

STATE OF NEW YORK

5235

2021-2022 Regular Sessions

IN SENATE

February 26, 2021

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the tax law, the executive law, the economic development law, the public officers law and the real property tax law, in relation to expanding the definition of veteran to include members of the United States public health service

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (A) of paragraph 2 of subsection (a-2) of
2 section 606 of the tax law, as amended by chapter 490 of the laws of
3 2019, is amended to read as follows:

4 (A) who served on active duty in the United States army, navy, air
5 force, marine corps, coast guard or the reserves thereof, or who served
6 in active military service of the United States as a member of the army
7 national guard, air national guard, New York guard or New York naval
8 militia, or who served as a member of the United States public health
9 service; who (i) was released from active duty by general or honorable
10 discharge after September eleventh, two thousand one, or (ii) has a
11 qualifying condition, as defined in section three hundred fifty of the
12 executive law, and has received a discharge other than bad conduct or
13 dishonorable from such service after September eleventh, two thousand
14 one, or (iii) is a discharged LGBT veteran, as defined in section three
15 hundred fifty of the executive law, and has received a discharge other
16 than bad conduct or dishonorable from such service after September elev-
17 enth, two thousand one;

18 § 2. Subparagraph (A) of paragraph 2 of subsection (g-1) of section
19 1511 of the tax law, as amended by chapter 490 of the laws of 2019, is
20 amended to read as follows:

21 (A) who served on active duty in the United States army, navy, air
22 force, marine corps, coast guard or the reserves thereof, or who served
23 in active military service of the United States as a member of the army
24 national guard, air national guard, New York guard or New York naval
25 militia, or who served on active duty as a member of the United States

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD09378-02-1

1 public health service; who (i) was released from active duty by general
2 or honorable discharge after September eleventh, two thousand one, or
3 (ii) has a qualifying condition, as defined in section three hundred
4 fifty of the executive law, and has received a discharge other than bad
5 conduct or dishonorable from such service after September eleventh, two
6 thousand one, or (iii) is a discharged LGBT veteran, as defined in
7 section three hundred fifty of the executive law, and has received a
8 discharge other than bad conduct or dishonorable from such service after
9 September eleventh, two thousand one;

10 § 3. Subparagraph 1 of paragraph (b) of subdivision 29 of section
11 210-B of the tax law, as amended by chapter 490 of the laws of 2019, is
12 amended to read as follows:

13 (1) who served on active duty in the United States army, navy, air
14 force, marine corps, coast guard or the reserves thereof, or who served
15 in active military service of the United States as a member of the army
16 national guard, air national guard, New York guard or New York naval
17 militia, or who served on active duty as a member of the United States
18 public health service; who (i) was released from active duty by general
19 or honorable discharge after September eleventh, two thousand one, or
20 (ii) has a qualifying condition, as defined in section three hundred
21 fifty of the executive law, and has received a discharge other than bad
22 conduct or dishonorable from such service after September eleventh, two
23 thousand one, or (iii) is a discharged LGBT veteran, as defined in
24 section three hundred fifty of the executive law, and has received a
25 discharge other than bad conduct or dishonorable from such service after
26 September eleventh, two thousand one;

27 § 4. Subdivisions 3 and 9 of section 350 of the executive law, subdivi-
28 sion 9 as added by chapter 490 of the laws of 2019, are amended to
29 read as follows:

30 3. The term "veteran" means a person, male or female, resident of this
31 state, who has served in the active military or naval service of the
32 United States or the active service of the United States public health
33 service during a war in which the United States engaged and who has been
34 released from such service otherwise than by dishonorable discharge, or
35 who has been furloughed to the reserve.

36 9. The term "discharged LGBT veteran" means a veteran who was
37 discharged less than honorably from military ~~or~~, naval or public
38 health service of the United States due to their sexual orientation or
39 gender identity or expression, as those terms are defined in section two
40 hundred ninety-two of this chapter, or statements, consensual sexual
41 conduct, or consensual acts relating to sexual orientation, gender iden-
42 tity or expression, or the disclosure of such statements, conduct, or
43 acts, that were prohibited by the military or naval service at the time
44 of discharge. The division shall establish a consistent and uniform
45 process to determine whether a veteran qualifies as a discharged LGBT
46 veteran under this subdivision, including, at a minimum, standards for
47 verifying a veteran's status as a discharged LGBT veteran, and a method
48 of demonstrating eligibility as a discharged LGBT veteran.

