

DISABLED VETERANS PROPERTY TAX CREDIT

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Senate Bill 783 (proposed substitute H-2)

Senate Bill 1084 (proposed substitute H-1)

Sponsor: Sen. Jon Bumstead

House Committee: Tax Policy [Discharged]

Senate Committee: Finance

Complete to 12-7-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bills 783 and 1084 would respectively amend the Income Tax Act and the General Property Tax Act to provide a mechanism for the state to reimburse local units of government for the property tax exemption available to veterans classified as 100% disabled and their surviving spouses. The bills would also expand eligibility for the program to surviving spouses of servicemembers killed in action and provide a capped credit for veterans who are at least 50% but less than 100% disabled or their surviving spouses.

Senate Bill 783 would amend the Income Tax Act to create, for tax years beginning on and after January 1, 2023, an individual tax credit for a *disabled veteran* or their widow or widower or the *widow or widower of a veteran killed in action* for property taxes levied on their homestead that are deductible for income tax purposes or would have been deductible if the claimant had been subject to federal income tax. The federally deductible portion of property taxes would be calculated as if section 164(b)(6)(B) were not in effect.¹

Disabled veteran would mean a *veteran* who meets one of the following criteria:

- Has been determined by the U.S. Department of Veterans Affairs (VA) to be permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.
- Has been determined by the VA to be entitled to veterans' benefits based on a rating equal to or greater than 50% disabled and less than 100% permanently and totally disabled.
- Has a certificate from VA certifying that the veteran is receiving or has received pecuniary assistance due to disability for specially adapted housing.
- Has been rated by the VA as individually unemployable.

Veteran would mean an individual who served in the United States Armed Forces, including the reserve components, and was discharged or released under conditions other than dishonorable. It would include an individual who died while on active duty in the United States Armed Forces.

Widow or widower of a disabled veteran would mean the unmarried surviving spouse of a disabled veteran (except a disabled veteran determined to be entitled to benefits on a rating between 50% disabled and 100% permanently and totally disabled) who was eligible for one of the following when the veteran died:

- If the death occurred before December 31, 2022, the exemption provided under the General Property Tax Act before December 31, 2022 (described below),

¹ This section imposes a \$10,000 cap on the deduction of state and local taxes paid for tax year through 2025.

regardless of whether the exemption had previously been granted to the decedent.

- If the death occurred on or after December 31, 2022, the homestead credit provided under the bill on and after December 31, 2022, regardless of whether the exemption had previously been granted to the decedent.

Widow or widower of a veteran killed in action would mean the unmarried surviving spouse of a veteran who was killed in action while serving as a member of the United States Armed Forces.

The credit would be equal to 100% of the applicable property taxes. However, it would be capped at \$2,500 for disabled veterans that have been determined by the VA to be entitled to veterans' benefits on a rating equal to or greater than 50% disabled and less than 100% permanently and totally disabled. This amount would have to be adjusted for inflation (using the U.S. Consumer Price Index for all urban consumers) for the 2024 and subsequent tax years and rounded to the nearest \$100. A credit for a return of less than 12 months would be reduced proportionately.

In order to claim the credit, a taxpayer would have to file an affidavit (described below) with the local tax collecting unit authorizing the unit to claim the credit on their behalf. If after review by the Department of Treasury, it is determined that the taxpayer is not eligible for the credit, the department would have to provide written notice to the local unit and the claimant stating the reason for the denial, the amount denied, and the amount due and payable to the local tax collecting unit within 90 days of the date of the denial notice.

The credit could not be used to offset income tax liability but would be provided directly to the local government for the payment of property tax liability.

A taxpayer that claimed the credit under the bill would not be eligible to claim the homestead property tax credit for the same tax year.

Notwithstanding section 30a of 1941 PA 122, the credit would be exempt from interception, execution, levy, attachment, garnishment, or other legal process to collect a debt, and no portion of the credit could be used to offset a liability under section 30a of 1941 PA 122 or any arrearage or other debt of the claimant.²

MCL 206.520 et seq. and proposed MCL 206.521

Senate Bill 1084 would amend the General Property Tax Act to eliminate the disabled veteran's property tax exemption and make other changes that complement SB 783.

