

PUBLIC LAW 105-354—NOV. 3, 1998

PATRIOTIC AND NATIONAL OBSERVANCES,
CEREMONIES, AND ORGANIZATIONS

Public Law 105-354
105th Congress

An Act

Nov. 3, 1998
[S. 2524]

To codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 36, UNITED STATES CODE.

Title 36, United States Code, is amended as follows:

(1) In section 902, strike subsections (b) and (c) and substitute the following:

“(b) REQUIRED DISPLAY.—The POW/MIA flag shall be displayed at the locations specified in subsection (d) of this section on POW/MIA flag display days. The display serves—

“(1) as the symbol of the Nation’s concern and commitment to achieving the fullest possible accounting of Americans who, having been prisoners of war or missing in action, still remain unaccounted for; and

“(2) as the symbol of the Nation’s commitment to achieving the fullest possible accounting for Americans who in the future may become prisoners of war, missing in action, or otherwise unaccounted for as a result of hostile action.

“(c) DAYS FOR FLAG DISPLAY.—(1) For purposes of this section, POW/MIA flag display days are the following:

“(A) Armed Forces Day, the third Saturday in May.

“(B) Memorial Day, the last Monday in May.

“(C) Flag Day, June 14.

“(D) Independence Day, July 4.

“(E) National POW/MIA Recognition Day.

“(F) Veterans Day, November 11.

“(2) In addition to the days specified in paragraph (1) of this subsection, POW/MIA flag display days include—

“(A) in the case of display at medical centers of the Department of Veterans Affairs (required by subsection (d)(7) of this section), any day on which the flag of the United States is displayed; and

“(B) in the case of display at United States Postal Service post offices (required by subsection (d)(8) of this section), the last business day before a day specified in paragraph (1) that in any year is not itself a business day.

“(d) LOCATIONS FOR FLAG DISPLAY.—The locations for the display of the POW/MIA flag under subsection (b) of this section are the following:

“(1) The Capitol.

“(2) The White House.

“(3) The Korean War Veterans Memorial and the Vietnam Veterans Memorial.

“(4) Each national cemetery.

“(5) The buildings containing the official office of—

“(A) the Secretary of State;

“(B) the Secretary of Defense;

“(C) the Secretary of Veterans Affairs; and

“(D) the Director of the Selective Service System.

“(6) Each major military installation, as designated by the Secretary of Defense.

“(7) Each medical center of the Department of Veterans Affairs.

“(8) Each United States Postal Service post office.

“(e) COORDINATION WITH OTHER DISPLAY REQUIREMENT.—Display of the POW/MIA flag at the Capitol pursuant to subsection (d)(1) of this section is in addition to the display of that flag in the Rotunda of the Capitol pursuant to Senate Concurrent Resolution 5 of the 101st Congress, agreed to on February 22, 1989 (103 Stat. 2533).

“(f) DISPLAY TO BE IN A MANNER VISIBLE TO THE PUBLIC.—Display of the POW/MIA flag pursuant to this section shall be in a manner designed to ensure visibility to the public.

“(g) LIMITATION.—This section may not be construed or applied so as to require any employee to report to work solely for the purpose of providing for the display of the POW/MIA flag.”.

(2) In section 2102(b), strike “designated personnel” and substitute “personnel made available to the Commission”.

(3) In section 2501(2), insert “solicit,” before “accept,”.

(4)(A) Insert after chapter 201 the following:

“CHAPTER 202—AIR FORCE SERGEANTS ASSOCIATION

“Sec.

“20201. Definition.

“20202. Organization.

“20203. Purposes.

“20204. Membership.

“20205. Governing body.

“20206. Powers.

“20207. Restrictions.

“20208. Duty to maintain corporate and tax-exempt status.

“20209. Records and inspection.

“20210. Service of process.

“20211. Liability for acts of officers and agents.

“20212. Annual report.

“§ 20201. Definition

“For purposes of this chapter, ‘State’ includes the District of Columbia and the territories and possessions of the United States.

“§ 20202. Organization

“(a) FEDERAL CHARTER.—Air Force Sergeants Association (in this chapter, the ‘corporation’), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

“§ 20203. Purposes

“(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

“(1) helping to maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard;

“(2) supporting fair and equitable legislation and Department of the Air Force policies and influencing by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted service in the Air Force;

“(3) actively publicizing the roles of enlisted personnel in the United States Air Force;

“(4) participating in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force;

“(5) providing for the mutual welfare of members of the corporation and their families;

“(6) assisting in recruiting for the United States Air Force;

“(7) assembling together for social activities;

“(8) maintaining an adequate Air Force for our beloved country;

“(9) fostering among the members of the corporation a devotion to fellow airmen; and

“(10) serving the United States and the United States Air Force loyally, and doing all else necessary to uphold and defend the Constitution of the United States.

“(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

“§ 20204. Membership

“(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

“(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

“§ 20205. Governing body

“(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

“(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

“(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

“§ 20206. Powers

“The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

“§ 20207. Restrictions

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

“(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

“§ 20208. Duty to maintain corporate and tax-exempt status

“(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the District of Columbia.

“(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

“§ 20209. Records and inspection

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

“(3) at its principal office, a record of the names and addresses of its members entitled to vote.