49 § 5. The opening paragraph of paragraph a and paragraph c of subdivi-
50 sion 1 of section 364 of the executive law, the opening paragraph of
51 paragraph a as amended by chapter 490 of the laws of 2019 and paragraph
52 c as added by chapter 751 of the laws of 1985, are amended to read as
53 follows:

54 The word "veteran," as used in this article shall be taken to mean and
55 include any person who is a resident of the state of New York, and who
56 (i) has been or may be given an honorable, general or ordinary discharge

1 or any other form of release from such service, except a dishonorable
2 discharge, a bad conduct discharge, an undesirable discharge, a
3 discharge without honor or a discharge for the good of the service, or
4 (ii) has a qualifying condition, as defined in section three hundred
5 fifty of this article, and has received a discharge other than bad
6 conduct or dishonorable from such service, or (iii) is a discharged LGBT
7 veteran, as defined in section three hundred fifty of this article, and
8 has received a discharge other than bad conduct or dishonorable from
9 such service, and who (iv) was a recipient of the armed forces expedi-
10 tionary medal, the navy expeditionary medal or the marine corps expedi-
11 tionary medal for participation in operations in Lebanon from June
12 first, nineteen hundred eighty-three to December first, nineteen hundred
13 eighty-seven, in Grenada from October twenty-third, nineteen hundred
14 eighty-three to November twenty-first, nineteen hundred eighty-three, or
15 in Panama from December twentieth, nineteen hundred eighty-nine to Janu-
16 ary thirty-first, nineteen hundred ninety, or (v) served on active duty
17 for ninety days or more in the armed forces of the United States or the
18 United States public health service during any one of the following wars
19 or hostilities:

20 c. The term "active duty" as used in this article shall mean full time
21 duty in the armed forces or the United States public health service,
22 other than active duty for training; provided, however, that "active
23 duty" shall also include any period of active duty for training during
24 which the individual concerned was disabled or died from a disease or
25 injury incurred or aggravated during such period.

26 § 6. Subdivision 3 of section 369-b of the executive law, as added by
27 chapter 557 of the laws of 2013, is amended to read as follows:

28 3. "Veteran" shall mean an individual who served on active duty in the
29 United States army, navy, marine corps, air force, coast guard or the
30 reserves component, or who served in active military service of the
31 United States as a member of the army national guard, air national
32 guard, New York guard or New York naval militia, or who served in active
33 service as a member of the United States public health service, who was
34 released from such service otherwise than by dishonorable discharge
35 after September eleventh, two thousand one.

36 § 7. Subdivisions 5 and 7 of section 369-h of the executive law,
37 subdivision 5 as added by chapter 22 of the laws of 2014 and subdivision
38 7 as amended by chapter 490 of the laws of 2019, are amended to read as
39 follows:

40 5. "Service-disabled veteran" shall mean (a) in the case of the United
41 States army, navy, air force, marines, coast guard, army national guard
42 or air national guard and/or reserves thereof, or the United States
43 public health service, a veteran who received a compensation rating of
44 ten percent or greater from the United States department of veterans
45 affairs or from the United States department of defense because of a
46 service-connected disability incurred in the line of duty, and (b) in
47 the case of the New York guard or the New York naval militia and/or
48 reserves thereof, a veteran who certifies, pursuant to the rules and
49 regulations promulgated by the director, to having incurred an injury
50 equivalent to a compensation rating of ten percent or greater from the
51 United States department of veterans affairs or from the United States
52 department of defense because of a service-connected disability incurred
53 in the line of duty.

54 7. "Veteran" shall mean a person who served in the United States army,
55 navy, air force, marines, coast guard, and/or reserves thereof, and/or
56 in the army national guard, air national guard, New York guard and/or

1 the New York naval militia, and/or who served as a member of the United
2 States public health service, and who (i) has received an honorable or
3 general discharge from such service, or (ii) has a qualifying condition,
4 as defined in section three hundred fifty of this chapter, and has
5 received a discharge other than bad conduct or dishonorable from such
6 service, or (iii) is a discharged LGBT veteran, as defined in section
7 three hundred fifty of this chapter, and has received a discharge other
8 than bad conduct or dishonorable from such service.

