

HOUSE BILL No. 4618

May 19, 2015, Introduced by Reps. Guerra, Moss, Neeley, Phelps, Wittenberg, Brinks, Durhal, Sarah Roberts, Kelly, Maturen, Chirkun, Faris, Rutledge, Glenn and Barrett and referred to the Committee on Appropriations.

A bill to amend 1974 PA 370, entitled
"Vietnam veteran era bonus act,"
by amending sections 2, 7, and 11 (MCL 35.1022, 35.1027, and
35.1031), sections 2 and 11 as amended by 1980 PA 194.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Period of service" ~~means that~~ **INCLUDES BOTH OF THE**
3 **FOLLOWING:**

4 (i) **THAT** period of time between 12:01 a.m., January 1, 1961 ~~–~~
5 and 12:01 a.m., September 1, 1973.

6 (ii) **THAT PERIOD OF TIME BETWEEN 12:01 A.M., SEPTEMBER 1, 1973**
7 **AND 12:01 A.M., MAY 7, 1975.**

8 (b) "Veteran" means a person who completed not less than 190
9 days of honorable service or is listed as missing in action or died
10 during the period of service from service-connected causes in the

1 army, air, naval, marine, or coast guard forces of the United
2 States including the auxiliary branches, was a resident of this
3 state for not less than 6 months before entering the service or,
4 while on active duty, was a resident of this state for not less
5 than 6 months immediately before January 1, 1961, and has not
6 applied for and received similar benefits from another state for
7 the same period of service. The 190 days required active duty does
8 not include a period when assigned full time by the armed forces to
9 a civilian institution for a course substantially the same as a
10 course offered to civilians; or a period served as a cadet or
11 midshipman at a service academy, active duty for training in an
12 enlistment in the army or air national guard, or as a reserve for
13 service in the army, navy, air force, marine corps, or coast guard
14 reserve, with the exception of those military personnel who
15 converted to active duty immediately upon completion of the initial
16 active duty for training as evidenced by noninterruption in pay
17 status from that of initial active duty for training to that of
18 active duty. The 190 days' active duty requirement shall not apply
19 to a person who died or who received a medical discharge from
20 active military service due to injuries or disease incurred in the
21 line of duty, as verified by the veterans' records or by the
22 ~~veterans' administration.~~ **VETERANS' ADMINISTRATION.**

23 (c) "Combat veteran" means a veteran listed as missing in
24 action, or a veteran eligible to wear the Vietnam service medal or
25 the armed forces expeditionary medal if eligibility for the award
26 occurred during the period of service.

27 (d) "Beneficiary", subject to section 14(2), means in relation

1 to a deceased veteran or a veteran listed as missing in action, the
2 surviving spouse, child or children, or the dependent surviving
3 mother or father in the order named which determination may be made
4 by the probate court of the county of residence of the veteran at
5 the time of death. A surviving parent of a veteran shall be
6 eligible as a dependent of the veteran if that person had a
7 reasonable expectation of support in whole or in part from the
8 veteran and that expectation is stated in the application.

9 (e) "Honorable service" means that service as evidenced by:

10 (i) Honorable or general discharge, or separation under
11 honorable conditions.

12 (ii) In the case of a person who has not been discharged, a
13 certificate from the appropriate service authority that a person
14 did qualify under subparagraph (i) as if the veteran was being
15 discharged or separated.

16 Time lost while absent without leave, in desertion, in
17 confinement while undergoing the sentence of a court-martial, or
18 time lost while in a nonduty status because of disease contracted
19 through the veteran's own misconduct shall not be construed as
20 honorable service.

21 (f) "Adjutant general" means the adjutant general of this
22 state.

23 (g) "Resident" means a person who has acquired a status as
24 follows:

25 (i) Was born in and lived in this state until entrance into the
26 armed forces of the United States.

27 (ii) Was born in, but was temporarily living outside this

1 state, not having abandoned residence in this state before entrance
2 into the armed forces of the United States.

3 (iii) Had resided within this state for at least 6 months
4 immediately before entrance into military service or, while on
5 active duty, was a resident of this state for not less than 6
6 months immediately before January 1, 1961, and had, before or
7 during this 6 months' period:

8 (A) Registered to vote in this state.

9 (B) Lived with a parent or person standing in loco parentis
10 who had acquired a residence as set forth in this subdivision,
11 while an unemancipated minor.

12 (C) If not registered to vote in this state, was not
13 registered to vote in another state, or had not voted in another
14 state within 6 months before entering service or before January 1,
15 1961.

16 (iv) Information appearing on the discharge documents of the
17 veteran which shows a permanent address for mailing purposes, an
18 address from which employment will be sought, or a home address at
19 time of entry into service in another state, shall not necessarily
20 be construed to mean that the veteran intended to abandon his or
21 her residence in this state for purposes of this act.

22 Sec. 7. (1) ~~Upon~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**
23 **SUBSECTION, UPON** submission to the adjutant general of satisfactory
24 proof that ~~the~~ **AN** applicant is entitled to payment under this act,
25 the adjutant general shall compute the amount of payment due the
26 applicant, make a record ~~thereof,~~ **OF THAT AMOUNT,** and transmit the
27 claim for payment directly to the department of treasury for

1 payment. Payment shall be made from the Vietnam veteran era bonus
 2 fund. **PAYMENT TO AN APPLICANT BASED ON AN APPLICATION FILED UNDER**
 3 **SECTION 11(B) OR (C) IS SUBJECT TO AN APPROPRIATION OF FUNDS FOR**
 4 **THAT PAYMENT.** A claim for payment under this act ~~shall~~**IS** not be
 5 assignable ~~or~~ subject to garnishment, attachment, or levy of
 6 execution.

