

LAWS OF DELAWARE
VOLUME 83
CHAPTER 124
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 214
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 14 AND 29 OF THE DELAWARE CODE RELATING TO DISABLED VETERANS' SCHOOL TAX CREDIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1917, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows.

§ 1917. Collection and deposit of school taxes.

(a) The receiver of taxes and county treasurer shall collect school taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes, and, except as provided in subsection (c) and (d) of this section, shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them. The Receiver of Taxes and County Treasurer for New Castle County only shall, after September 1 in the year in which the tax rolls shall be delivered to them, assess a penalty of 5% to taxes which are due and owing but unpaid, and shall each month thereafter add to such unpaid taxes a penalty of 1% per month until the same shall be paid. The Receiver of Taxes of Kent and Sussex Counties only shall, after September 30 in the year in which the tax rolls shall be delivered to them, assess a penalty of 1% per month until the same shall be paid.

(d) (1) If authorized by majority vote of the whole school board of the local school district pursuant to § 6102(r) of Title 29, there shall be allowed a credit against taxation in the full amount of tax liability imposed pursuant to this chapter on the valuation of any qualified property. For purposes of this subsection, "qualified property" shall mean property owned and occupied as a dwelling by and as the principal residence of a qualified person. A "qualified person" means a veteran who receives from the United States Department of Veterans Affairs or its successor agency 100% disability compensation due to a service-connected, permanent and total disability based on individual unemployability or a 100% disability rating, who is legally domiciled in this State for a period of at least 3 consecutive years. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this section. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing that the

claimant meets the definition of qualified person shall be upon the claimant. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to § 6102 of Title 29.

(2) No credit against taxation on the valuation of real property as provided in this subsection shall be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application shall be filed with and received by the receiver of taxes or county treasurer no later than April 30 immediately prior to the beginning of that tax year.

(3) The Secretary of Finance shall have the authority to waive the date of application in the case that an individual is financially disabled defined herein as unable to manage such individual financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance as defined in Chapter 47, Title 16) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, but shall not include individuals for whom an individual's spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters.

(4) a. Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed a credit against that claimant's interest in said property in excess of the assessed valuation of that claimant's proportionate share in said property, which proportionate share, for the purposes of this subsection, shall be deemed to be equal to that of each of the other tenants unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

b. Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife as tenants by the entirety shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

c. Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, or by a guardian, trustee,

committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

d. Right to claim credit under this subsection shall be withdrawn for the subsequent tax year from any taxpayer who has not paid in full such taxpayer's property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this subsection in subsequent tax years upon the payment in full of property taxes and penalties owed prior to the beginning of the subsequent tax year. A claimant must notify the receiver of taxes or county treasurer of any modification in status that results in the claimant no longer meeting the definition of qualified person set forth in paragraph (d)(1) of this section.

e. To the extent that a claimant qualifies for a credit pursuant to both this subsection and subsection (c) of this section, the claimant shall be entitled to the credit authorized under this subsection and shall have no right to claim a credit authorized under subsection (c) of this section.

(5) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require that any return or other writing required to be filed with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

(6) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.

(7) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for which the Secretary has authorized payment under § 1919 (e) of this title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to wilful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed.

Section 2. Amend § 1919, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1919. Report of school tax collections and payment of collected taxes.

(d) For tax years beginning on or after May 1, 2000, each receiver of taxes and county treasurer shall report to the Secretary of Finance the amount of credits allowed under § 1917(c) of this title for that tax year within 90 days of the date of any property tax billing. Such reports shall contain such further information and be in such form as the Secretary shall prescribe. The Secretary shall pay over to the State Treasurer, no later than 30 days following receipt of such report, an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102(q) of Title 29 equal to the allowable credits which shall be deposited into a separate account in the depository for other school moneys to the credit of the district.

(e) For tax years beginning on or after May 1, 2022, each receiver of taxes and county treasurer shall report to the Secretary of Finance the amount of credits allowed under § 1917(d) of this title for that tax year within 90 days of the date of any property tax billing. Such reports shall contain such further information and be in such form as the Secretary shall prescribe. The Secretary shall pay over to the State Treasurer, no later than 30 days following receipt of such report, an amount from the Disabled Veterans Property Tax Relief and Education Expense Fund established pursuant to § 6102(r) of Title 29 equal to the allowable credits which shall be deposited into a separate account in the depository for other school moneys to the credit of the district.

Section 3. Amend § 6102, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6102. Composition of General Fund; Delaware Higher Education Loan Program Fund.