The act currently provides that real property owned and used as a homestead by a qualified disabled veteran is exempt from the collection of taxes under the act. If a qualified disabled veteran dies, the veteran's spouse can continue to claim the exemption unless they remarry.

² See <http://legislature.mi.gov/doc.aspx?mcl-205-30a>

To qualify for the exemption, the disabled veteran must have been discharged under honorable conditions and must meet one of the following criteria:

- Have been determined by the U.S. Department of Veterans Affairs (VA) to be permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.
- Have a certificate from the VA certifying that the veteran is receiving or has received monetary assistance due to disability for specially adapted housing.
- Have been rated by the VA as individually unemployable.

Under the bill, beginning on and after January 1, 2023, a *disabled veteran*, the *widow or widower of a disabled veteran*, or the *widow or widower of a veteran killed in action*³ could defer collection of property taxes and authorize the local tax collecting unit to claim the homestead credit provided for in section 521 of the Income Tax Act (proposed by Senate Bill 783) on the veteran's or surviving spouse's behalf. To do so, the claimant would have to file an affidavit under the bill (in a form prescribed by the Department of Treasury) with the local tax collecting unit where the homestead is located. The applicant could file the affidavit at any time in the calendar year during which the applicable property taxes are levied. The affidavit would have to include all of the following:

- A description of the property for which the credit is claimed.
- A statement that the property is owned and used by the applicant as the applicant's homestead.
- A statement that the applicant is a disabled veteran, the widow or widower of a disabled veteran, or the widow or widower of a veteran killed in action.
- A statement authorizing the local tax collecting unit to claim the income tax credit section 521 of the Income Tax Act on behalf of the applicant.
- A statement authorizing the Department of Treasury to remit direct payment of the credit claimed on the applicant's behalf directly to the local tax collecting unit.
- Supporting documentation for the information described above as required by the local tax collecting unit under guidelines provided by the Department of Treasury. If the disability status of a veteran is established by a disability rating provided by the VA before the year in which the affidavit is filed, the affidavit must include a statement that the veteran's most recent disability rating is unchanged from that one.

The Department of Treasury would be required to provide local tax collecting units with informational materials that the local tax collecting unit would have to distribute to applicants filing an affidavit as described above. The materials would have to explain how the affidavit will be processed and how the applicant's tax liability will be handled under the bill.

A local tax collecting unit that receives an affidavit described above would have to do both of the following:

- Defer collecting any property taxes levied on the homestead during the calendar year in which the affidavit was filed until the state either state pays those property taxes under section 521 of the Income Tax Act or rejects the claim for the credit under that section.

³ These terms would be defined the same as they are in SB 783 (above).

- Before February 1 of the year immediately following the calendar year in which the affidavit was filed, do all of the following in a form and manner as prescribed by the Department of Treasury (which, however, could not require electronic submissions):
 - Provide the Department of Treasury with a copy of the affidavit.
 - Provide the Department of Treasury with the information necessary to determine the amount of property taxes deferred on the applicant's homestead for the relevant calendar year.

Property taxes deferred as described above would not be subject to penalties or interest for the period of deferment. However, if the state rejects the claim, any unpaid balance becomes due and payable on that date, and any remaining unpaid balance is subject to interest and penalties under the act beginning 90 days after the rejection.

Upon the state's payment of property taxes or rejection of a claim, the local tax collecting unit would have to notify the applicant in writing of the payment or rejection and, if applicable, the amount of any unpaid balance due and payable and the date by which it must be paid to avoid penalties and interest.

Payments made by the state under section 521 of the Income Tax Act would be considered taxes paid by the applicable individual.

The bill would take effect December 31, 2022.

MCL 211.7b

The bills are tie-barred, which means that neither can take effect unless both are enacted.

FISCAL IMPACT:

As written, the bills would be expected to increase state expenditures by \$175.0 million to \$225.0 million per year on a full fiscal year basis, with the amount increasing as taxable values increase, as well as increases in the \$2,500 cap for taxpayers with disabilities greater than 50% but less than 100%.

Because this is a reimbursement to local governments, there is no specific tax impact *per se*. Rather, it is anticipated that annual general fund appropriations will be included in the Treasury budget sufficient to reimburse local governments for the property tax exemptions.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.