

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 977 Session of  
1991

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APRIL 3, 1991

REFERRED TO COMMITTEE ON MILITARY AND VETERANS AFFAIRS,  
APRIL 3, 1991

## AN ACT

1 Providing compensation to certain persons who served in the  
2 armed forces of the United States or of any of her allies  
3 during Operation Desert Shield or Operation Desert Storm;  
4 providing the method of making payment to representatives of  
5 persons who, because of death or incapacity, cannot  
6 personally receive compensation; imposing certain duties on  
7 the Adjutant General; providing penalties; and making an  
8 appropriation.

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9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Persian Gulf  
13 Conflict Compensation Act.

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall  
16 have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 "Eligible soldier." Any member of the armed forces of the  
19 United States who served or is currently serving in the Persian  
20 Gulf Theater of Operations or who was called to active duty as a  
21 result of Operation Desert Shield or Operation Desert Storm. The  
22 term but does not include the following:

23 (1) An individual who at any time during such periods or  
24 thereafter was separated from such forces under other than  
25 honorable conditions.

26 (2) An individual who has renounced his United States  
27 citizenship.

28 "Legal resident of this Commonwealth." Any individual who  
29 gave Pennsylvania or any specific place in this Commonwealth as  
30 his or her place of residence or home address when entering the

1 armed forces of the United States without regard to the place of  
2 enlistment, commission or induction; or any individual who was a  
3 member of a National Guard or reserve component situate in this  
4 Commonwealth and who is a resident of this Commonwealth. The  
5 proof of residence shall be either the official records of the  
6 United States or such other evidence of bona fide residence as  
7 may be deemed sufficient by the Adjutant General of  
8 Pennsylvania.

9 Section 3. Computation of compensation.

10 Compensation shall be payable under this act only to an  
11 eligible soldier who was a legal resident of this Commonwealth.  
12 Compensation shall be computed on the basis of \$250 for every  
13 month, or major fraction thereof, of active service as an  
14 eligible soldier or for every month spent in military hospitals  
15 as a result of service-connected wounds, diseases or injuries  
16 sustained or acquired while serving as an eligible soldier. The  
17 compensation of an eligible soldier who died in active armed  
18 forces duty as a result of any disease, wound or injury incurred  
19 while serving as an eligible soldier or of those missing in  
20 action who have not been declared dead or captured shall be  
21 \$10,000.

22 Section 4. Application for compensation.

23 (a) Application forms.--Applications for compensation shall  
24 be made to the Adjutant General on forms and in the manner as he  
25 shall prescribe.

26 (b) Method of applications.--All applications shall be made  
27 personally by the eligible soldier. If the eligible soldier is  
28 dead, mentally incompetent or missing in action, the application  
29 shall be made by such representative of the eligible soldier as  
30 the Adjutant General shall by regulation prescribe.

1 Section 5. Persons to whom payments shall be made in case of  
2 death or mental incapacity or missing in action.

3 (a) Priority of payment.--If, prior to the date of  
4 distribution of compensation under this act, an eligible soldier  
5 entitled to compensation dies or is determined to be legally  
6 dead by the Federal authorities under any act for the payment of  
7 Federal benefits or becomes mentally incapable of receiving his  
8 or her compensation, payment shall be made by the Adjutant  
9 General without proceedings in this Commonwealth as follows:

10 (1) In case of mental incapacity, to the guardian or  
11 committee, if any, of the eligible soldier, or in case of an  
12 eligible soldier who is hospitalized in a Federal, State or  
13 county institution for mental or nervous diseases upon order  
14 of the Adjutant General, without regard to the residence of  
15 the eligible soldier, to the person or persons who would be  
16 entitled thereto under the provisions of this act if the  
17 eligible soldier were deceased, and, in the absence of any  
18 such claimant, to the superintendent, manager or person in  
19 charge of such Federal, State or county institution to be  
20 expended for the clothing and incidental needs of the  
21 eligible soldier. No part of the compensation shall be paid  
22 to any State or county institution for the maintenance of the  
23 eligible soldier. A statement from the manager,  
24 superintendent or person in charge of any Federal, State or  
25 county institution wherein the eligible soldier is a patient  
26 shall be admitted in evidence to determine the mental  
27 condition of the eligible soldier. The statement shall set  
28 forth that the eligible soldier, due to the eligible  
29 soldier's weakness of mind, is likely to dissipate such funds  
30 as may be due him under the provisions of this act and is apt

1 to become the victim of designing persons.

