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116TH CONGRESS
1ST SESSION

H. R. 203

To amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. DAVID P. ROE of Tennessee introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Blue Water Navy Vietnam Veterans Act of 2019''.

SEC. 2. CLARIFICATION OF PRESUMPTIONS OF EXPOSURE FOR VETERANS WHO SERVED IN VICINITY OF REPUBLIC OF VIETNAM.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by inserting after section 1116 the following new section:

"§ 1116A. Presumptions of service connection for veterans who served offshore of the Republic of Vietnam

''(a) SERVICE CONNECTION.—For the purposes of section 1110 of this title, and subject to section 1113 of this title, a disease covered by section 1116 of this title becoming manifest as specified in that section in a veteran who, during active military, naval, or air service, served offshore of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

''(b) EXPOSURE.—A veteran who, during active military, naval, or air service, served offshore of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, shall be presumed to have been exposed during such service to an herbicide agent unless there is affirmative evidence to establish that

the veteran was not exposed to any such agent during that service.

''(c) EFFECTIVE DATE OF AWARD.—(1) Except as provided by paragraph (2), the effective date of an award under this section shall be determined in accordance with section 5110 of this title.

''(2)(A) Notwithstanding subsection (g) of section 5110 of this title, the Secretary shall determine the effective date of an award based on a claim under this section for an individual described in subparagraph (B) by treating the date on which the individual filed the prior claim specified in clause (i) of such subparagraph as the date on which the individual filed the claim so awarded under this section.

''(B) An individual described in this subparagraph is a veteran, or a survivor of a veteran, who meets the following criteria:

''(i) The veteran or survivor submitted a claim for disability compensation on or after September 25, 1985, and before January 1, 2020, for a disease covered by this section, and the claim was denied by reason of the claim not establishing that the disease was incurred or aggravated by the service of the veteran.

''(ii) The veteran or survivor submits a claim for disability compensation on or after January 1, 2020, for the same condition covered by the prior claim under clause (i), and the claim is approved pursuant to this section.

''(d) DETERMINATION OF OFFSHORE.—Notwithstanding any other provision of law, for purposes of this section, the Secretary shall treat a location as being offshore of Vietnam if the location is not more than 12 nautical miles seaward of a line commencing on the southwestern demarcation line of the waters of Vietnam and Cambodia and intersecting the following points:

''Points Geographic Names	**Latitude North**	**Longitude East**
At Hon Nhan Island, Tho Chu Archipelago Kien Giang Province	9°15.0'	103°27.0'
At Hon Da Island southeast of Hon Khoai Island Minh Hai Province	8°22.8'	104°52.4'
At Tai Lon Islet, Con Dao Islet in Con Dao-Vung Toa Special Sector	8°37.8'	106°37.5'
At Bong Lai Islet, Con Dao Islet	8°38.9'	106°40.3'
At Bay Canh Islet, Con Dao Islet	8°39.7'	106°42.1'
At Hon Hai Islet (Phu Qui group of islands) Thuan Hai Province	9°58.0'	109°5.0'
At Hon Doi Islet, Thuan Hai Province	12°39.0'	109°28.0'
At Dai Lanh point, Phu Khanh Province	12°53.8'	109°27.2'
At Ong Can Islet, Phu Khanh Province	13°54.0'	109°21.0'
At Ly Son Islet, Nghia Binh Province	15°23.1'	109° 9.0'
At Con Co Island, Binh Tri Thien Province	17°10.0'	107°20.6'

''(e) HERBICIDE AGENT.—In this section, the term 'herbicide agent' has the meaning given that term in section 1116 (a)(3) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1116 the following new item:

''1116A. Presumptions of service connection for veterans who served offshore of the Republic of Vietnam.''.

(c) IMPLEMENTATION.—

(1) GUIDANCE.—Notwithstanding section 501 of title 38, United States Code, the Secretary of Veterans Affairs may issue guidance to implement section 1116A of such title, as added by subsection (a), before prescribing new regulations under such section.

