shall record, authenticate and communicate to troops and individuals of the militia all orders, instructions and regulations.

(10) The Adjutant General shall cause to be procured, printed and circulated to those concerned all books, blank forms, laws, regulations or other publications governing the militia needful to the proper administration, operation and training thereof or to carry into effect the provisions of this chapter and ORS chapters 398 and 399.

(11) The Adjutant General shall have an appropriate seal of office and affix its impression to all certificates of record issued from the office of the Adjutant General.

(12) The Adjutant General shall render such professional aid and assistance and perform such military duties, not otherwise assigned, as may be ordered by the Governor.

(13) The Adjutant General shall, in time of peace, perform the duties of quartermaster general and chief of ordnance.

(14) The Adjutant General may issue regulations as described in ORS 396.125 (1) if authority is delegated to the Adjutant General by the Governor. [1961 c.454 §10; 1989 c.360 §3; 1989 c.361 §3; 2001 c.104 §137; 2005 c.512 §2]

396.165 Assistant Adjutants General. (1) The Adjutant General may appoint three Assistant Adjutants General, two from the Army National Guard of Oregon and one from the Air National Guard of Oregon who shall serve at the pleasure of the Adjutant General or until relieved by reason of resignation, withdrawal of federal recognition or for cause to be determined by a court-martial. Voluntary entry onto extended active duty by a person holding the office of Assistant Adjutant General shall be deemed automatic resignation of such officer.

(2) To be eligible for appointment to the office of Assistant Adjutant General, a person must be an officer of the Oregon National Guard, federally recognized in the grade of lieutenant colonel or higher, and must have completed at least six years service in the Oregon National Guard as a federally recognized officer.

(3) An Assistant Adjutant General may be appointed in the grade of lieutenant colonel or higher, but not exceeding that of brigadier general. An Assistant Adjutant General may be promoted by the Governor to any grade not exceeding that of brigadier general, to serve in such grade only upon receipt of federal recognition therein.

(4) The Assistant Adjutants General shall perform such duties as may be assigned by the Adjutant General.

(5) An Assistant Adjutant General shall be compensated at a rate determined by the Oregon Department of Administrative Services.

(6) In any absence of the Adjutant General caused by death or other inability to perform the duties of the office, the Governor or the Adjutant General may designate an Assistant Adjutant General to be the Acting Adjutant General. Except when the Governor or the Adjutant General designates another of the Assistant Adjutants General to be the Acting Adjutant General, the Assistant Adjutant General senior in military grade shall assume the responsibilities and powers and perform all the duties required of the Adjutant General, and shall be Acting Adjutant General. An officer serving as Acting Adjutant General under this section shall continue to receive the salary authorized for an Assistant Adjutant General, when the officer is a state employee, but shall otherwise receive the salary authorized for the Adjutant General. The Acting Adjutant General shall serve until the Adjutant General is again able to perform the duties of the office, or if such office is vacant, until an Adjutant General is regularly appointed and qualified. While so serving, the Acting Adjutant General shall give to the state a fidelity bond in the same manner and in the same sum as is required from the Adjutant General. [1961 c.454 §11; 1963 c.62 §1; 1983 c.534 §1; 1999 c.96 §1]

396.170 Acting Adjutant General. (1) If the federally recognized Oregon National Guard, or any portion thereof, is called or ordered to active federal duty by the President, and if such call or order shall include the Adjutant General and Assistant Adjutants General, the Governor may appoint an Acting Adjutant General who shall assume the responsibilities and powers and perform all duties required of the Adjutant General, and who shall be selected from the federally recognized officers not called or ordered to active duty and who meet the qualifications established for the appointment of an Adjutant General, or if no such officer is available, then from the following:

(a) Officers of the National Guard Reserve.

(b) Inactive or retired officers of the Oregon National Guard.

(c) Army or Air Force officers who have retired and are residents of the State of Oregon.