“(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

“§ 20210. Service of process

“The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

“§ 20211. Liability for acts of officers and agents

“The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

“§ 20212. Annual report

“The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.”

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 201:

“202. AIR FORCE SERGEANTS ASSOCIATION 20201”.

(5)(A) Insert after chapter 209 the following:

“CHAPTER 210—AMERICAN GI FORUM OF THE UNITED STATES

“Sec.
“21001. Definition.
“21002. Organization.
“21003. Purposes.
“21004. Membership.
“21005. Governing body.
“21006. Powers.
“21007. Restrictions.
“21008. Duty to maintain corporate and tax-exempt status.
“21009. Records and inspection.
“21010. Service of process.
“21011. Liability for acts of officers and agents.
“21012. Annual report.

“§ 21001. Definition

“For purposes of this chapter, ‘State’ includes the District of Columbia and the territories and possessions of the United States.

“§ 21002. Organization

“(a) FEDERAL CHARTER.—American GI Forum of the United States (in this chapter, the ‘corporation’), a nonprofit corporation incorporated in Texas, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

“§ 21003. Purposes

“(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

“(1) securing the blessing of American democracy at every level of local, State, and national life for all United States citizens;

“(2) upholding and defending the Constitution and the United States flag;

“(3) fostering and perpetuating the principles of American democracy based on religious and political freedom for the individual and equal opportunity for all;

“(4) fostering and enlarging equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin;

“(5) encouraging greater participation of the ethnic minority represented by the corporation in the policy-making and administrative activities of all departments, agencies, and other governmental units of local and State governments and the United States Government;

“(6) combating all practices of a prejudicial or discriminatory nature in local, State, or national life which curtail, hinder, or deny to any United States citizen an equal opportunity to develop full potential as an individual; and

“(7) fostering and promoting the broader knowledge and appreciation by all United States citizens of their cultural heritage and language.

“(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of Texas.

“§ 21004. Membership

“(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

“(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

“§ 21005. Governing body

“(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

“(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

“(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

“§ 21006. Powers

“The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

“§ 21007. Restrictions

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

“(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

“§ 21008. Duty to maintain corporate and tax-exempt status

“(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Texas.

“(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

“§ 21009. Records and inspection

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

“(3) at its principal office, a record of the names and addresses of its members entitled to vote.

“(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

“§ 21010. Service of process

“The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

“§ 21011. Liability for acts of officers and agents

“The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

“§ 21012. Annual report

“The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.”

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 209:

“210. AMERICAN GI FORUM OF THE UNITED STATES 21001”.

(6) In section 21703(1)(A)(iv), strike “December 22, 1961” and substitute “February 28, 1961”.

(7) In section 70103(b), strike “the State of”.

(8) In section 151303, subsections (f) and (g) are amended to read as follows:

“(f) STATUS.—Appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States.

“(g) COMPENSATION.—Members of the board serve without compensation.

“(h) LIABILITY.—Members of the board are not personally liable, except for gross negligence.”

(9) In section 151305(b), strike “the State of”.

(10) In section 152903(8), strike “Corporation” and substitute “corporation”.

SEC. 2. TECHNICAL AMENDMENTS TO OTHER LAWS.

(a) The provisos in the paragraph under the heading “AMERICAN BATTLE MONUMENTS COMMISSION” in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65, Oct. 27, 1997, 111 Stat. 1368, 36 App. U.S.C. 121b, 122, and 122a) are repealed.

(b) Paragraph (3) of section 198(s) of the National and Community Service Act of 1990 (42 U.S.C. 12653(s)(3)) is repealed.

(c) Effective August 12, 1998, Public Law 105-225 (Aug. 12, 1998, 112 Stat. 1253) is amended as follows:

(1) Section 4(b) is amended by striking “2320(d)” and substituting “2320(e)”.

(2) Section 7(a), and the amendment made by section 7(a), are repealed.

Effective date.

Ante, p. 1498.

Ante, p. 1511.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1(8) of this Act shall take effect as if included in the provisions of Public Law 105-225, as of the date of enactment of Public Law 105-225.

SEC. 4. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) **NO SUBSTANTIVE CHANGE.**—(1) Section 1 of this Act restates, without substantive change, laws enacted before September 5, 1998, that were replaced by section 1. Section 1 may not be construed as making a substantive change in the laws replaced.

(2) Laws enacted after September 4, 1998, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) **REFERENCES.**—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) **CONTINUING EFFECT.**—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) **ACTIONS AND OFFENSES UNDER PRIOR LAW.**—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) **INFERENCES.**—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a heading of the provision.

(f) **SEVERABILITY.**—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 5. REPEALS.

(a) **INFERENCES OF REPEAL.**—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) **REPEALER SCHEDULE.**—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Vol- ume	Page	Title	Section
1997 Nov. 18	105-85 ..	1082, 1501- 1516.	111	1917, 1963.	36 App.	189a, 1101, 5801-5815
Nov. 20 1998	105-110	111	2270	36 App.	45
Aug. 7 Aug. 13	105-220 105-231	413, 1-16	112 112	1241, 1530	36 App. 36 App.	155b 1101, 5901-5915

Approved November 3, 1998.

LEGISLATIVE HISTORY—S. 2524:

CONGRESSIONAL RECORD, Vol. 144 (1998):
 Oct. 8, considered and passed Senate.
 Oct. 12, considered and passed House.