(2) UPDATES.—On a quarterly basis during the period beginning on the date of the enactment of this Act and ending on the date on which regulations are prescribed to carry out such section 1116A, the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate updates on the status of such regulations.

(3) PENDING CASES.—

(A) AUTHORITY TO STAY.—The Secretary may stay a claim described in subparagraph (B) until the date on which the Secretary commences the implementation of such section 1116A.

(B) CLAIMS DESCRIBED.—A claim described in this subparagraph is a claim for disability compensation—

(i) relating to the service and diseases covered by such section 1116A; and

(ii) that is pending at the Veterans Benefits Administration or the Board of Veterans' Appeals on or after the date of the enactment of this Act and before the date on which the Secretary commences the implementation of such section 1116A.

(d) OUTREACH.—

(1) REQUIREMENT.—The Secretary of Veterans Affairs shall conduct outreach to inform veterans described in paragraph (2) of the ability to submit a claim for disability compensation under section 1116A of title 38, United States Code, as added by subsection (a).

(2) VETERAN DESCRIBED.—A veteran described in this paragraph is a veteran who, during active

military, naval, or air service, served offshore of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(e) REPORTS.—Not later than January 1, 2021, and not later than January 1, 2023, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on claims for disability compensation under section 1116A of title 38, United States Code, as added by subsection (a). Each report shall include the following with respect to the period covered by the report, disaggregated by the regional offices of the Department of Veterans Affairs:

(1) The number of claims filed under such section.

(2) The number of such claims granted.

(3) The number of such claims denied.

(f) HEALTH CARE.—Section 1710(e)(4) of title 38, United States Code, is amended by inserting ''(including offshore of such Republic as described in section 1116A(d) of this title)'' after ''served on active duty in the Republic of Vietnam''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2020.

SEC. 3. PRESUMPTION OF HERBICIDE EXPOSURE FOR CERTAIN VETERANS WHO SERVED IN KOREA.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by inserting after section 1116A, as added by section 2, the following new section:

"§ 1116B. Presumption of herbicide exposure for certain veterans who served in Korea

''(a) PRESUMPTION OF SERVICE-CONNECTION.—(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title, a disease specified in subsection (b) that becomes manifest as specified in that subsection in a veteran described in paragraph (2) shall be considered to have been incurred or aggravated in the line of duty in the active military, naval, or air service, notwithstanding that there is no record of evidence of such disease during the period of such service.

''(2) A veteran described in this paragraph is a veteran who, during active military, naval, or air service, served in or near the Korean Demilitarized Zone (DMZ), during the period beginning on September 1, 1967, and ending on August 31, 1971.

''(b) DISEASES.—A disease specified in this subsection is—

''(1) a disease specified in paragraph (2) of subsection (a) of section 1116 of this title that becomes manifest as specified in that paragraph; or

''(2) any additional disease that—

''(A) the Secretary determines in regulations warrants a presumption of service-connection by reason of having positive association with exposure to an herbicide agent; and

''(B) becomes manifest within any period prescribed in such regulations.

''(c) HERBICIDE AGENT.—For purposes of this section, the term 'herbicide agent' has the meaning given such term in section 1821(d) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1116A, as added by section 2, the following new item:

''1116B. Presumption of herbicide exposure for certain veterans who served in Korea.''.

(c) PENDING CASES.—

(1) AUTHORITY TO STAY.—The Secretary may stay a claim described in subparagraph (B) until the date on which the Secretary commences the implementation of section 1116B of title 38, United States Code, as added by subsection (a).

(2) CLAIMS DESCRIBED.—A claim described in this subparagraph is a claim for disability compensation—

(A) relating to the service and diseases covered by such section 1116B; and

(B) that is pending at the Veterans Benefits Administration or the Board of Veterans' Appeals on or after the date of the enactment of this Act and before the date on which the Secretary commences the implementation of such section 1116B.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2020.

SEC. 4. BENEFITS FOR CHILDREN OF CERTAIN THAILAND SERVICE VETERANS BORN WITH SPINA BIFIDA.