(2) If, on the occurrence of a vacancy in the office of Adjutant General, there is no duly qualified and appointed Assistant Adjutant General, the Governor may designate an Acting Adjutant General who shall assume temporarily the responsibilities and powers and perform all duties required of the Adjutant General until such time as an Adjutant General is regularly appointed and qualified. An Acting Adjutant General designated under this provision shall have the same qualifications as are required for the appointment of an Adjutant General.

(3) The Acting Adjutant General serving under the terms of this section shall be compensated as determined by the Governor, but the amount shall not exceed that authorized for a regularly appointed Adjutant General.

(4) The Acting Adjutant General, before entering upon the duties of office, shall give to the state a fidelity bond in such penal sum as may be fixed by law, or if not so fixed, as may be approved by the Governor, with a corporate surety who is authorized to do business in this state. The premium for such bond shall be paid by the military department. [1961 c.454 §12; 1963 c.62 §2]

396.175 United States Property and Fiscal Officer. (1) The Adjutant General shall recommend to the Governor, who shall appoint, designate or detail, subject to the approval of the Secretary of the Army and the Secretary of the Air Force, a qualified commissioned officer of the Oregon National Guard who is also a commissioned officer of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, to be the United States Property and Fiscal Officer for Oregon. If the officer is not on active federal duty, the President may order the officer to active duty, with the consent of the officer, to serve as a Property and Fiscal Officer as provided in section 708 of title 32, United States Code. The United States Property and Fiscal Officer shall function under the direction of the Adjutant General, and cooperate fully with National Guard Regulations and Air National Guard Regulations and the regulations and policies of the Department of the Army and Air Force. The United States Property and Fiscal Officer may serve until 60 years of age if otherwise qualified.

(2) As long as the position of the United States Property and Fiscal Officer is covered by a Position Schedule Bond authorized by the United States Code, and such position bonding is automatic upon acceptance of property accountability, no further bonding action on the part of the state or the individual appointed shall be required. [1961 c.454 §13]

396.180 [1961 c.454 §14; repealed by 1971 c.418 §23]

OREGON MILITARY DEPARTMENT

396.305 Oregon Military Department; duties and functions. (1) The Oregon Military Department is established. The department, under the direction of the Governor, shall be responsible as provided in this chapter and ORS chapters 398 and 399 for the supervision of the military affairs of the state.

(2) The military department shall prepare and promulgate necessary regulations for the organization, governance, armament, equipment, training and compensation of the militia of the state in conformity with the provisions of this chapter, ORS chapters 398 and 399 and the laws of the United States. Regulations so made shall be subject to the approval of the Governor.

(3) The military department shall make such changes in the military organization of the Oregon National Guard as are necessary from time to time to conform to the requirements of the laws of the United States and the directives of the National Guard Bureau.

(4) The military department shall fix the location of the units and headquarters of the Oregon National Guard, and shall, subject to the approval of the National Guard Bureau, transfer, attach, consolidate or inactivate any organization or unit when in its judgment the efficiency of the present organization will be increased thereby.

(5) The military department shall have the power to establish awards and decorations and to approve the design therefor. [1961 c.454 §19; 1989 c.360 §4; 2005 c.512 §34]

396.310 Enumeration of duties not exclusive. The enumeration of duties and functions in ORS 396.305 to 396.360 and 396.505 to 396.545 shall not be deemed exclusive nor construed as a limitation on the powers and authorities vested in the department by other provisions of law. [1961 c.454 §20]

396.315 Adjutant General as director of department. (1) The military department shall be under the supervision and control of the Adjutant General, who shall also serve as director of the department, and who shall be appointed by the Governor as provided in ORS 396.150.