2 (2) In the case of death or those missing in action who  
3 have not been declared dead or captured, to the following  
4 persons in the order named: surviving spouse or unremarried  
5 surviving spouse if the spouse or surviving spouse was living  
6 with the eligible soldier at the time of the eligible  
7 soldier's death or departure, or, if not living with the  
8 eligible soldier at the time of the eligible soldier's death  
9 or departure or if it is established to the satisfaction of  
10 the Adjutant General that the living apart was not due to the  
11 applicant's willful act and that the applicant was actually  
12 dependent upon the eligible soldier at the time of the  
13 eligible soldier's death or departure or at any time  
14 thereafter and before the final payment is made by the  
15 designated authorities, or surviving minor child or surviving  
16 minor children, share and share alike, or surviving mother  
17 and/or surviving father.

18 (b) Definitions.--As used in this section, the following  
19 words and phrases shall have the meanings given to them in this  
20 subsection:

21 "Child." Includes an adopted child.

22 "Mother" and "father." Includes mothers and fathers through  
23 adoption and persons who have for a period of not less than one  
24 year acted in the capacity of a foster parent to the eligible  
25 soldier immediately prior to the eligible soldier having  
26 attained 18 years of age.

27 Section 6. Applicant to designate beneficiaries.

28 Every person making application for compensation, as herein  
29 provided, shall set forth in the application the names and  
30 addresses of all persons who under this act would be entitled to

1 receive compensation in the event of the death of the applicant,  
2 and, if the applicant dies before the payment of the  
3 compensation, the application shall be deemed to inure to the  
4 benefit of the person or persons next entitled thereto, and  
5 payments shall be made to such person or persons upon proof of  
6 identity satisfactory to the Adjutant General. If all persons  
7 designated in this act as entitled to compensation die before  
8 payment thereof, the right to the compensation shall cease and  
9 determine. Application for compensation made on behalf of minor  
10 children shall be made by the duly appointed guardian of such  
11 children or by any person who stands in loco parentis to the  
12 minor children, and payments shall be made to the guardians or  
13 persons in loco parentis.

14 Section 7. Exemption from attachment, etc.

15 No sum payable under this act to an eligible soldier or to  
16 any other person shall be subject to attachment, levy or seizure  
17 under any legal or equitable process and shall be exempt from  
18 all State taxation. No right to compensation under the  
19 provisions of this act shall be assignable, except as  
20 hereinafter provided, or serve as a security for any loan. Any  
21 assignment or loan made in violation of the provisions of this  
22 section shall be held void. Assignments to any group or  
23 organization of veterans, incorporated or unincorporated, or to  
24 any nonprofit corporation heretofore formed solely for aiding  
25 disabled or incapacitated veterans and assignments to the State  
26 Veterans' Commission shall be valid. The State Veterans'  
27 Commission is hereby authorized to accept the assignments which  
28 shall be treated as confidential, and the funds realized from  
29 them shall be expended by the commission solely for the aid of  
30 needy eligible soldiers and their families. Except as provided

1 in this section, the Adjutant General shall not direct the  
2 payment nor shall payment be made under this act to any person  
3 other than an eligible soldier or the representatives of an  
4 eligible soldier.

5 Section 8. Digest and explanation of act.

6 (a) Preparation of pamphlets.--The Adjutant General shall,  
7 as soon as practicable after the approval of this act, prepare  
8 and publish a pamphlet or pamphlets containing a digest and  
9 explanation of the provisions of this act, accompanied by  
10 statements which he believes may be of assistance to the  
11 eligible soldiers in filing their applications and shall, from  
12 time to time, prepare and publish any additional or  
13 supplementary information as may be found necessary.

14 (b) Distribution of pamphlets.--The pamphlet or pamphlets  
15 shall be distributed in a manner determined by the Adjutant  
16 General to be most effective to inform eligible soldiers of  
17 their rights under this act. The Adjutant General shall enlist  
18 as far as possible the services of veterans' organizations in  
19 this Commonwealth in the dissemination of such information.

