

“When a disabled veteran or the veteran's unmarried surviving spouse provides proof of eligibility for an exemption pursuant to Subsection E of this section, the disabled veteran or the veteran's unmarried surviving spouse shall be allowed the exemption for that taxable year; provided that the exemption shall not be allowed for property tax due for previous taxable years.”

This new text replaces a potentially obsolete provision.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature (May 18, 2022). The change would affect the 2023 property tax year with payments due in November 2023 and April 2024 of FY24.

FISCAL IMPLICATIONS

The impact of this bill as amended is likely minimal on revenue beneficiaries and administration may be quite difficult. After amendment, the most likely circumstance where controversy might arise is when a 100 percent disabled veteran or the unmarried surviving spouse purchases a residential property. At closing on this purchase, there would be no means for the title company to properly allocate property taxes to seller and buyer, if the buyer could qualify for the 100 percent disabled veteran’s exemption. However, in order for the title company to honor the exemption, the provisions of this bill would require the disabled veteran to present the DVS certificate to the assessor prior to closing. It is not certain at that point how the assessor would communicate acceptance of the exemption to the title company conducting the closing. Under ordinary circumstances, the property taxes would be paid on behalf of the seller and buyer and the only current mechanism for implementing the exemption would be for the buyer to file a claim for refund with the county.

If the amendment is applicable to a particular situation, it is likely quite limited. Fiscal impact on revenue beneficiaries will be minimal.

DVS anticipates an increase in workload for the benefits division of DVS, stating: “Changes to tax exemptions could increase traffic and questions related to the changes. DVS Benefits Division staff would have to be educated about changes and may have to process more determinations. [Therefore] HB195 could increase the volume of veteran applicants and inquiries the state benefits office receives. The requirements to provide proof of eligibility is part of the current process; however, this new flexibility could add additional work for the benefits office due to the number of people who may meet criteria to receive the disabled veterans’ property tax exemption.”

LFC staff note that the provisions of this bill will not increase workload on the benefits division of DVS, since the substance and intent of the provisions of the bill is to accelerate the recognition of certificates issued by DVS sooner than with current practice. The number of requests for certificates will not change.

SIGNIFICANT ISSUES

The bill does two things: (1) it deletes the largely obsolete Section 7-38-17(H) NMSA 1978 that applied to all veterans, disabled veterans, and veteran’s organizations that applied for exemption in 2004 or 2005. The proposed section would apply only to disabled veterans or their surviving spouse; and (2) it provides for an immediate recognition of the 100 percent veterans exemption for 100 percent disabled veterans without waiting for the new calendar (property tax) year.

With LFC staff current interpretation, this proposed amendment is intended to clarify a situation that may be in dispute. However, the provision for immediate exemption may not be able to be implemented with respect to a 100 percent disabled veteran purchasing a residence.

ADMINISTRATIVE ISSUES

The proposed legislation will have no administrative impact on TRD. The legislation may impact processes at county assessor offices. It is uncertain whether the provisions of the amended bill can be implemented in practice.

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TECHNICAL ISSUES

Article IV, Section 15 of the New Mexico Constitution requires, “... no bill shall be so altered or amended on its passage through either house as to change its original purpose.” In this case, although virtually the entire purpose of the bill was changed by the HLVMC amendment, the purpose is still relating to property tax and the detailed implementation of a property tax exemption.

~~Article IV, Section 16 of the New Mexico Constitution requires, “...the subject of every bill shall be clearly expressed in its title ...” It is uncertain whether the provisions of this bill represent more flexibility or less than the current provisions of Section 7-38-17(H) NMSA 1978. If less flexibility, then the title does not clearly represent the subject of the bill.~~

~~TRD notes that the proposed amendment to Section 7-38-17.H NMSA 1978 makes the subsection applicable to disabled veterans and their unmarried surviving spouses only, while the subsection originally applied to all veterans and their unmarried surviving spouses.~~

~~TRD also notes that Section 7-37-5 NMSA 1978, veteran exemption, also refers to out of date material from tax years 2004 and 2005. This section appears to be related to the original Section 7-37-17 H NMSA 1978 and may need to be revised as well to provide consistency in the statutes. Due to the noted change above changing from all veterans to disabled veterans though leads to some ambiguity of what additional statute changes are needed.~~