

HOUSE No. 3390

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to veterans agents and veterans benefits..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 115 of the General Laws, as appearing in the 2004
2 Official Edition, is hereby amended by striking out, in lines 52 through 57, the definition of
3 “Veterans’ agent” or “Part-time veterans’ agent” and inserting in place thereof the following:—

4 “Full-time Veterans’ Service officer” shall mean a veteran, as defined in clause Forty-
5 third of section 7 of chapter 4, appointed under section 3 of this chapter to disburse benefits to a
6 city, town or district, and who is a resident of the Commonwealth, and trained and certified by
7 the department of veterans’ services in accordance with regulations published pursuant to this
8 chapter and who works the regular hours full-time employees in the city, town or district wherein
9 he is employed but not less than thirty-five hours per week performing the duties of the veterans’
10 service officer.

11 “Part-time Veterans’ Service officer” shall mean a veteran, as defined in clause Forty-
12 third of section 7 of chapter 4, appointed under section 3 of this chapter to disburse benefits, and
13 who is a resident of the Commonwealth, and is trained and certified by the department of
14 veterans’ services in accordance with regulations published pursuant to this chapter and who

works such hours as are necessary to carry out his responsibilities under this chapter during those regular hours the town hall and the office of the department of veterans' services are open in the city or town

where he is employed.

SECTION 2. Section 2 of chapter 115 of the General Laws, as appearing the 2000 Official Edition, is hereby amended by striking out in line 1, the word "agents" and inserting in place thereof the words:— service officers.

SECTION 3. Said section 2 of chapter 115 of the General Laws, as so appearing, is hereby further amended by striking the third paragraph and inserting in place thereof the following:—

Any person aggrieved by a decision of the commissioner's operations' division, or by the failure of a city, town or district to render adequate veterans' benefits or to approve or reject an application for veterans' benefits within three days of receiving such application, or aggrieved by the withdrawal of such benefits, shall have the right to appeal to the commissioner's department for an administrative hearing. The right to a hearing shall be exercised by filing a written appeal with the department within 21 calendar days of receipt of notice of said decision, action or failure to act of which the party is aggrieved. The hearing shall be conducted in accordance with the provisions of chapter 30A. Any person aggrieved by such an administrative decision, shall have a right to appeal within ten days of receipt of written notice, to the division of administrative law appeals established within the executive office of administration and finance pursuant to section four H of chapter seven, hereinafter in this section referred to as "the division".

37 A hearing on such appeal held pursuant to this paragraph shall be conducted as an
38 adjudicatory proceeding under chapter 30A. The division shall issue its decision within ninety
39 days after the day of the filing of the appeal, except that when an aggrieved person appeals the
40 rejection of his application for veterans' benefits or the failure to act on said application or the
41 failure of a city or town to render assistance to meet an emergency or hardship situation, the
42 division shall render and issue its decision within forty-five days after the date of filing of said
43 appeal. The decision of the division shall be subject to judicial review in accordance with the
44 provisions of chapter 30A. The time for commencing such an action for judicial review shall run
45 from the receipt of notice of the decision of the division. In such an action for judicial review, the
46 record shall consist of (a) the entire proceedings before the division of administrative law appeals
47 or (b) such portions thereof as the commissioner and the parties may stipulate, or (c) a statement
48 of the case agreed to by the commissioner and the parties.

49 SECTION 4. Said section 2 of said chapter 115, as so appearing, is hereby further
50 amended by deleting the fourth paragraph and inserting in place thereof the following:

51 Upon the written request of any mayor of a city or the selectmen of a town, or upon the
52 written request of a veterans' service officer or director of veterans' services, or based upon an
53 allegation made by any five veterans or dependents, or based upon any independent finding by
54 the department that warrants an investigation, the commissioner shall investigate any matter
55 relating to the administration therein of the provisions of this chapter and the expenses of such
56 investigation shall be certified by him to the state treasurer who shall collect the same as an
57 additional tax upon such city, town or district.