(2) The Adjutant General shall be responsible for the performance of the duties imposed upon the department, and for such other duties as may be prescribed by this chapter and ORS chapters 398 and 399, or by the Governor. [1961 c.454 §21]

396.320 Organization of department. The Adjutant General shall organize and reorganize the military department as necessary to the accomplishment of its functions and duties. Such organization or reorganization shall be approved by the Governor prior to implementation. [1961 c.454 §22]

396.325 Army and air technicians as federal employees. Army and air technicians are federal civilian employees authorized by section 709, title 32, United States Code and paid from federal funds allocated to the state. As such they are subject to the jurisdiction and control of the Adjutant General. [1961 c.454 §23; 1969 c.367 §1]

396.330 Employees of military department; civil service status; conditions of employment; application of civil service and employment laws. (1) State employees of the Oregon Military Department who are not otherwise members of the Oregon National Guard may be required as a condition of employment to obtain membership in the Oregon State Defense Force when in the judgment of the Adjutant General the membership maintains or enhances the readiness and stability of the department to provide services if the need for Oregon State Defense Force assistance should arise. The decision of the Adjutant General shall be carried out by written regulation and shall not be subject to collective bargaining.

(2) Members of the Oregon National Guard or Oregon State Defense Force who are ordered to state active duty under the provisions of ORS chapter 399 shall be considered as being in the military service of the state and shall be considered temporary employees of the military department.

(3) State employees of the military department may be ordered to state active duty under ORS chapter 399 without jeopardizing their status as regular employees. Employees so ordered must be in an authorized leave status from their regular military department employment during the period served on active duty.

(4) State employees of the military department shall be subject to ORS chapter 240 or 243 when performing as regular employees.

(5) Members of the Oregon National Guard who are serving under Title 10 or Title 32 of the United States Code are not eligible, by reason of that service, for the rights or benefits of public employees granted or authorized by ORS chapter 236, 237, 238, 238A, 240 or 243. Except as required by federal law or regulation, ORS chapters 652, 653, 654, 656, 657, 659, 659A, 661 and 663 do not apply to members of the Oregon National Guard who are serving under Title 10 or Title 32 of the United States Code. [1961 c.454 §24; 1969 c.367 §2; 1989 c.361 §4; 1995 c.571 §1; 1999 c.96 §2; 2001 c.621 §78; 2003 c.733 §78]

396.332 Authority of Oregon Military Department to require fingerprints for criminal records check. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Oregon Military Department may require the fingerprints of:

(1) A person who is applying for or is employed in a position in a job category for which a state or nationwide criminal records check is a job qualifier and in which personnel:

(a) Are assigned to the at-risk youth alternative education program;

(b) Are issued firearms and munitions;

(c) Have fiscal and purchasing responsibilities as their primary responsibilities; or

(d) Have regular access to restricted areas within a military installation.

(2) A person who is applying to join the organized militia of this state, as described in ORS 396.105, or is a member of the organized militia of this state. [2001 c.407 §2; 2005 c.730 §§21,79]

396.335 Drawing warrants. Unless otherwise specially provided in this chapter and ORS chapters 398 and 399, warrants on the State Treasury for all duly authenticated bills of the military department as approved by the Adjutant General or the person designated by the Adjutant General, in favor of the persons to whom the state is indebted for military purposes shall be drawn and paid in the same way other claims against the state are paid. [1961 c.454 §25; 1975 c.614 §12]

396.340 Receipt and disposition of certain federal moneys. The Adjutant General may accept, receive and receipt for moneys made available from the federal government in connection with maintenance service contracts for federal property used by the state. All federal moneys received by the Adjutant General under this section shall be deposited in the State Treasury in the Military Department Miscellaneous Receipts Account to be available for Oregon Military Department expenses. [1961 c.454 §27; 1973 c.297 §1; 1989 c.360 §5]

396.345 Disposition of receipts generally. The moneys received by the Adjutant General from fines imposed by courts-martial and, except as provided in ORS 279A.280, 279A.285 and 283.110, the moneys received

from other miscellaneous sources shall be deposited in the General Fund in the State Treasury, to be available for general governmental expenses. [1961 c.454 §26; 1963 c.169 §5; 1965 c.445 §1; 2003 c.794 §272]