9 § 8. Subdivision 6 of section 210 of the economic development law, as
10 amended by chapter 490 of the laws of 2019, is amended to read as
11 follows:

12 6. "Veteran" shall mean a person who served in the United States army,
13 navy, air force, marines, coast guard, and/or reserves thereof, and/or
14 in the army national guard, air national guard, New York guard and/or
15 the New York naval militia, and/or who served as a member of the United
16 States public health service, and who (a) has received an honorable or
17 general discharge from such service, or (b) has a qualifying condition,
18 as defined in section three hundred fifty of the executive law, and has
19 received a discharge other than bad conduct or dishonorable from such
20 service, or (c) is a discharged LGBT veteran, as defined in section
21 three hundred fifty of the executive law, and has received a discharge
22 other than bad conduct or dishonorable from such service.

23 § 9. Section 63 of the public officers law, as amended by chapter 490
24 of the laws of 2019, is amended to read as follows:

25 § 63. Leave of absence for veterans on Memorial day and Veterans' day.
26 It shall be the duty of the head of every public department and of every
27 court of the state of New York, of every superintendent or foreman on
28 the public works of said state, of the county officers of the several
29 counties of said state, of the town officers of the various towns in
30 this state, of the fire district officers of the various fire districts
31 in this state, and of the head of every department, bureau and office in
32 the government of the various cities and villages in this state, and the
33 officers of any public benefit corporation or any public authority of
34 this state, or of any public benefit corporation or public authority of
35 any county or subdivision of this state, to give leave of absence with
36 pay for twenty-four hours on the day prescribed by law as a public holi-
37 day for the observance of Memorial day and on the eleventh day of Novem-
38 ber, known as Veterans' day, to every person in the service of the
39 state, the county, the town, the fire district, the city or village, the
40 public benefit corporation or public authority of this state, or any
41 public benefit corporation or public authority of any county or subdivi-
42 sion of this state, as the case may be, (i) who served on active duty in
43 the armed forces of the United States during world war I or world war
44 II, or who was employed by the War Shipping Administration or Office of
45 Defense Transportation or their agents as a merchant seaman documented
46 by the United States Coast Guard or Department of Commerce, or as a
47 civil servant employed by the United States Army Transport Service
48 (later redesignated as the United States Army Transportation Corps,
49 Water Division) or the Naval Transportation Service; and who served
50 satisfactorily as a crew member during the period of armed conflict,
51 December seventh, nineteen hundred forty-one, to August fifteenth, nine-
52 teen hundred forty-five, aboard merchant vessels in oceangoing, i.e.,
53 foreign, intercoastal, or coastwise service as such terms are defined
54 under federal law (46 USCA 10301 & 10501) and further to include "near
55 foreign" voyages between the United States and Canada, Mexico, or the
56 West Indies via ocean routes, or public vessels in oceangoing service or

