

# CONTROL OF UNITS – SECTION 709

## **“A Shot Across the Bow – Is Better a Torpedo in the Hull!”**

Dear Comrade Post Commander,

Please read the following copy of Section 709 of the National By-Laws and Manual of Procedure. In particular those underlined or **bold italic** sections.

Section 709 is one of the MOST abused Sections of the National By-Laws. Especially, with Posts that own (or seek to own) real estate and those that operate Clubrooms. There are two words that a Post MUST be aware of, are **Co-habitate** and **Co-mingle**. Example: A VFW Post CANNOT jointly own (co-habitate) property with another organization or business (ie. Vets Clubs) And, therefore, a VFW Post CANNOT share in the income/expense (co-mingle) of an operation with any organization or business. Now, there are a few VFW Posts in the State of Minnesota that were ‘grandfathered’ after this By-Law was passed. They ofcourse are exempt.

Should you have any questions or concerns relative to this issue, please contact the State Adjutant-Quartermaster at 651-291-1757.

**Failure to comply with this section of the By-Laws COULD result in the Suspension and eventual Revocation of your Post Charter!**

### **Sec. 709—Control of Units. (By-Laws)**

Veterans of Foreign Wars of the United States shall not be responsible for the negligent or wrongful acts or omissions nor the contractual obligations or debts of any Post, County Council, District or Department nor for the negligent or wrongful acts or omissions or contractual obligations or debts of any activity, clubroom, holding company or unit sponsored, conducted or operated by, for or in behalf of any Post, County Council, District or Department. Any activity, clubroom, holding company or unit sponsored, conducted or operated by, for or in behalf of a Post, County Council, District or Department shall be at all times under the direct control of such Post, County Council, District or Department and all funds derived there from shall be at all times under the direct control of such Post, County Council, District or Department.

Any Post owning and/or operating, directly or by reason of a holding company or other entity substantially controlled by the Post or its members, a canteen, clubroom or other facility available to members or guests must maintain general liability insurance, including, if necessary or appropriate, liquor liability insurance. Such insurance must be of a type and amount sufficient to protect the Post and must name, as additional insureds, the Veterans of Foreign Wars of the United States and the Department in which such Post is located.

All money, property or assets of any kind or nature, as well as all books and records, owned, held or used by any activity, clubroom, holding company or unit sponsored, conducted or operated by, for or in behalf of a Post, County Council, District or Department shall be the property of such Post, County Council, District or Department and must be placed in the care and custody of the respective Quartermaster. Such money, property, assets, books and records shall be subject to the same rules and under the same procedure as any other Post, County Council, District or Department money, property, assets, books and records.

***No Post, County Council, District or Department and no activity, clubroom or holding company or unit sponsored, conducted or operated by, for or on behalf of any Post, County Council, District or Department may own any property jointly or in common with any individual, firm, partnership, association, corporation or other business or charitable entity, including veterans organizations nor may they participate in any arrangement whereby the funds of such Post, County Council, District or Department or activity, clubroom, holding company or unit sponsored, conducted or operated by, for or in its behalf are expended on property held by another entity for the joint use of such Post, County Council, District or Department and other individuals, firms, partnerships, associations, corporations or other business or charitable entities, including veterans organizations.***

Title to all real property of unincorporated Posts, County Councils and Districts shall be taken in the name of the regularly elected trustees of said units, and their successors in office, to be held, used and enjoyed in trust for its members. When the laws of the respective states shall require the delivery of a bill of sale to establish ownership of property, such bills of sale shall also be made to the trustees of said units, and their successors in office, in trust for the members thereof.

In addition to other legal requirements under existing local laws or Department By-Laws, ***no*** Post, County Council, District, or any holding company or corporation subordinate hereto, shall purchase, sell or otherwise transfer title or any interest in any real estate unless written notice of such proposal has first been given to each member of said unit ten (10) days prior to such regular or special meeting at which the proposal is to be considered, and then only by two-thirds (2/3) vote of approval of those members present and voting at such regular or special meeting. In addition, at least thirty (30) days prior to such meeting, notice shall be provided to the Department Commander who shall review any sale, purchase, transfer or encumbrance to determine whether such transaction serves the purposes of the Veterans of Foreign Wars of the United States as prescribed in the Congressional Charter. Failure to comply with these provisions shall nullify said transaction.

***When properly approved by the members of the Post, the Commander and Quartermaster shall be authorized to sign such legal documents required to sell or purchase real property.***

## **Sec. 709—Control of Units (Manual of Procedure)**

Veterans of Foreign Wars of the United States is a federally chartered membership corporation created by an Act of Congress. In accordance with that legislation, Veterans of Foreign Wars of the United States has issued charters to the Ladies Auxiliary, Departments and other units, including Posts. Pursuant to their charters, those units are bound to pursue the purposes set forth in the Congressional Charter and abide by the Charter, By-Laws, Manual of Procedure and the laws and usages of the Veterans of Foreign Wars of the United States. However, each organization is a separate unincorporated association or corporation under the laws of the jurisdiction in which each is located.

The Veterans of Foreign Wars of the United States does not own an interest in any clubroom, canteen, facility or any fund-raising activity operated by any such chartered unit, nor are clubrooms, canteens, facilities or other fund-raising activities operated for or on behalf of the Veterans of Foreign Wars of the United States. Veterans of Foreign Wars of the United States does not derive any profit from such facilities or activities. Clubrooms, canteens, facilities and other fund-raising activities of chartered units are carried on by such units in furtherance of the fraternal, patriotic, historical, charitable and educational purposes set forth by Congress.

Veterans of Foreign Wars of the United States does not lend money or extend credit to any chartered unit. It is in no manner responsible for the debts or any other liability incurred by any chartered unit or any clubroom, canteen, facility or other fund-raising activity operated by it. As unincorporated associations or corporations, they are responsible for their own debts and liabilities. To the extent that Veterans of Foreign Wars of the United States is threatened with or sustains damage arising from a debt or liability incurred by a chartered unit, the Veterans of Foreign Wars of the United States may seek to recover such damages and any costs and expenses incurred from such chartered unit or persons responsible for such debt or liability.