

DISABLED VETERANS PROPERTY TAX EXEMPTION

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House Bill 4698

Sponsor: Rep. Scott Dianda

Committee: Tax Policy

Complete to 6-4-13

A SUMMARY OF HOUSE BILL 4698 AS INTRODUCED 5-7-13

The bill would amend the General Property Tax Act to expand the property tax exemption for homestead (principal residence) property owned by certain disabled veterans so that it would apply to additional categories of disabled veterans.

The act currently provides a property tax exemption for the principal residence of a veteran with a service-connected disability who requires their residence to be specially adapted to accommodate their service-connected disability and who has received financial assistance from the U.S. Department of Veterans Affairs (VA) to adapt the home to the disability.

House Bill 4698 would extend the property tax exemption so that it would also apply to the principal residence of veterans who meet either of the following criteria:

- Has been *permanently and totally* disabled (as determined by the VA) as the result of military service and is entitled to veterans' benefits at the 100% rate.
- Has been rated by the VA to be "individually unemployable."¹

BACKGROUND INFORMATION:

VA Assistance for Adapted Housing

The existing property tax exemption is available only to principal residences of service-connected disabled veterans who receive assistance from the VA to adapt their home to accommodate their daily living/mobility needs. The VA provides Specially Adapted Housing (SAH) grants under 38 USC 2101(a) to assist in the construction or acquisition of a specially adapted home (or the remodeling of an existing home into a specially adapted home) for veterans and service members with service-connected disabilities.² The goal is to provide a barrier-free living environment to afford the veteran a degree of independent living that would not otherwise occur without the modifications. The eligibility requirements include:

- The loss (or loss of use) of both lower extremities which requires the aid of braces, crutches, canes, or a wheelchair for locomotion (self-propulsion).

¹ http://www.benefits.va.gov/compensation/claims-special-individual_unemployability.asp

² http://www.benefits.va.gov/homeloans/documents/docs/part1_va_pamphlet_26_jrd_edits_doc.pdf.

- The loss (or loss of use) of one or more lower extremities where the loss so affects balance and propulsion, requiring the aid of braces, crutches, canes, or wheelchair. (This disability must have occurred after September 11, 2011, and must be approved for assistance before September 30, 2013.)
- Blindness in both eyes, having only light perception, together with the loss (or loss of use) of at least one lower extremity.
- The loss (or loss of use) of one lower extremity together with either of the following conditions so as to require the aid of braces, crutches, canes, or wheelchair for locomotion:
 - Residual of organic disease
 - The loss (or loss of use) of one upper extremity.
- Disability due to a severe burn.
- The loss (or loss of use) of both upper extremities, preventing the use of the arms at or above the elbow.

Additionally, it must be medically feasible for the veteran to live in the residence; the house must be adapted to the veteran's needs; and it must be feasible (with grant assistance) for the veteran to purchase the residence. The SAH grant may be used up to three times, with maximum amount of assistance provided set at \$63,780 per lifetime, subject to annual increases in the lifetime maximum based on the cost of construction of residential homes. For FY 2013, the limit is set at \$64,960.

The VA also provides a Special Housing Adaption (SHA) grant under 38 USC 2101(b) providing assistance to veterans to achieve mobility in their home, but not to the degree required for those who are unable to walk or who need assistance in order to walk.³ To be eligible for an SHA grant, the veteran must have a service-connected disability meeting any of the following criteria:

- Blindness in both eyes, with visual acuity of 20/200 or less in the better eye with the use of a corrective lens.
- The loss (or loss of use) of both hands or extremities below the elbow.
- A severe burn injury.

The SHA grant may be used up to three times, with the maximum amount of assistance provided set at \$12,756 per lifetime, subject to annual increases in the lifetime maximum based on the cost of construction of residential homes. For FY 2013, the limit is set at \$12,992.

The number of Michigan veterans that have received adaptive housing assistance is not immediately known, although federal data indicates there were 48 policyholders of Veterans Mortgage Life Insurance (VMLI) as of December 31, 2012.⁴ The VMLI program provides insurance of up to \$200,000 to pay off the home mortgages upon the

³ http://www.benefits.va.gov/homeloans/documents/docs/part2_va_pamphlet_26_jrd_edits_doc.pdf.