20 Section 9. Ascertainment of service.

21 Immediately upon the passage of this act, the Adjutant  
22 General shall ascertain the individuals who are eligible  
23 soldiers and, as to each eligible soldier, the number of months  
24 of service provided in section 3 for which the eligible soldier  
25 is entitled to receive compensation. The Adjutant General's  
26 decisions shall be final and not subject to review by any court  
27 or by any other officer. In all cases not within the express  
28 purview of this act, the decision of the Adjutant General as to  
29 payment or nonpayment of compensation or eligibility therefor  
30 shall be in all things final.

1 Section 10. False or fraudulent statements.

2 A person who knowingly makes any false or fraudulent  
3 statement of a material fact in any application, certificate or  
4 document made under the provisions of this act, or of any  
5 regulation made by the Adjutant General in administering this  
6 act, commits a misdemeanor of the third degree and shall, upon  
7 conviction, be sentenced to pay a fine of not more than \$1,000  
8 or to imprisonment for not more than five years, or both.

9 Section 11. Administration of act.

10 (a) Duties of Adjutant General.--For the purpose of carrying  
11 into effect the provisions of this act, the Adjutant General is  
12 charged with the administration of this act, and for that  
13 purpose he shall prepare and distribute application blanks,  
14 investigate all claims and applications filed with him and, if  
15 satisfied with the proof of such claim or application, approve  
16 the same and direct payment thereof, and shall make any  
17 regulation necessary for the efficient administration of this  
18 act.

19 (b) Files and records.--The books, papers and records,  
20 together with the filing cases and equipment procured and used  
21 in the administration of this act, shall become a part of the  
22 permanent records of the office of Adjutant General.

23 (c) Printing.--All printing necessary to carry out the  
24 provisions of this act shall be done by the Department of  
25 General Services on the requisition of the Adjutant General.

26 (d) Staff and salaries.--The Adjutant General may employ the  
27 necessary clerical help and fix their salaries and pay for  
28 postage and other expenses incurred in the administration of  
29 this act. In all appointments under this act, preference shall,  
30 so far as practicable, be given to eligible soldiers as defined



1 in this act.

2 (e) Oaths and affirmations.--Employees of the Department of  
3 Military Affairs of the Commonwealth, whose specific duty is to  
4 aid and assist eligible soldiers and their spouses, children and  
5 dependents in the prosecution of claims before the Department of  
6 Veterans Affairs or other branch of the Federal Government, are  
7 hereby authorized and empowered to administer oaths and  
8 affirmations in all matters pertaining to and concerning such  
9 claims.

10 Section 12. Payment.

11 (a) State Treasurer.--The compensation payable under this  
12 act shall be paid by the State Treasurer from the Persian Gulf  
13 Conflict Compensation Fund, to be created with funds realized  
14 from a proposed bond issue, if and when approved pursuant to  
15 section 7(a)(3) of Article III of the Constitution of  
16 Pennsylvania, upon requisition by the Adjutant General.

17 (b) Payments.--Payments under this act shall be made as soon  
18 as possible after funds are available.

19 (c) Compensation.--Compensation paid under section 3 for  
20 hospitalization in military hospitals outside of the Persian  
21 Gulf Theater of Operations shall be paid from the Persian Gulf  
22 Conflict Compensation Fund if and when approved by the  
23 electorate.

24 Section 13. Referendum.

25 The question whether the debt of \$7,500,000 shall be incurred  
26 shall be submitted to the electors at the next Statewide  
27 election to be held in this Commonwealth after the question has  
28 been published by the Secretary of the Commonwealth in at least  
29 two newspapers in every county where two are published, which  
30 publications shall occur two months before the election.

1 Section 14. Appropriation.

2 For the purpose of paying for the compensation to eligible  
3 soldiers, clerical services, postage and other necessary  
4 expenses incurred by the Adjutant General in the administration  
5 of this act, the sum of \$7,500,000, or as much thereof as may be  
6 necessary, is hereby appropriated to the Department of Military  
7 Affairs.

8 Section 15. Effective date.

9 This act shall take effect immediately.