

1 AN ACT relating to the Kentucky National Guard.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 38 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Active duty combat" means performing the following services in the active*
7 *federal military of the United States:*

8 *1. Participation in an armed conflict;*

9 *2. Performance of a hazardous service relating to an armed conflict in a*
10 *foreign state; or*

11 *3. Performance of a duty through an instrumentality of war; and*

12 *(b) "Official declaration of war" means a declaration of war by the United*
13 *States Congress pursuant to Article 1, Section 8, Clause 11 of the*
14 *Constitution of the United States.*

15 *(2) Notwithstanding any other provision of law to the contrary, the Kentucky*
16 *National Guard and any member of the Kentucky National Guard shall not be*
17 *released from the state into active duty combat unless the federal government has*
18 *satisfied any outstanding balance to the Kentucky National Guard, and the*
19 *United States Congress has:*

20 *(a) Passed an official declaration of war; or*

21 *(b) Taken official action pursuant to Article 1, Section 8, Clause 15 of the*
22 *Constitution of the United States to explicitly call forth the Kentucky*
23 *National Guard and any member of the Kentucky National Guard for*
24 *enumerated purposes to expressly execute the laws of the Commonwealth,*
25 *repel invasion, or suppress insurrection.*

26 *(3) Nothing in this section limits or prohibits the Governor from consenting to the*
27 *deployment of any Kentucky National Guard member as set forth in Title 32 of*

- 1 *the United States Code for defense in support of:*
- 2 *(a) Civil authority missions within the United States or its territories; or*
- 3 *(b) Border protection, for not more than thirty (30) days, when the governor of*
- 4 *a state or territory has declared an invasion.*
- 5 ➔Section 2. This Act may be cited as the Defend the Guard Act.