396.350 Military Department Revolving Fund. (1) A revolving fund not to exceed $25,000 for the use of the military department hereby is established for the purpose of providing funds to pay expenses of the department where it is necessary to make immediate cash payments to obtain trade discounts and for travel, postage, expressage, emergency advances and items which are payable immediately in cash upon presentation. The revolving fund shall be deposited with the State Treasury. The Adjutant General, or the person designated by the Adjutant General in writing filed with the Oregon Department of Administrative Services, may draw checks or orders upon the State Treasurer payable from the revolving fund in making disbursements for the purposes listed in this subsection.

(2) The revolving fund shall be reimbursed at least once each month by submission of a duly approved claim for payment from the account or fund appropriated and available for payment of authorized expenses of the military department. [1961 c.454 §28; 1975 c.614 §13; 1979 c.95 §4]

396.355 Property loss incident to activities of organized militia. (1) As used in this section, "settle" means consider, ascertain, adjust, determine and dispose of a claim, whether by full or partial allowance or by disallowance.

(2) Under such military department regulations as the Governor may prescribe, the Governor or, subject to appeal to the Governor, the Adjutant General, may settle and pay in an amount not more than $500 a claim against the state for:

(a) Damage to or loss of real property, including damage or loss incident to use and occupancy; and

(b) Damage to or loss of personal property, either caused by a member of the organized militia acting within the scope of assigned duties, or otherwise incident to noncombat activities of the organized militia.

(3) A claim may be allowed under subsection (2) of this section only if:

(a) It is presented in writing within one year after it accrues;

(b) It is not payable under section 2733 or 2734 of title 10, United States Code, under section 2672 of title 28, United States Code or under section 715 of title 32, United States Code;

(c) The damage to, or loss of, property was not caused wholly or partly by a negligent or wrongful act of the claimant, agent or employee of the claimant; and

(d) It is substantiated as prescribed in regulations issued pursuant to this chapter and ORS chapters 398 and 399.

(4) No claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(5) Notwithstanding any other provision of law, the settlement of a claim under this section is final and conclusive.

(6) Claims approved for payment under this section shall be paid from moneys available to the military department. [1961 c.454 §29; 1963 c.169 §6; 1981 c.471 §1]

396.360 Department programs for at-risk youth; policies and procedures. (1) The Oregon Military Department may adopt reasonable policies or procedures for any program operated by the military department for at-risk youth where attendance by at-risk youth is voluntary. The policies or procedures adopted by the military department may include but are not limited to drug testing policies designed to ensure that a person enrolled in the program is not engaging in unlawful drug use.

(2) The military department may adopt policies or procedures pursuant to subsection (1) of this section by regulation or may provide notice of policies or procedures to at-risk youth prior to enrollment in the program.

(3) The results of any drug test performed pursuant to this section shall be used solely for the purpose of determining eligibility for enrollment or continuing attendance in the program and shall not be used against the person in any criminal prosecution. [1999 c.1053 §49; 2005 c.512 §35]

396.362 Oregon Military Emergency Financial Assistance Program. (1) The Oregon Military Emergency Financial Assistance Program is created in the Oregon Military Department. The purpose of the program is to provide hardship grants and loans to members and immediate family of members of the Oregon National Guard on active duty.

(2) The department shall adopt regulations implementing subsection (1) of this section, including but not limited to establishing procedures for applying for a hardship grant or loan and criteria for determining eligibility to receive a hardship grant or loan.

