STATE OF NEW YORK

6159

2019-2020 Regular Sessions

IN SENATE

May 20, 2019

Introduced by Sen. BROOKS -- (at request of the Division of Veterans Affairs) -- 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 executive law, in relation to redefining the term "veteran"

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

Section 1. Subdivision 3 of section 350 of the executive law is amended to read as follows:

3. The term "veteran" means a person[~~, male or female, resident of this state, who has served in the active military or naval service of the United States during a war in which the United States engaged and who has been released from such service otherwise than by dishonorable discharge, or who has been furloughed to the reserve~~] **who has served on active duty service in the armed forces of the United States, or service in the Army national guard, air national guard, commissioned officer in the public health service, commissioned officer of the national oceanic and atmospheric administration or environmental sciences services administration, cadet at a United States armed forces service academy or provisions under 38 U.S.C. § 106, and who has been released from such service under honorable conditions**.

§ 2. Subdivisions 4, 5, 6 and 7 of section 350 of the executive law are renumbered subdivisions 6, 7, 8 and 9.

§ 3. Section 350 of the executive law is amended by adding three new subdivisions 4, 5 and 10 to read as follows:

4. The term "combat veteran" means a person who has served on active duty Title 10 U.S.C. service, "other than active duty for training," during a period of war as defined by 38 C.F.R. § 3.2 and is in receipt of a combat identification badge, or a medal or ribbon identifying participation in combat operations, or qualifying service in Lebanon,

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

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Grenada or Panama or such combat service as documented on their discharge, and who has been released from such service under honorable conditions.

5. The term "wartime era veteran" means a person who has served on active duty Title 10 U.S.C. service, in the armed forces of the United States other than "active duty for training," or full time active guard reserve (AGR) under Title 32 U.S.C. § 502(f) or Title 14 U.S.C. during a period of war as defined by Title 38 C.F.R. § 3.2 and has been released from such service under honorable conditions.

10. The term "qualifying service in Lebanon, Grenada or Panama" means military service in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twenti-eth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety.

§ 4. Subdivision 6 of section 350 of the executive law, as renumbered by section two of this act, is amended to read as follows:

6. The term "armed forces" means the [~~military and naval forces of the United States~~] army, navy, air force, marine corps, and coast guard, including the reserve components thereof as described in Title 38 U.S.C. § 101 (10).

§ 5. Subdivision 1 of section 357 of the executive law, as amended by chapter 43 of the laws of 1996, is amended to read as follows:

1. County veterans' service agencies. There shall be established a county veterans' service agency in each county not wholly included within a city, and there shall be a county director of each county veterans' service agency. Any county director hired after the effective date of this statute shall be a veteran as defined in [~~New York state statute~~] section three hundred fifty of this article. The chairman of the board of supervisors of a county, with the approval of the board of supervisors, shall appoint and may at pleasure remove a county director of the county veterans' service agency for such county. In a county having a county president, a county executive or other chief executive officer, such president or executive officer shall appoint and may at pleasure remove a county director. The county director may be paid such compensation as shall be fixed by the appointing officer and the board of supervisors. The county director shall appoint such assistants and employees as he may deem necessary, other than those, if any, supplied by the state; he may prescribe the duties of those appointed by him and fix their salaries within the appropriations made available for that purpose by the county and may at pleasure remove any such assistants or employees. The county director shall have jurisdiction throughout the territorial limits of the county, including any city therein which does not have a city veterans' service agency, provided that after the establishment of a city veterans' service agency in any such city, the county director shall not have jurisdiction within such city.

§ 6. Paragraph (a) of subdivision 3 of section 357 of the executive law, as added by chapter 198 of the laws of 2013, is amended to read as follows:

(a) Current county or city directors [~~within three years from the effective date of this subdivision~~] shall [~~take all steps necessary to~~] be accredited as a veterans service organization (VSO) representative within one year of appointment as director or acting director. Accreditation shall mean the authority granted by the United States Department of Veterans Affairs to assist veterans and their family members in the

preparation, presentation, and prosecution of claims for benefits pursuant to section 5902 of Title 38 U.S.C. and section 14.628 of Title 38 Code of Federal Regulations. Once an application for accreditation is approved by the General Counsel of the United States Department of Veterans Affairs and the applicant is notified of this action, the director of the county or city veterans service agency shall file a copy of the accreditation certificate from the appropriate veterans service organization with the director of the division. Such accreditation shall be maintained during the duration of his or her status as a director of such county or city veterans service agency. The director of the division may determine that satisfactory completion of a course or instruction on veterans' benefits approved by the United States Department of Veterans Affairs and conducted by the division may fulfill the requirements of this subdivision.