7 (2) If the proof ~~as to~~**OF** eligibility for payment submitted by
 8 an applicant either with or as a part of the applicant's initial
 9 application, or pursuant to **A** request of the adjutant general after
 10 submission of the application, is not satisfactory to the adjutant
 11 general, the adjutant general shall reject the claim.

12 (3) ~~Upon rejection of~~**IF** a claim **IS REJECTED**, the adjutant
 13 general shall mail to the claimant a notice of the rejection. ~~the~~
 14 **THE** notice shall inform the claimant of the claimant's right to
 15 file with the adjutant general a request for appeal to the state
 16 court of claims within 6 months after the ~~mailing of the notice by~~
 17 ~~the~~ adjutant general **MAILS THE NOTICE.**

18 ~~—(4)—~~The notice shall also inform the claimant that a failure
 19 to file a request for appeal to the court of claims within ~~the~~
 20 ~~stipulated time~~**THIS 6-MONTH PERIOD** shall render the determination
 21 of the adjutant general final without any further right of ~~claimant~~
 22 ~~to appeal. from same.~~

23 (4) ~~(5)—~~The claimant ~~shall have~~**HAS** 6 months ~~from the mailing~~
 24 ~~by~~**AFTER** the adjutant general ~~of a~~**MAILS THE** notice of rejection in
 25 ~~which to appeal to the court of claims. and upon failure by~~**IF**
 26 the claimant **FAILS** to file with the adjutant general a request for
 27 appeal to the court of claims within this ~~6 months'~~**6-MONTH** period,

1 the determination by the adjutant general in the claim ~~shall be~~ **IS**
 2 final.

3 (5) ~~(6) Upon the filing of the~~ **IF A CLAIMANT FILES A** request
 4 for appeal to the court of claims, the adjutant general shall
 5 immediately certify the entire record of the claim to the court of
 6 claims and shall furnish to the court **OF CLAIMS ANY** additional
 7 information in ~~or which~~ **THAT** may ~~thereafter~~ come into the
 8 adjutant general's possession ~~or which may be~~ **THAT IS** requested
 9 by the court **OF CLAIMS**.

10 (6) ~~(7) Upon receipt of an order by the court of claims that a~~
 11 claimant ~~whose claim has been so certified as in this act provided~~
 12 is entitled to payment, and upon the order becoming final, **THE**
 13 **ADJUTANT GENERAL SHALL PAY** the claim ~~shall be paid in the same~~
 14 ~~manner as provided in this act.~~

15 (7) ~~(8) In each case in which~~ **IF** the court of claims enters
 16 its order allowing or denying a claim, ~~and~~ upon the order becoming
 17 final, the files and records ~~on the~~ **FOR THAT** claim shall be
 18 returned by the court of claims to the adjutant general. ~~to be~~
 19 ~~retained by the~~ **THE** adjutant general **SHALL RETURN THE FILES AND**
 20 **RECORDS** as permanent records.

21 (8) ~~(9) A person who filed a claim under this act and whose~~
 22 claim was rejected by either the adjutant general or the court of
 23 claims solely because of a discharge ~~which~~ **THAT** was less than
 24 honorable ~~may~~ file a reapplication for benefits if the discharge
 25 ~~which~~ **THAT** caused the disqualification for benefits has
 26 subsequently been upgraded to a discharge indicating honorable
 27 service. The reapplication shall be submitted and processed in the

1 same manner as an initial application.

2 Sec. 11. ~~An application for benefits under this act shall not~~
3 ~~be filed or received, except~~ EXCEPT for applications under section
4 5(2), ~~after June 30, 1980.~~ AN APPLICATION FOR A SERVICE BONUS UNDER
5 THIS ACT SHALL BE FILED BEFORE THE FOLLOWING DATES:

6 (A) FOR A VETERAN OR COMBAT VETERAN, JULY 1, 1980 IF THE
7 VETERAN OR COMBAT VETERAN MET THE REQUIREMENTS TO RECEIVE A SERVICE
8 BONUS UNDER THIS ACT BEFORE JULY 1, 1980.

9 (B) FOR A VETERAN OR COMBAT VETERAN, JANUARY 1, 2017 IF THE
10 VETERAN OR COMBAT VETERAN DID NOT MEET THE REQUIREMENTS TO RECEIVE
11 A SERVICE BONUS UNDER THIS ACT BEFORE JULY 1, 1980, BUT AFTER THE
12 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 2(A)(ii),
13 MEETS THE REQUIREMENTS TO RECEIVE A SERVICE BONUS UNDER THIS ACT.

14 (C) FOR A VETERAN, JANUARY 1, 2017 IF ALL OF THE FOLLOWING
15 CONDITIONS ARE MET:

16 (i) BEFORE JULY 1, 1980, THE VETERAN APPLIED FOR AND RECEIVED A
17 SERVICE BONUS UNDER SECTION 3(2), WHICH SERVICE BONUS WAS LESS THAN
18 THE MAXIMUM AMOUNT OF \$450.00 BECAUSE THE NUMBER OF MONTHS SERVED
19 WAS ORIGINALLY CALCULATED BASED ON THE PERIOD OF SERVICE UNDER
20 SECTION 2(A)(i).

21 (ii) THE VETERAN HAD COMPLETED ADDITIONAL MONTHS OF SERVICE
22 DURING THE PERIOD OF SERVICE DESCRIBED UNDER SECTION 2(A)(ii), FOR
23 WHICH THE VETERAN DID NOT RECEIVE A SERVICE BONUS UNDER SECTION
24 3(2).

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.