

HOUSE BILL No. 4646

May 23, 2017, Introduced by Reps. Guerra, Lucido, Greig, Camilleri, Howrylak, Elder, Gay-Dagnogo, Wittenberg, Kelly, Barrett, LaFave, Bellino and Brann and referred to the Committee on Military and Veterans Affairs.

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), section 2 as amended by 2016 PA 201 and section 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 an individual who meets both of the
9 following:

1 (i) Is a veteran as defined in section 1 of 1965 PA 190, MCL
2 35.61.

3 (ii) Has completed not less than 190 days of honorable service
4 or is listed as missing in action or died during the period of
5 service from service-connected causes in the army, air, naval,
6 marine, or coast guard forces of the United States including the
7 auxiliary branches, was a resident of this state for not less than
8 6 months before entering the service or, while on active duty, was
9 a resident of this state for not less than 6 months immediately
10 before January 1, 1961, and has not applied for and received
11 similar benefits from another state for the same period of service.
12 The ~~190 days required~~ **190 DAYS'** active duty **REQUIREMENT** does not
13 include a period when assigned full time by the armed forces to a
14 civilian institution for a course substantially the same as a
15 course offered to civilians; or a period served as a cadet or
16 midshipman at a service academy, active duty for training ~~in~~ **DURING**
17 an enlistment in the Army or Air National Guard, or as a reserve
18 for service in the Army, Navy, Air Force, Marine Corps, or Coast
19 Guard Reserve, ~~with the exception of~~ **EXCEPT FOR** those military
20 personnel who converted to active duty immediately upon completion
21 of the initial active duty for training as evidenced by
22 noninterruption in pay status from that of initial active duty for
23 training to that of active duty. The 190 days' active duty
24 requirement shall not apply to a person who died or who received a
25 medical discharge from active military service due to injuries
26 **SUSTAINED** or disease ~~incurred~~ **CONTRACTED** in the line of duty, as
27 verified by the ~~veterans'~~ **VETERAN'S** records or by the Veterans'

1 Administration.

2 (c) "Combat veteran" means a veteran listed as missing in
3 action, or a veteran eligible to wear the Vietnam Service Medal or
4 the Armed Forces Expeditionary Medal if ~~eligibility~~ **THE VETERAN**
5 **BECAME ELIGIBLE** for the award ~~occurred~~ during the period of
6 service.

7 (d) "Beneficiary" ~~, subject to section 14(2),~~ means in
8 ~~relation to a deceased veteran or a veteran listed as missing in~~
9 ~~action,~~ the surviving spouse, child or children, or the dependent
10 surviving mother or father **OF A DECEASED VETERAN OR VETERAN LISTED**
11 **AS MISSING IN ACTION, SUBJECT TO SECTION 14(2),** in the order named,
12 ~~which~~ **THE** determination **OF WHICH** may be made by the probate court
13 of the county of residence of the veteran at the time of death. A
14 surviving parent of a veteran ~~shall be~~ **IS** eligible as a dependent
15 of the veteran if ~~that person~~ **THE SURVIVING PARENT** had a reasonable
16 expectation of support in whole or in part from the veteran and
17 that expectation is stated in the application.

18 (e) "Honorable service" means ~~that~~ **HONORABLE** service as
19 evidenced by **EITHER OF THE FOLLOWING:**

20 (i) Honorable or general discharge, or separation under
21 honorable conditions.

22 (ii) In the case of a person who has not been discharged, a
23 certificate from the appropriate service authority that a person
24 ~~did qualify~~ **QUALIFIED** under subparagraph (i) as if the veteran was
25 being discharged or separated.

26 **(F) Time** ~~Time~~ **HONORABLE SERVICE EXCLUDES TIME** lost while absent
27 without leave, in desertion, in confinement while undergoing the

1 sentence of a court-martial, or time lost while in a nonduty status
2 because of disease contracted through the veteran's own misconduct.
3 ~~shall not be construed as honorable service.~~

4 (G) ~~(F)~~ "Adjutant general" means the adjutant general of this
5 state.

6 (H) ~~(G)~~ "Resident" means a person who has acquired a status as
7 follows:

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

10 (ii) Was born in, but was temporarily living outside this
11 state, not having abandoned residence in this state before entrance
12 into the armed forces of the United States.

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

18 (A) Registered to vote in this state.

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

22 (C) If not registered to vote in this state, was not
23 registered to vote in another state, or had not voted in another
24 state within 6 months before entering service or before January 1,
25 1961.

26 (iv) Information appearing on the discharge documents of the
27 veteran that shows a permanent address for mailing purposes, an

1 address from which employment will be sought, or a home address at
 2 time of entry into service in another state, ~~shall~~ **DOES** not
 3 necessarily ~~be construed to mean~~ **PROVE** that the veteran intended to
 4 abandon his or her residence in this state for purposes of this
 5 act.

6 Sec. 7. (1) ~~Upon~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**
 7 **SUBSECTION, UPON** submission to the adjutant general of satisfactory
 8 proof that ~~the~~ **AN** applicant is entitled to payment under this act,
 9 the adjutant general shall compute the amount of payment due the
 10 applicant, make a record thereof, **OF THAT AMOUNT**, and transmit the
 11 claim for payment directly to the department of treasury for
 12 payment. Payment ~~shall~~ **MUST** be made from the Vietnam veteran era
 13 bonus fund. **PAYMENT TO AN APPLICANT BASED ON AN APPLICATION FILED**
 14 **UNDER SECTION 11(B) OR (C) IS SUBJECT TO AN APPROPRIATION OF FUNDS**
 15 **FOR THAT PAYMENT.** A claim for payment under this act ~~shall~~ **IS** not
 16 ~~be~~ assignable ~~or~~ subject to garnishment, attachment, or levy of
 17 execution.