§ 7. Subdivision 1 of section 358 of the executive law, as amended by chapter 106 of the laws of 2003, is amended to read as follows:

1. A local veterans' service agency shall have power under the direction of the state veterans' service agency, and it shall be its duty to inform military and naval authorities of the United States and assist members of the armed forces**, members of the national guard and reserve components of the armed forces,** and veterans, who are residents of this state, and their families, in relation to (1) matters pertaining to educational training and retraining services and facilities, (2) health, medical and rehabilitation services and facilities, (3) provisions of federal, state and local laws and regulations affording special rights and privileges to members of the armed forces and war veterans and their families, (4) employment and re-employment services, and (5) other matters of similar, related or appropriate nature**, including but not limited to referral to New York state agencies, authorities, divisions, and other entities responsible for providing services in employment, healthcare, housing, access to veterans' benefits and programs, and other services**. The local veterans' service agency may also assist families of members of the reserve components of the armed forces and the organized militia ordered into active duty to ensure that they are made aware of and are receiving all appropriate support available to them and are placed in contact with the agencies responsible for such support, including, but not limited to, the division of military and naval affairs and other state agencies responsible for providing such support. The local veterans' service agency also shall perform such other duties as may be assigned by the state director.

§ 8. The opening paragraph of paragraph a of subdivision 1 of section 364 of the executive law, as amended by chapter 333 of the laws of 1993, is amended to read as follows:

The word "veteran," as used in this article [~~shall be taken to mean and include any person who is a resident of the state of New York, and who has been or may be given an honorable, general or ordinary discharge or any other form of release from such service, except a dishonorable discharge, a bad conduct discharge, an undesirable discharge, a discharge without honor or a discharge for the good of the service, and who (i) was a recipient of the armed forces expeditionary medal, the navy expeditionary medal or the marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nine-~~

~~teen hundred ninety, or (ii) served on active duty for ninety days or more in the armed forces of the United States during any one~~] means a "wartime era veteran" as defined in subdivision five of section three hundred fifty of this article who is a resident of the state of New York and has served for ninety days of active duty service one day of which was during any of the following wars or hostilities:

§ 9. Paragraph b of subdivision 1 of section 364 of the executive law, as added by chapter 424 of the laws of 1961, is amended to read as follows:

b. The word "veteran" shall also mean any person who meets the other requirements of paragraph a of this subdivision, who served on active duty for less than ninety days, if he or she was discharged or released from such service for a service-connected disability [~~or who served for a period of ninety consecutive days or more and such period began or ended during any war or period of hostilities as defined in paragraph a of this subdivision~~].

§ 10. Paragraph b of subdivision 1 of section 366 of the executive law, as added by chapter 743 of the laws of 2006, is amended to read as follows:

b. "Veteran" means a person[~~, male or female, resident of this state, who has served in the active military, naval or air service of the United States during a time of war in which the United States engaged and who has been released from such service otherwise than by dishonorable discharge, or who has been furloughed to the reserve~~] as defined in subdivision five of section three hundred fifty of this article;

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

3. "Veteran" shall mean [~~an individual who served on active duty in the United States army, navy, marine corps, air force, coast guard or the reserves component, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia, who was released from such service otherwise then by dishonorable discharge after September eleventh, two thousand one~~] a person as defined in subdivision five of section three hundred fifty of this chapter.

§ 12. Subdivisions 5 and 7 of section 369-h of the executive law, as added by chapter 22 of the laws of 2014, are amended and a new subdivision 8 is added to read as follows:

5. "Service-disabled veteran" shall mean [~~(a) in the case of the United States army, navy, air force, marines, coast guard, army national guard or air national guard and/or reserves thereof,~~] a veteran as defined in subdivision three of section three hundred fifty of this chapter who [~~received~~] is currently in receipt of a compensation rating of ten percent or greater from the United States department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty[~~, and (b) in the case of the New York guard or the New York naval militia and/or reserves thereof, a veteran who certifies, pursuant to the rules and regulations promulgated by the director, to having incurred an injury equivalent to a compensation rating of ten percent or greater from the United States department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty~~].

7. "Veteran" shall mean a person [~~who served in and who has received an honorable or general discharge from, the United States army, navy, air force, marines, coast guard, and/or reserves thereof, and/or in the~~

~~army national guard, air national guard, New York guard and/or the New York naval militia~~] as defined in subdivision three of section three hundred fifty of this chapter.

8. The term "armed forces" shall mean the army, navy, air force, marine corps, and coast guard as described in Title 38 U.S.C. §101 (a)(4).

§ 13. This act shall take effect immediately; provided, however that the amendments to section 369-h of the executive law made by section twelve of this act shall be subject to the repeal of such section pursuant to section 4 of chapter 22 of the laws of 2014, as amended.