(q) (1) A special fund of the State is created in the Department of Finance to be known as the “Elderly Property Tax Relief and Education Expense Fund,” to which shall be deposited \$13,000,000 received in any revenue source not otherwise committed to a special fund and from which shall be paid claims made under this subsection and § ~~1919~~1919(d) of Title 14. Should such claims exceed \$13,000,000 during any fiscal year, the Secretary of Finance, with the approval of the Director of the Office of Management and Budget and Controller General, may transfer from the general contingency line in the Department of Education to the Elderly Property Tax Relief and Education Expense Fund the amount of such reasonably foreseen additional claims. Any balance remaining in the

Elderly Property Tax Relief and Education Expense Fund at the conclusion of any fiscal year shall revert to the General Fund.

(2) Sums appropriated pursuant to this ~~section~~ subsection shall be allocated to school districts using a method that recognizes factors including, but not limited to, the number of primary residential households owned by persons 65 or over who meet the durational residency requirement of § ~~1917~~ 1917(c) of Title 14 in each school district, the relative value of residential property owned by persons 65 and over, the relative property values of each school district, the school tax rates of each school district, and the average rate of application for tax relief pursuant to this ~~section~~ subsection. The final method and allocation of these moneys shall be approved by the Secretary of Finance in consultation with the Controller General.

(3) Local school boards shall decide through majority vote of the whole school board whether to authorize a credit against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined in § ~~1917~~ 1917(c) of Title 14. The maximum such credit shall be the lesser of 50% of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22, or \$500. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to this section. Should the local school board decide to authorize less than the maximum amount of credit against taxation, the local school board shall develop a plan for using moneys received pursuant to this subsection, provide appropriate and reasonable public notice and comment on the proposed plan, and approve the plan through majority vote of the local school board. Local school boards shall submit the approved plan to the Secretary of Finance, the Secretary of Education, the Director of the Office of Management and Budget and the Controller General. In the event that local school boards choose not to authorize the aforementioned credit against taxation, the sums appropriated herein will result in increased state funding for education-related expenses of the school districts. Education-related expenses for the purposes of this subsection shall be defined as including, but not being limited to, computer hardware and software, library resources and other instructional materials, and minor capital improvements to school facilities. Local school boards and all other responsible parties under this paragraph are hereby directed to cause such conditions to be met as soon as practicable after the enactment of this section, but in no event later than October 30, 1999, and shall notify the Secretary of Finance and the Controller General as soon as such conditions are met. Notwithstanding any of the foregoing to

the contrary, funds received pursuant to this section shall not be used for major capital improvements or debt service.

(r) (1) A special fund of the State is created in the Department of Finance to be known as the “Disabled Veterans Property Tax Relief and Education Expense Fund,” to which shall be deposited \$1,000,000 received in any revenue source not otherwise committed to a special fund and from which shall be paid claims made under this subsection and § 1919(e) of Title 14. Should such claims exceed \$1,000,000 during any fiscal year, the Secretary of Finance, with the approval of the Director of the Office of Management and Budget and Controller General, may transfer from the general contingency line in the Department of Education to the Disabled Veterans Property Tax Relief and Education Expense Fund the amount of such reasonably foreseen additional claims. Any balance remaining in the Disabled Veterans Fund at the conclusion of any fiscal year shall revert to the General Fund.

(2) Sums appropriated pursuant to this subsection shall be allocated to school districts using a method that recognizes factors including, but not limited to, the number of primary residential households owned by disabled veterans in each school district, the relative value of residential property owned by disabled veterans, the relative property values of each school district, the school tax rates of each school district, and the average rate of application for tax relief pursuant to this subsection. The final method and allocation of these moneys shall be approved by the Secretary of Finance in consultation with the Controller General.

(3) Local school boards shall decide through majority vote of the whole school board whether to authorize a credit against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined in § 1917(d) of Title 14. The credit shall be for the full amount of tax remaining after taking into account any exemption pursuant to Title 9 and Title 22. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to this subsection. In the event that local school boards choose not to authorize the aforementioned credit against taxation, the sums appropriated herein will revert to the General Fund. In the first year after a school board authorizes a credit, the Secretary of Finance, in consultation with the receiver of taxes or county treasurer, shall determine the effective date of such credit based upon reasonable implementation requirements and operational capacity.

Section 4. This Act takes effect upon enactment.

Section 5. In FY 2022, the Secretary of Finance may use up to 5% of the amount appropriated for the Disabled Veterans Property Tax Relief and Education Expense Fund established pursuant to this Act to offset

administrative expenses. The Secretary of Finance shall pay over to each receiver of taxes and county treasurer an amount equal to 2% of the amount appropriated for the Disabled Veterans Property Tax Relief and Education Expense Fund established pursuant to this Act to offset administrative expenses.

Approved August 10, 2021