(a) IN GENERAL.—Subchapter III of chapter 18 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1822. Benefits for children of certain Thailand service veterans born with spina bifida

''(a) BENEFITS AUTHORIZED.—The Secretary may provide to any child of a veteran of covered service in Thailand who is suffering from spina bifida the health care, vocational training and rehabilitation, and monetary allowance required to be paid to a child of a Vietnam veteran who is suffering from spina bifida under subchapter I of this chapter as if such child of a veteran of covered

service in Thailand were a child of a Vietnam veteran who is suffering from spina bifida under such subchapter.

''(b) SPINA BIFIDA CONDITIONS COVERED.—This section applies with respect to all forms and manifestations of spina bifida, except spina bifida occulta.

''(c) VETERAN OF COVERED SERVICE IN THAILAND.—For purposes of this section, a veteran of covered service in Thailand is any individual, without regard to the characterization of that individual's service, who—

''(1) served in the active military, naval, or air service in Thailand, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 9, 1962, and ending on May 7, 1975; and

''(2) is determined by the Secretary, in consultation with the Secretary of Defense, to have been exposed to a herbicide agent during such service in Thailand.

''(d) HERBICIDE AGENT.—For purposes of this section, the term 'herbicide agent' means a chemical in a herbicide used in support of United States and allied military operations in Thailand, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 9, 1962, and ending on May 7, 1975.''.

(b) CONFORMING AMENDMENT TO DEFINITION OF ''CHILD''.—Section 1831(1) of such title is amended—

(1) in subparagraph (B)—

(A) by striking ''subchapter III of this chapter'' and inserting ''section 1821 of this title''; and

(B) in clause (i), by striking ''section 1821 of this title'' and inserting ''that section''; and

(2) by adding at the end the following new subparagraph:

''(C) For purposes of section 1822 of this title, an individual, regardless of age or marital status, who—

''(i) is the natural child of a veteran of covered service in Thailand (as determined for purposes of that section); and

''(ii) was conceived after the date on which that veteran first entered service described in subsection (c) of that section.''.

(c) CLERICAL AMENDMENTS.—

(1) SUBCHAPTER HEADING.—The heading for subchapter III of chapter 18 of such title is amended by inserting ''AND THAILAND'' after ''KOREA''.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 18 of such title is amended—

(A) by striking the item relating to subchapter III and inserting the following new item:

"SUBCHAPTER III—CHILDREN OF CERTAIN KOREA AND THAILAND SERVICE VETERANS BORN WITH SPINA BIFIDA";

and

(B) by inserting after the item relating to section 1821 the following new item:

"1822. Benefits for children of certain Thailand service veterans born with spina bifida.".

(d) PENDING CASES.—

(1) AUTHORITY TO STAY.—The Secretary may stay a claim described in subparagraph (B) until the date on which the Secretary commences the implementation of section 1822 of title 38, United States Code, as added by subsection (a).

(2) CLAIMS DESCRIBED.—A claim described in this subparagraph is a claim for benefits—

(A) relating to the spina bifida and service covered by such section 1822; and

(B) that is pending at the Veterans Benefits Administration or the Board of Veterans' Appeals on or after the date of the enactment of this Act and before the date on which the

Secretary commences the implementation of such section 1822.

(e) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report identifying—

(1) the military installations of the United States located in Thailand during the period beginning on January 9, 1962, and ending on May 7, 1975, at which an herbicide agent (as defined in section 1822 of title 38, United States Code, as added by subsection (a)) was actively used; and

(2) the period of such use.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2020.

SEC. 5. UPDATED REPORT ON CERTAIN GULF WAR ILLNESS STUDY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate an updated report on the findings, as of the date of the updated report, of the Follow-up Study of a National Cohort of Gulf War

and Gulf Era Veterans under the epidemiology program of the Department of Veterans Affairs.

SEC. 6. LOANS GUARANTEED UNDER HOME LOAN PROGRAM OF DEPARTMENT OF VETERANS AFFAIRS.

