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DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 241

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

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

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

3 § 1917. Collection and deposit of school taxes.

4 (d) (1) a. If authorized by majority vote of the whole school board of the local school district ~~pursuant to~~ under §  
5 6102(r) of Title 29, there ~~shall~~ will be allowed a credit against taxation in the full amount of tax liability imposed ~~pursuant~~  
6 ~~to~~ by this chapter on the valuation of any qualified property.

7 b. For purposes of this subsection, “qualified property” ~~shall mean~~ means property owned and occupied  
8 as a dwelling by and as the principal residence of a qualified person. ~~A~~

9 c. For purposes of this subsection, a “qualified person” means a veteran who ~~receives~~ satisfies both the  
10 following:

11 1. Receives from the United States Department of Veterans ~~Affairs~~ Affairs, or its successor ~~agency~~  
12 agency, 100% disability compensation due to a service-connected, permanent and total disability based on  
13 individual unemployability or a 100% disability ~~rating, who is~~ rating.

14 2. Is legally domiciled in this State for a period of at least 3 consecutive years. Mere seasonal or  
15 temporary residence within ~~the~~ this State, of whatever duration, ~~shall not~~ does not constitute domicile within  
16 ~~the~~ this State for the purposes of this ~~section~~ subsection. Absence from this State for a period of 12 months  
17 ~~shall be~~ is prima facie evidence of abandonment of domicile in this State.

18 d. If a local school board has authorized the tax credit under paragraph (d)(1)a. of this section, then the  
19 credit must be allowed for a surviving spouse of a deceased qualified person if all of the following apply:

20 1. The deceased qualified person, immediately before death, was both claiming the credit and had not  
21 had the right to claim the credit withdrawn.

22                   2. The surviving spouse was a titled owner of the qualified property before the deceased qualified  
23 person's death.

24                   3. The surviving spouse has not remarried.

25                   4. The surviving spouse owns and occupies the qualified property as their principal residence.

26                   e. A surviving spouse is no longer eligible for the credit if they do any of the following:

27                   1. Remarry.

28                   2. Stop being a titled owner of the qualified property.

29                   3. Stop occupying the qualified property as their principal residence.

30                   f. The burden of establishing that the claimant meets the definition of qualified person shall be upon or is  
31 an eligible surviving spouse is on the claimant.

32                   g. The receiver of taxes and county treasurer shall apply such credit after any change to the current  
33 expense tax rate pursuant to § 6102 of Title 29.

34                   (2)a. ~~No~~ A credit against taxation on the valuation of real property as provided in this subsection shall may  
35 not be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in  
36 consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer  
37 for use by the claimants under this subsection. Such application shall must be filed with and received by the receiver of  
38 taxes or county treasurer no later than April 30 immediately prior to before the beginning of that tax year.

39                   b. Notwithstanding the application deadline in paragraph (d)(2)a. of this section, the Secretary of Finance,  
40 in consultation with the receiver of taxes and country treasurer, shall establish a process for the receiver of taxes  
41 and county treasurer to use to verify the eligibility of a surviving spouse of a deceased qualified person and to  
42 maintain the credit for an eligible surviving spouse without disruption occasioned by the death of the qualified  
43 person.

44                   (4) a. Where title to property on which a credit is claimed is held by claimant and another or others, either as  
45 tenants in common or as joint tenants, the claimant shall not be is not allowed a credit against that claimant's interest in  
46 said the property in excess of the assessed valuation of that claimant's proportionate share in said property, which  
47 proportionate share, for the property. For the purposes of this subsection, the claimant's proportional share is shall be  
48 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  
49 which event claimant's proportionate share shall must be as shown.

50                   d. Right to claim credit under this subsection shall will be withdrawn for the subsequent tax year from  
51 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

52 was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers  
53 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  
54 taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this  
55 subsection in subsequent tax years upon the payment in full of property taxes and penalties owed ~~prior to~~ before  
56 the beginning of the subsequent tax year. A claimant must notify the receiver of taxes or county treasurer of any  
57 modification in status that results in the claimant no longer meeting the definition of qualified person set forth in  
58 paragraph (d)(1) of this section or no longer an eligible surviving spouse under paragraph (d)(1) of this section.

59 Section 2. Amend § 6102, Title 29 of the Delaware Code by making deletions as shown by strike through and  
60 insertions as shown by underline as follows:

61 § 6102. Composition of General Fund; Delaware Higher Education Loan Program Fund.

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

70 (3) Local school boards shall decide through majority vote of the whole school board whether to authorize a credit  
71 against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined in §  
72 1917(d) of Title 14. If a local school board has authorized the tax credit, then the credit must be allowed for a surviving  
73 spouse of a deceased qualified person who satisfies the eligibility requirements in § 1917(d) of Title 14. The credit shall be  
74 for the full amount of tax remaining after taking into account any exemption pursuant to Title 9 and Title 22. The receiver  
75 of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to this  
76 subsection. In the event that local school boards choose not to authorize the aforementioned credit against taxation, the  
77 sums appropriated herein will revert to the General Fund. In the first year after a school board authorizes a credit, the  
78 Secretary of Finance, in consultation with the receiver of taxes or county treasurer, shall determine the effective date of  
79 such credit based upon reasonable implementation requirements and operational capacity.

#### SYNOPSIS

This Act expands the Disabled Veterans School Tax Credit to include a deceased disabled veteran's surviving spouse. HB 214 with HA 1, passed by the 151st General Assembly, created the Disabled Veterans Property Tax Relief and

Education Expense Fund. School boards are currently authorized to create a credit against school taxes for up to the full amount of school tax liability for property owned by a disabled veteran who meets certain requirements.

This Act would allow a disabled veteran's surviving spouse to maintain the credit that their deceased veteran spouse was claiming if their deceased veteran spouse, immediately before death, was both claiming the credit and had not had the right to claim the credit withdrawn and the surviving spouse meets all of the following requirements:

- (1) Was a titled owner of the qualified property before the deceased veteran's death.
- (2) Has not remarried.
- (3) Owns and occupies the qualified property as their principal residence.

A surviving spouse is no longer eligible to maintain the credit if they do any of the following:

- (1) Remarry.
- (2) Stop being a titled owner of the qualified property.
- (3) Stop occupying the qualified property as their principal residence.

This Act requires the Secretary of Finance, in consultation with the receiver of taxes and county treasurer, to establish a process to determine the eligibility of a surviving spouse and to allow an eligible surviving spouse to maintain the credit without disruption after the death of their disabled veteran spouse.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Lawson