1 foreign waters and who has received a Certificate of Release or
2 Discharge from Active Duty and a discharge certificate, or an Honorable
3 Service Certificate/Report of Casualty, from the Department of Defense,
4 or who served as a United States civilian employed by the American Field
5 Service and served overseas under United States Armies and United States
6 Army Groups in world war II during the period of armed conflict, Decem-
7 ber seventh, nineteen hundred forty-one through May eighth, nineteen
8 hundred forty-five, and who (a) was discharged or released therefrom
9 under honorable conditions, or (b) has a qualifying condition, as
10 defined in section three hundred fifty of the executive law, and has
11 received a discharge other than bad conduct or dishonorable from such
12 service, or (c) is a discharged LGBT veteran, as defined in section
13 three hundred fifty of the executive law, and has received a discharge
14 other than bad conduct or dishonorable from such service or who served
15 as a United States civilian Flight Crew and Aviation Ground Support
16 Employee of Pan American World Airways or one of its subsidiaries or its
17 affiliates and served overseas as a result of Pan American's contract
18 with Air Transport Command or Naval Air Transport Service during the
19 period of armed conflict, December fourteenth, nineteen hundred forty-
20 one through August fourteenth, nineteen hundred forty-five, and who (d)
21 was discharged or released therefrom under honorable conditions, or (e)
22 has a qualifying condition, as defined in section three hundred fifty of
23 the executive law, and has received a discharge other than bad conduct
24 or dishonorable from such service, or (f) is a discharged LGBT veteran,
25 as defined in section three hundred fifty of the executive law, and has
26 received a discharge other than bad conduct or dishonorable from such
27 service or during the period of the Korean conflict at any time between
28 the dates of June twenty-seventh, nineteen hundred fifty and January
29 thirty-first, nineteen hundred fifty-five, or during the period of the
30 Vietnam conflict from the twenty-eighth day of February, nineteen
31 hundred sixty-one to the seventh day of May, nineteen hundred seventy-
32 five, or (ii) who served on active duty in the armed forces of the
33 United States and who was a recipient of the armed forces expeditionary
34 medal, navy expeditionary medal or marine corps expeditionary medal for
35 participation in operations in Lebanon from June first, nineteen hundred
36 eighty-three to December first, nineteen hundred eighty-seven, in Grena-
37 da from October twenty-third, nineteen hundred eighty-three to November
38 twenty-first, nineteen hundred eighty-three, or in Panama from December
39 twentieth, nineteen hundred eighty-nine to January thirty-first, nine-
40 teen hundred ninety, or (iii) who served in the armed forces of a
41 foreign country allied with the United States during world war I or
42 world war II, or during the period of the Korean conflict at any time
43 between June twenty-seventh, nineteen hundred fifty and January thirty-
44 first, nineteen hundred fifty-five, or during the period of the Vietnam
45 conflict from the twenty-eighth day of February, nineteen hundred
46 sixty-one to the seventh day of May, nineteen hundred seventy-five, or
47 during the period of the Persian Gulf conflict from the second day of
48 August, nineteen hundred ninety to the end of such conflict, or who
49 served on active duty in the army or navy or marine corps or air force
50 or coast guard of the United States, and who (a) was honorably
51 discharged or separated from such service under honorable conditions, or
52 (b) has a qualifying condition, as defined in section three hundred
53 fifty of the executive law, and has received a discharge other than bad
54 conduct or dishonorable from such service, or (c) is a discharged LGBT
55 veteran, as defined in section three hundred fifty of the executive law,
56 and has received a discharge other than bad conduct or dishonorable from

1 such service except where such action would endanger the public safety
2 or the safety or health of persons cared for by the state, in which
3 event such persons shall be entitled to leave of absence with pay on
4 another day in lieu thereof, or (iv) who served on active duty in the
5 United States public health service, and who (a) was honorably
6 discharged or separated from such service under honorable conditions, or
7 (b) has a qualifying condition, as defined in section three hundred
8 fifty of the executive law, and has received a discharge other than bad
9 conduct or dishonorable from such service, or (c) is a discharged LGBT
10 veteran, as defined in section three hundred fifty of the executive law,
11 and has received a discharge other than bad conduct or dishonorable from
12 such service except where such action would endanger the public safety
13 or the safety or health of persons cared for by the state, in which
14 event such persons shall be entitled to leave of absence with pay on
15 another day in lieu thereof. All such persons who are compensated on a
16 per diem, hourly, semi-monthly or monthly basis, with or without mainte-
17 nance, shall also be entitled to leave of absence with pay under the
18 provisions of this section and no deduction in vacation allowance or
19 budgetary allowable number of working days shall be made in lieu there-
20 of. A refusal to give such leave of absence to one entitled thereto
21 shall be neglect of duty.