(3) As used in this section, "immediate family" means a spouse, child or stepchild. [2005 c.836 §9]

Note: 396.362 and 396.364 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 396 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

396.364 Oregon Military Emergency Financial Assistance Fund. The Oregon Military Emergency Financial Assistance Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon Military Emergency Financial Assistance Fund shall consist of moneys appropriated to the fund by the Legislative Assembly and moneys contributed through the charitable checkoff program described in ORS 316.491. Moneys in the fund are continuously appropriated to the Oregon Military Department for the purposes of funding hardship grants and loans described in ORS 396.362. Interest earned by the fund shall be credited to the fund. [2005 c.836 §10]

Note: See note under 396.362.

396.366 Payments to members of Oregon National Guard who develop cancer; rules. (1) The Oregon Military Department may make payments to members of the Oregon National Guard who develop cancer as a result of exposure to hexavalent chromium while serving in Iraq in 2003. The purposes for which the payments may be made to eligible members of the Oregon National Guard include, but are not limited to, assistance with medical needs not covered by the United States Department of Veterans Affairs, assistance with nonmedical needs or compensation for lost wages.

(2) The Oregon Military Department shall adopt rules setting procedures for determining:

(a) An individual's eligibility to receive payments; and

(b) The amounts and number of payments an eligible individual may receive.

(3) If the Oregon Military Department makes a payment under subsection (1) of this section, the department is subrogated, to the extent of the payment, to the rights of the recipient of the payment against any person or other entity that is liable for the exposure to hexavalent chromium that led to the payment made under subsection (1) of this section. The department may commence an appropriate action in any court, in the name of the state, to enforce the rights.

(4) The Oregon Military Department may not pay any expenses of administering this section out of moneys appropriated to the department for purposes of making payments under this section. [2009 c.870 §1]

Note: 396.366 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 396 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

396.370 Reimbursement for cost of certain hunting licenses. (1) As used in this section, "active member of the Armed Forces of the United States" and "Armed Forces of the United States" have the meanings given those terms in ORS 497.006.

(2) A person may apply to the Oregon Military Department for reimbursement for the cost of a resident annual hunting license to hunt wildlife issued to the person under ORS 497.102 and a resident annual angling license issued to the person under ORS 497.121 if the person:

(a) Is an active member of the Armed Forces of the United States; or

(b) Has retired from the Armed Forces of the United States within 12 months of the date of making the application for a license.

(3) The department shall reimburse a person described in subsection (2) of this section for the cost of a resident annual hunting license to hunt wildlife and a resident annual angling license upon receipt of the person's application.

(4) The department shall adopt regulations implementing subsection (3) of this section. [2005 c.831 §11]

Note: 396.370 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 396 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ARMORIES, CAMPS AND OTHER PROPERTY

396.505 Definition of "armory" for ORS 396.505 to 396.545. As used in ORS 396.505 to 396.545, "armory" means any building, together with the grounds upon which it is situated, used for the storage and maintenance of military property or the training of troops, and in addition real property acquired or held in contemplation of such use. [1961 c.454 §30; 2001 c.104 §138]

396.510 Control of armories and camps; care of property. (1) The military department shall have control of armories and shall prescribe the regulations governing the same. All state and United States property must, as far as possible, be kept in them, and the commanders of troops using the armories will be held responsible for the safekeeping and proper care of such property and its protection against damage, misappropriation or loss. Armories, while occupied by troops, shall be considered military posts under the exclusive jurisdiction of the officer commanding the post.

(2) The military reservations known as Camp Rilea, purchased for the State of Ore-

gon; Camp Withycombe, transferred to the state by the federal government; and any military reservations acquired in the future; and any property licensed or leased to the state by the federal government for military use, shall be under the control of the military department. [1961 c.454 §31]

396.515 Sale, exchange or lease of military department property. (1) Subject to the restriction contained in subsection (4) of this section, the Oregon Military Department may sell, exchange or lease any military department real property that is found to have become unsuitable for military department purposes. The Adjutant General shall make a determination of the unsuitability of the property for military department purposes and the advisability or necessity of sale, exchange or lease of the property.