18 (2) If the proof ~~as to~~ **OF** eligibility for payment submitted by
 19 an applicant either with or as a part of the applicant's initial
 20 application, or ~~pursuant to~~ **UPON A** request of the adjutant general
 21 after submission of the application, is not satisfactory to the
 22 adjutant general, the adjutant general shall reject the claim.

23 (3) ~~Upon rejection of~~ **IF** a claim **IS REJECTED**, the adjutant
 24 general shall mail to the claimant a notice of the rejection. ~~the~~
 25 **THE** notice shall inform the claimant of the claimant's right to
 26 file with the adjutant general a request for appeal to the state
 27 court of claims within 6 months after the ~~mailing of the notice by~~

1 ~~the~~ adjutant general **MAILS THE NOTICE.**

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

7 **(4)** ~~(5) The claimant shall have~~ **HAS** 6 months ~~from the mailing~~
8 ~~by~~ **AFTER** the adjutant general ~~of a~~ **MAILS THE** notice of rejection ~~in~~
9 ~~which to appeal to the court of claims. , and upon failure by~~ **IF**
10 the claimant **FAILS** to file with the adjutant general a request for
11 appeal to the court of claims within this ~~6 months'~~ **6-MONTH** period,
12 the determination by the adjutant general in the claim ~~shall be~~ **IS**
13 final.

14 **(5)** ~~(6) Upon the filing of the~~ **IF A CLAIMANT FILES A** request
15 for appeal to the court of claims, the adjutant general shall
16 immediately certify the entire record of the claim to the court of
17 claims and shall furnish to the court **OF CLAIMS ANY** additional
18 information in ~~, or which may thereafter come~~ **THAT COMES** into the
19 adjutant general's possession ~~, or which may be~~ **THAT IS** requested
20 by the court **OF CLAIMS.**

21 **(6)** ~~(7) Upon receipt of an order by the court of claims that a~~
22 claimant ~~whose claim has been so certified as in this act provided~~
23 is entitled to payment, and upon the order becoming final, **THE**
24 **ADJUTANT GENERAL SHALL PAY** the claim ~~shall be paid in the same~~
25 ~~manner as provided in this act.~~

26 **(7)** ~~(8) In each case in which~~ **IF** the court of claims enters
27 its order allowing or denying a claim, ~~and upon the order becoming~~

1 final, the files and records ~~on the~~ **FOR THAT** claim ~~shall~~ **MUST** be
 2 returned by the court of claims to the adjutant general. ~~, to be~~
 3 ~~retained by the~~ **THE** adjutant general **SHALL RETURN THE FILES AND**
 4 **RECORDS** as permanent records.

5 **(8)** ~~(9)~~ A person who filed a claim under this act and whose
 6 claim was rejected by either the adjutant general or the court of
 7 claims solely because of a discharge ~~which~~ **THAT** was less than
 8 honorable ~~, may~~ file a reapplication for benefits if the discharge
 9 ~~which~~ **THAT** caused the disqualification for benefits has
 10 subsequently been upgraded to a discharge indicating honorable
 11 service. The reapplication ~~shall~~ **MUST** be submitted and processed in
 12 the same manner as an initial application.

13 Sec. 11. ~~An application for benefits under this act shall not~~
 14 ~~be filed or received, except~~ **EXCEPT** for applications under section
 15 5(2), ~~after June 30, 1980.~~ **AN APPLICATION FOR A SERVICE BONUS UNDER**
 16 **THIS ACT MUST BE FILED BEFORE THE FOLLOWING DATES:**

17 **(A) FOR A VETERAN OR COMBAT VETERAN, JULY 1, 1980 IF THE**
 18 **VETERAN OR COMBAT VETERAN MET THE REQUIREMENTS TO RECEIVE A SERVICE**
 19 **BONUS UNDER THIS ACT BEFORE JULY 1, 1980.**

20 **(B) FOR A VETERAN OR COMBAT VETERAN, JANUARY 1, 2018 IF THE**
 21 **VETERAN OR COMBAT VETERAN DID NOT MEET THE REQUIREMENTS TO RECEIVE**
 22 **A SERVICE BONUS UNDER THIS ACT BEFORE JULY 1, 1980, BUT AFTER THE**
 23 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 2 (A) (ii) ,**
 24 **MEETS THE REQUIREMENTS TO RECEIVE A SERVICE BONUS UNDER THIS ACT.**

25 **(C) FOR A VETERAN, JANUARY 1, 2018 IF ALL OF THE FOLLOWING**
 26 **CONDITIONS ARE MET:**

27 **(i) BEFORE JULY 1, 1980, THE VETERAN APPLIED FOR AND RECEIVED**

1 A SERVICE BONUS UNDER SECTION 3(2) THAT WAS LESS THAN THE MAXIMUM
2 AMOUNT OF \$450.00 BECAUSE THE NUMBER OF MONTHS SERVED WAS
3 ORIGINALLY CALCULATED BASED ON THE PERIOD OF SERVICE UNDER SECTION
4 2(A) (i) .

5 (ii) THE VETERAN HAD COMPLETED ADDITIONAL MONTHS OF SERVICE
6 DURING THE PERIOD OF SERVICE DESCRIBED UNDER SECTION 2(A) (ii) FOR
7 WHICH THE VETERAN DID NOT RECEIVE A SERVICE BONUS UNDER SECTION
8 3(2) .

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