22 § 10. Subdivision 4-a of section 458 of the real property tax law, as
23 amended by chapter 490 of the laws of 2019, is amended to read as
24 follows:

25 4-a. For the purposes of this section, the term "military or naval
26 services" shall be deemed to also include service: (a) by a person who
27 was employed by the War Shipping Administration or Office of Defense
28 Transportation or their agents as a merchant seaman documented by the
29 United States Coast Guard or Department of Commerce, or as a civil serv-
30 ant employed by the United States Army Transport Service (later redesign-
31 nated as the United States Army Transportation Corps, Water Division) or
32 the Naval Transportation Service; and who served satisfactorily as a
33 crew member during the period of armed conflict, December seventh, nine-
34 teen hundred forty-one, to August fifteenth, nineteen hundred forty-
35 five, aboard merchant vessels in oceangoing, i.e., foreign, inter-
36 coastal, or coastwise service as such terms are defined under federal
37 law (46 USCA 10301 & 10501) and further to include "near foreign"
38 voyages between the United States and Canada, Mexico, or the West Indies
39 via ocean routes, or public vessels in oceangoing service or foreign
40 waters and who has received a Certificate of Release or Discharge from
41 Active Duty and a discharge certificate, or an Honorable Service
42 Certificate/Report of Casualty, from the department of defense; (b)
43 service by a United States civilian employed by the American Field
44 Service who served overseas under United States Armies and United States
45 Army Groups in world war II during the period of armed conflict, Decem-
46 ber seventh, nineteen hundred forty-one through May eighth, nineteen
47 hundred forty-five, and who (i) was discharged or released therefrom
48 under honorable conditions, or (ii) has a qualifying condition, as
49 defined in section three hundred fifty of the executive law, and has
50 received a discharge other than bad conduct or dishonorable from such
51 service, or (iii) is a discharged LGBT veteran, as defined in section
52 three hundred fifty of the executive law, and has received a discharge
53 other than bad conduct or dishonorable from such service; ~~or~~ (c)
54 service by a United States civilian Flight Crew and Aviation Ground
55 Support Employee of Pan American World Airways or one of its subsid-
56 iaries or its affiliates who served overseas as a result of Pan Ameri-

1 can's contract with Air Transport Command or Naval Air Transport Service
2 during the period of armed conflict, December fourteenth, nineteen
3 hundred forty-one through August fourteenth, nineteen hundred forty-
4 five, and who (i) was discharged or released therefrom under honorable
5 conditions, or (ii) has a qualifying condition, as defined in section
6 three hundred fifty of the executive law, and has received a discharge
7 other than bad conduct or dishonorable from such service, or (iii) is a
8 discharged LGBT veteran, as defined in section three hundred fifty of
9 the executive law, and has received a discharge other than bad conduct
10 or dishonorable from such service; or (d) service by a member of the
11 United States public health service and who (i) was discharged or
12 released therefrom under honorable conditions, or (ii) has a qualifying
13 condition, as defined in section three hundred fifty of the executive
14 law, and has received a discharge other than bad conduct or dishonorable
15 from such service, or (iii) is a discharged LGBT veteran, as defined in
16 section three hundred fifty of the executive law, and has received a
17 discharge other than bad conduct or dishonorable from such service.

18 § 11. Paragraph (e) of subdivision 1 of section 458-a of the real
19 property tax law, as amended by chapter 490 of the laws of 2019, is
20 amended to read as follows:

21 (e) "Veteran" means a person (i) who served in the active military,
22 naval, or air service during a period of war, or who was a recipient of
23 the armed forces expeditionary medal, navy expeditionary medal, marine
24 corps expeditionary medal, or global war on terrorism expeditionary
25 medal, and who (1) was discharged or released therefrom under honorable
26 conditions, or (2) has a qualifying condition, as defined in section
27 three hundred fifty of the executive law, and has received a discharge
28 other than bad conduct or dishonorable from such service, or (3) is a
29 discharged LGBT veteran, as defined in section three hundred fifty of
30 the executive law, and has received a discharge other than bad conduct
31 or dishonorable from such service, (ii) who was employed by the War
32 Shipping Administration or Office of Defense Transportation or their
33 agents as a merchant seaman documented by the United States Coast Guard
34 or Department of Commerce, or as a civil servant employed by the United
35 States Army Transport Service (later redesignated as the United States
36 Army Transportation Corps, Water Division) or the Naval Transportation
37 Service; and who served satisfactorily as a crew member during the peri-
38 od of armed conflict, December seventh, nineteen hundred forty-one, to
39 August fifteenth, nineteen hundred forty-five, aboard merchant vessels
40 in oceangoing, i.e., foreign, intercoastal, or coastwise service as such
41 terms are defined under federal law (46 USCA 10301 & 10501) and further
42 to include "near foreign" voyages between the United States and Canada,
43 Mexico, or the West Indies via ocean routes, or public vessels in ocean-
44 going service or foreign waters and who has received a Certificate of
45 Release or Discharge from Active Duty and a discharge certificate, or an
46 Honorable Service Certificate/Report of Casualty, from the department of
47 defense, (iii) who served as a United States civilian employed by the
48 American Field Service and served overseas under United States Armies
49 and United States Army Groups in world war II during the period of armed
50 conflict, December seventh, nineteen hundred forty-one through May
51 eighth, nineteen hundred forty-five, and who (1) was discharged or
52 released therefrom under honorable conditions, or (2) has a qualifying
53 condition, as defined in section three hundred fifty of the executive
54 law, and has received a discharge other than bad conduct or dishonorable
55 from such service, or (3) is a discharged LGBT veteran, as defined in
56 section three hundred fifty of the executive law, and has received a