⁴ <https://explore.data.gov/Banking-Finance-and-Insurance/Provides-number-of-life-insurance-policyholders-fo/vzj2-jamp>.

death of a disabled veteran. The program is only available to recipients of a specially adapted housing (SAH) grant. Federal data indicates the total face amount of VMLI policies is \$6.0 million as of December 31, 2012.⁵

VA Disability Rating System

The Department of Veterans Affairs utilizes a disability evaluation and rating system to determine the progression of the severity of a veteran's disability over time and the effect of that disability on the veteran's employability within the civilian job market. The VA devised a rating system, known as the Veterans Administration Schedule for Rating Disabilities (VSARD), assessing the medical conditions and illnesses incurred or aggravated during the veteran's military service and assigning a percentage rating (0%-100% specified in 10% increments) based on the severity of the disability. The basic premise is that this disability rating "represent[s] as far as can practicably be determined the average impairment in earning capacity resulting from such diseases and injuries [incurred in military service] and their residual conditions in civil occupations. Generally, the degrees of disability specified are considered adequate to compensate for considerable loss of working time from exacerbations or illnesses proportionate to the severity of the several grades of disability."⁶

The disability rating is used to determine the amount of monthly disability compensation benefits, eligibility for other benefits, and priority for VA medical care the veterans may receive. The table below, taken from Census Bureau data, shows the approximate number of Michigan veterans with a service-connected disability and their corresponding disability rating.

<u>Disability Status</u>	<u>Number</u>
Has No Service-Connected Disability	590,556
Has a Service-Connected Disability	80,495
0 percent	4,741
10 or 20 percent	26,699
30 or 40 percent	14,916
50 or 60 percent	10,134
70 percent or higher	18,311
Rating Not Reported	5,694
Total Number of Veterans	671,051

Source: Census Bureau – American Community Survey (2011)

With respect to "total and permanent" disability ratings, the VA's disability rules state,

Permanence of total disability will be taken to exist when such impairment is reasonably certain to continue throughout the life of the disabled person. The

⁵ <https://explore.data.gov/Banking-Finance-and-Insurance/Face-Amount-of-Life-Insurance-Coverage-by-Program-/9s7q-k22v>.

⁶ 38 CFR 4.1. The VA rating schedule is specified in Title 38 (Pensions, Bonuses, and Veterans' Relief), Part 4 (Schedule for Rating Disabilities) of the Code of Federal Regulations.

permanent loss or loss of use of both hands, or of both feet, or of one hand and one foot, or of the sight of both eyes, or becoming permanently helpless or bedridden constitutes permanent total disability. Diseases and injuries of long standing which are actually totally incapacitating will be regarded as permanently and totally disabling when the probability of permanent improvement under treatment is remote. Permanent total disability ratings may not be granted as a result of any incapacity from acute infectious disease, accident, or injury, unless there is present one of the recognized combinations or permanent loss of use of extremities or sight, or the person is in the strict sense permanently helpless or bedridden, or when it is reasonably certain that a subsidence of the acute or temporary symptoms will be followed by irreducible totality of disability by way of residuals. The age of the disabled person may be considered in determining permanence.⁷

Individual Unemployability

Under a determination of individual unemployability (IU), disabled veterans meeting certain criteria are eligible to receive disability compensation benefits at the 100% rating level, even though their actual disability rating is not 100%. VA regulations provide that in IU rating may be made when it is determined that the disabled veteran is unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities. The veteran must also have at least one disability rated at 60%, or two or more service-connected disabilities with at least one rated at 40% and combined rating of at least 70%.⁸

Veterans may also have an IU rating, even if they do not meet the above ratings requirements, through an extraschedular evaluation. This extraschedular evaluation permits the veteran to receive a higher compensation level than the rating schedule allows due to "[a] finding that the case presents such an exceptional or unusual disability picture with such related factors as marked interference with employment or frequent periods of hospitalization as to render impractical the application of the regular schedular standards."⁹ A 2005 report by the VA Office of Inspector General reported that, in FY 2004, 7% of Michigan veterans receiving disability compensation were rated for IU.¹⁰

FISCAL IMPACT:

To the extent that the expanded exemption is claimed, revenue from the State Education Tax (which is earmarked to the School Aid Fund) and local property tax would decline. However, without knowing the number of veterans that would qualify and the corresponding taxable values of their homesteads, an accurate fiscal impact cannot be determined.

⁷ 38 CFR 3.340.

⁸ 38 CFR 4.16.

⁹ 38 CFR 3.321.

¹⁰ Department of Veterans Affairs, Office of Inspector General, *Review of State Variances in VA Disability Compensation Payments*, Report No. 05-00765-137, May 19, 2005, <http://www.va.gov/oig/52/reports/2005/VAOIG-05-00765-137.pdf>.

Purely as an example, if 5,000 exemptions are claimed, the taxable value of each homestead averages \$50,000, and the statewide average millage rate is 40 mills, the overall revenue loss would be \$10.0 million. To the extent that the number of exemptions, the taxable values, and the specific millage rates vary, the overall fiscal impact would change as well.

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