(2) Title to any real property sold or exchanged shall be given in the name of the State of Oregon, and the deed conveying the title shall be signed by the Adjutant General. Title to real property received in exchange of military department real property shall be taken in the name of the State of Oregon, and the control of the property shall be vested in the military department.

(3) Military department real property owned jointly by the State of Oregon and the United States, or military department real property subject to federal restrictions in conflict with ORS 396.505 to 396.545, shall, with appropriate federal authorization, be subject to the provisions of ORS 396.505 to 396.545.

(4) Prior to the sale of military department real property, the military department shall submit to the Legislative Assembly, or to the Emergency Board when the legislature is not in session, the proposed sale of military department real property, for approval. [1961 c.454 §32; 2003 c.28 §1; 2008 c.18 §9]

396.520 Applicability of laws governing sale, exchange or lease of military department property generally. The sale, exchange or lease of Oregon Military Department real property, as authorized in ORS 396.515, which the State of Oregon owns or in which it has an equitable interest or estate, shall be subject to the provisions of ORS 270.020, 273.225 to 273.241. [1961 c.454 §33; 2003 c.28 §2]

396.525 Military Department Construction Account; disposition of moneys received from sale of real property. (1) The Military Department Construction Account, separate and distinct from the General Fund, is established in the State Treasury. Moneys received by the State of Oregon in payment for military department real property sold shall be deposited in the Military Department Construction Account. All moneys in the account are appropriated continuously and shall be used by the military department for capital construction expenses.

(2) Interest received on deposits credited to the Military Department Construction Account shall accrue to and become part of the Military Department Construction Account. [1961 c.454 §34; 1973 c.297 §2; 1989 c.254 §1]

396.530 Location of new armories; title to armories and grounds. Armories may be constructed in such cities not already provided with armories or in which existing armories are inadequate, where one or more units of the organized militia, fully organized under this chapter and ORS chapters 398 and 399, may be located and where, in the judgment of the military department, it will be most convenient to the units, and where most needed. All title to the armory and grounds upon which it is situated shall vest in the State of Oregon. [1961 c.454 §35]

396.535 Acquisition of property for military use; payment for use of property. (1) The military department shall be a body corporate and shall have the powers of a corporation for the purpose of purchasing, leasing, renting or otherwise acquiring buildings or parts thereof, grounds, premises, offices, rooms, warehouses, garages, shops and storage areas for the use of the department or any unit of the organized militia. For such purpose the military department, subject to the review and supervision of the Oregon Department of Administrative Services as required by ORS 276.428 and 276.429, may make and execute contracts and agreements the legal form and sufficiency of which shall first be approved by the Attorney General.

(2) Costs and charges in connection with the acquisition and use of property under this section shall be paid from funds appropriated for the use of the military department and shall not be general obligations of the State of Oregon. [1961 c.454 §36]

396.540 Use of armories. (1) Armories may be used by members and units of the organized militia in accordance with regulations issued pursuant to this chapter and ORS chapters 398 and 399.

(2) Armories may be used by any veterans′ organizations and their auxiliaries located in the city, town or community where the armory is located, provided such use will not interfere with the use of the facilities by the organized militia or result in risk to federal or state property, and provided that the organization makes a written request therefor and pays for heat, lights, janitor service and other expense required by such use.

(3) Armories may be used by any federal, state, county and municipal bureau, agency

or department or by the Armed Forces of the United States, including the Coast Guard, or by the reserve components thereof for their official business, provided that such use does not interfere with the members and units of the organized militia stationed in such armory, and provided that such use is approved by the officer in charge thereof and by military superiors as prescribed by military department regulations issued pursuant to this chapter and ORS chapters 398 and 399.

(4) Armories may be rented for use by a person, firm, association or corporation, not specified elsewhere in this section, for such purposes and upon such terms as may be approved by the officer in charge of the armory and by military superiors as prescribed by military department regulations issued pursuant to this chapter and ORS chapters 398 and 399 and provided that such use will not, and only so long as such use does not, interfere with the use of the armory by the members and units of the organized militia stationed therein.