1 discharge other than bad conduct or dishonorable from such service, (iv)
2 who served as a United States civilian Flight Crew and Aviation Ground
3 Support Employee of Pan American World Airways or one of its subsid-
4 iaries or its affiliates and served overseas as a result of Pan Ameri-
5 can's contract with Air Transport Command or Naval Air Transport Service
6 during the period of armed conflict, December fourteenth, nineteen
7 hundred forty-one through August fourteenth, nineteen hundred forty-
8 five, and who (1) was discharged or released therefrom under honorable
9 conditions, or (2) has a qualifying condition, as defined in section
10 three hundred fifty of the executive law, and has received a discharge
11 other than bad conduct or dishonorable from such service, or (3) is a
12 discharged LGBT veteran, as defined in section three hundred fifty of
13 the executive law, and has received a discharge other than bad conduct
14 or dishonorable from such service, ~~or~~ (v) notwithstanding any other
15 provision of law to the contrary, who are members of the reserve compo-
16 nents of the armed forces of the United States who (1) received an
17 honorable discharge or release therefrom under honorable conditions, or
18 (2) has a qualifying condition, as defined in section three hundred
19 fifty of the executive law, and has received a discharge other than bad
20 conduct or dishonorable from such service, or (3) is a discharged LGBT
21 veteran, as defined in section three hundred fifty of the executive law,
22 and has received a discharge other than bad conduct or dishonorable from
23 such service, but are still members of the reserve components of the
24 armed forces of the United States provided that such members meet all
25 other qualifications under the provisions of this section, or (vi) who
26 served as a member of the United States public health service and who
27 (1) was discharged or released therefrom under honorable conditions, or
28 (2) has a qualifying condition, as defined in section three hundred
29 fifty of the executive law, and has received a discharge other than bad
30 conduct or dishonorable from such service, or (3) is a discharged LGBT
31 veteran, as defined in section three hundred fifty of the executive law,
32 and has received a discharge other than bad conduct or dishonorable from
33 such service.

34 § 12. Paragraphs (a) and (c) of subdivision 1 of section 458-b of the
35 real property tax law, paragraph (a) as amended by chapter 490 of the
36 laws of 2019 and paragraph (c) as added by chapter 655 of the laws of
37 2007, are amended to read as follows:

38 (a) "Cold War veteran" means a person, male or female, who served on
39 active duty in the United States armed forces or the United States
40 public health service, during the time period from September second,
41 nineteen hundred forty-five to December twenty-sixth, nineteen hundred
42 ninety-one, and (i) was discharged or released therefrom under honorable
43 conditions, or (ii) has a qualifying condition, as defined in section
44 three hundred fifty of the executive law, and has received a discharge
45 other than bad conduct or dishonorable from such service, or (iii) is a
46 discharged LGBT veteran, as defined in section three hundred fifty of
47 the executive law, and has received a discharge other than bad conduct
48 or dishonorable from such service.

49 (c) "Active duty" means full-time duty in the United States armed
50 forces or the United States public health service, other than active
51 duty for training.

52 § 13. This act shall take effect immediately, provided, however, that
53 the amendments to subdivisions 5 and 7 of section 369-h of the executive
54 law made by section seven of this act shall not affect the repeal of
55 such section and shall be deemed repealed therewith.