(a) ADJUSTMENT OF LOAN LIMIT.—Section 3703(a)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)(i)(IV)—

(A) by striking ''the lesser of''; and

(B) by striking ''or 25 percent of the loan''; and

(2) in subparagraph (C), by striking ''Freddie Mac'' and all that follows through the period at the end and inserting ''amount of the loan.''.

(b) LOAN FEES.—Section 3729(b)(2) of such title is amended by striking the loan fee table and inserting the following:

''Type of loan	Active duty veteran	Reservist	Other obligor
(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before January 1, 2020)	2.15	2.40	NA

''Type of loan	Active duty veteran	Reservist	Other obligor
(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after January 1, 2020, and before December 1, 2028)	2.40	2.40	NA
(A)(iii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after December 1, 2028, and before October 1, 2029)	2.15	2.15	NA
(A)(iv) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2029)	1.40	1.40	NA
(B)(i) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2004, and before January 1, 2020)	3.30	3.30	NA
(B)(ii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after January 1, 2020, and before December 1, 2028)	3.80	3.80	NA
(B)(iii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after December 1, 2028, and before October 1, 2029)	3.30	3.30	NA
(B)(iv) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2029)	1.25	1.25	NA

''Type of loan	Active duty veteran	Reservist	Other obligor
(C)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed before January 1, 2020)	1.50	1.75	NA
(C)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after January 1, 2020, and before December 1, 2028)	1.75	1.75	NA
(C)(iii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after December 1, 2028, and before October 1, 2029)	1.50	1.50	NA
(C)(iv) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after October 1, 2029)	0.75	0.75	NA
(D)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed before January 1, 2020)	1.25	1.50	NA
(D)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after January 1, 2020, and before December 1, 2028)	1.45	1.45	NA
(D)(iii) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after December 1, 2028, and before October 1, 2029)	1.25	1.25	NA
(D)(iv) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after October 1, 2029)	0.50	0.50	NA
(E) Interest rate reduction refinancing loan	0.50	0.50	NA
(F) Direct loan under section 3711	1.00	1.00	NA
(G) Manufactured home loan under section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA
(H) Loan to Native American veteran under section 3762 (other than an interest rate reduction refinancing loan)	1.25	1.25	NA
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733(a)	2.25	2.25	2.25''.

(c) WAIVER OF FEES FOR PURPLE HEART RECIPIENTS; COLLECTION OF CERTAIN LOAN FEES.—Section 3729(c) of such title is amended—

(1) in paragraph (1)—

(A) by striking ''A fee'' and inserting ''Subject to paragraph (3), a fee'';

(B) by striking ''or from a surviving spouse'' and inserting '', from a surviving spouse''; and

(C) by inserting before the period at the end the following: '', or from a member of the Armed Forces serving on active duty who was awarded the Purple Heart''.

(2) by adding at the end the following new paragraph:

''(3) A fee shall be collected under this section from any veteran with a service-connected disability rated as less than total, any surviving spouse of such a veteran, and any member of the Armed Forces who, on or after January 1, 2020, receives a loan in an amount that exceeds the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to a loan guaranteed under section 3710 of title 38, United States Code, on or after January 1, 2020.

(e) GUIDANCE.—Notwithstanding section 501 of such title, the Secretary of Veterans Affairs may issue guidance to implement the amendments made by this section before prescribing new regulations under sections 3703 and 3729 of such title, as so amended.

SEC. 7. INFORMATION GATHERING FOR DEPARTMENT OF VETERANS AFFAIRS HOME LOAN APPRAISALS.

(a) IN GENERAL.—Section 3731(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(3) The Secretary shall permit an appraiser on a list developed and maintained under subsection (a)(3) to make an appraisal for the purposes of this chapter based solely on information gathered by a person with whom the appraiser has entered into an agreement for such services.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an appraisal under section 3731 of such title, on or after January 1, 2020.

(c) GUIDANCE.—Notwithstanding section 501 of such title, the Secretary of Veterans Affairs may issue guidance to implement section 3731(b)(3) of title 38, United States Code, as added by subsection (a), before prescribing new regulations under such section.

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