(5) The Oregon National Guard Association described in ORS 399.460 may use an armory or other military facility at no cost, provided that the use is approved by the officer in charge and by military superiors as prescribed by military department regulations issued pursuant to this chapter and ORS chapters 398 and 399. [1961 c.454 §37; 1991 c.421 §1; 2003 c.28 §3]

396.545 Leases and agreements for use of armories. (1) The person, firm, association or corporation applying for the rental of an armory or space within an armory shall execute and deliver a written agreement which shall include among its provisions its full name and address, the purpose for which such use is desired, the nature and manner of the intended use of such space, a reasonable rental to be paid for such use and the amounts to be paid for heating, lighting, janitorial and other services connected with such use. The terms and provisions of such agreement shall be governed by military department regulations issued pursuant to this chapter and ORS chapters 398 and 399, which regulations shall include provisions designed to prevent unfair competition with privately owned property and business.

(2) No agreement for use made under this section shall be effective until such agreement or lease has been approved and executed by the officer in charge of the armory and has been approved by military superiors as prescribed by military department regulations issued pursuant to this chapter and ORS chapters 398 and 399.

(3) No agreement or lease made under this section may be assigned in whole or in part nor may such space or any part thereof be sublet to or used by a person, firm, association or corporation not a party to such agreement, unless each assignment, subletting or use is first approved in writing by the officer in charge of the armory.

(4) All moneys paid or given, directly or indirectly, for the use of an armory or to obtain an agreement or permission to use the armory shall be use fees within the meaning of this section and shall be paid to the officer in charge of the armory. Any person other than the officer in charge of the armory who receives any such moneys shall immediately pay over the moneys to the officer in charge of the armory, who shall immediately forward such moneys for deposit in the Military Department Miscellaneous Receipts Account in the State Treasury to be available for Oregon Military Department expenses.

(5) Notwithstanding any of the provisions of ORS 396.505 to 396.545, when use of an armory is by a federal, state, county or municipal bureau, agency or department or by any of the Armed Forces of the United States or any of the reserve components thereof, or by any reserve officers training corps unit, the Adjutant General, in the discretion of the Adjutant General, may require the execution of a contract or agreement for such use, upon such terms and conditions as the Adjutant General may prescribe. [1961 c.454 §38; 1973 c.297 §3; 1989 c.360 §6]

396.555 Oregon Military Museum established at Camp Withycombe. (1) The Oregon Military Museum is established at Camp Withycombe in Clackamas County. The Oregon Military Department shall establish an official repository in the museum for military weapons, documents and artifacts relating to the military history of the citizens of Oregon, whether service is in the Oregon National Guard or the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States.

(2) The department may enter into agreements with the contributors of such artifacts as it considers necessary. [1975 c.235 §2; 1989 c.360 §7; 2001 c.656 §1]

396.560 Grants and donations for Oregon Military Museum. The Oregon Military Department may seek, solicit, receive and administer monetary grants or donations for the support and improvement of the Oregon Military Museum established under ORS 396.555. Grants and donations so received are

continuously appropriated to the Oregon Military Department for the purposes of this section and ORS 396.565. [1977 c.118 §2; 1989 c.360 §8; 2001 c.656 §2]

396.565 Disposal of property. The Oregon Military Department may donate, exchange or otherwise dispose of property not required for the current or anticipated needs of the Oregon Military Museum. Disposal shall be made in a manner appropriate to the historic or intrinsic value of the property and shall be performed to engender goodwill and to improve the museum. [1977 c.118 §3; 1989 c.360 §9; 2001 c.656 §3]

MISCELLANEOUS

396.595 Military Family Appreciation Day. May 8 of each year shall be known as Military Family Appreciation Day. [2009 c.84 §1]

Note: 396.595 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 396 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.