SECTION 5. Said section 2 of said chapter 115, as so appearing, is hereby further amended by striking out in lines 71 and 78, the word “agent” and “agents”, respectively, and inserting in place thereof the words:— service officer.

SECTION 6. Section 2A of chapter 115, as appearing in the 2000 Official Edition, is hereby amended in striking out said section and inserting in place thereof the following:—

If the department’s administrative hearing officer decides a controversy between an applicant and a veterans’ service officer relative to the validity or amount of a claim for veterans’ benefits, as provided in section two, in favor of the applicant, said veterans’ service officer shall, forthwith, make payment to the applicant in accordance with said decision notwithstanding any appeal there from by the veterans’ service officer. If the division of administrative law appeals sustains the appeal of said veterans’ service officer as to the validity of such claim, payment to the applicant

shall thereupon cease and all amounts paid to the applicant shall be reimbursed by the commonwealth in the manner provided in section six. If the division of administrative law appeals sustains the appeal of said veterans’ service officer as to the amount of such claim, payment to the applicant of any amount in excess of the amount approved by the division of administrative law appeals shall thereupon cease and all amounts paid to the applicant in excess of the amount so approved shall be reimbursed by the commonwealth in the manner provided by said section six.

The decision of the department’s administrative hearing officer, in accordance with the provisions of said section two, may be enforced by the superior court on a petition in equity.

SECTION 7. Section 3 of said chapter 115, as appearing in the 2000 Official Edition, is hereby amended by deleting the first paragraph and inserting in place thereof the following:—

The mayor of each city, except Boston, and the selectmen of each town, shall appoint a veterans' service officer to act for him or them in the disbursement of veterans' benefits by such city or town; provided, however, that in each town having a part-time veterans' service officer the town clerk shall receive applications and assist applicants for veterans' benefits, and shall submit said applications to the veterans' services officer. Two or more contiguous towns may, by vote of the selectmen, and subject to the approval of the commissioner, appoint one full-time veterans service officer and such additional staff as necessary, and may apportion the payment of compensation among such towns. Two or more non-contiguous towns, may, subject to approval of the commissioner, appoint one full-time veterans service officer and such additional staff as necessary, and may apportion the payment of compensation among such towns. The appointment of a veterans' service officer shall not create a civil service position. Any person who is appointed to the position of veterans' service officer and certified by the Massachusetts

Department of Veterans' Services as a trained veterans' service officer, and who has held such position for not less than three years, shall not be involuntarily separated and shall have the same rights and protection granted to any veteran under section 9A of chapter 30 of the General Laws, notwithstanding that his or her prior appointments were for a fixed term. Any local charter or bylaw contrary to these provisions and contrary to chapter 115 as it exists prior to the effective date of the enactment of this law, shall govern.

99 SECTION 8. Said section 3 of said chapter 115, as so appearing, is hereby further
100 amended by striking out in lines 10, 14, 18, 20, 22, the word “agent” and inserting in place
101 thereof the words:— service officer.

102 SECTION 9. Section 4 of said chapter 115, as appearing in the 2000 Official Edition, is
103 hereby amended by striking out in lines 10, and 15 the word “agent” and inserting in place
104 thereof the words:— service officer.

105 SECTION 10. Section 5 of said chapter 115, as appearing in the 2000 Official Edition, is
106 hereby amended by striking out the first paragraph and inserting in place thereof the
107 following:—

108 Veterans’ benefits shall be paid to a veteran or dependent by the city or town wherein he
109 resides.

110 SECTION 11. Said section 5 of said chapter 115, as so appearing, is hereby further
111 amended by striking out in lines 29, 57, 60, 69, and 85, the word “agent” and inserting in place
112 thereof the words:— service officer.

113 SECTION 12. Said section 5 of chapter 115, as so appearing, is hereby further amended
114 by striking out in line 44, the word “idleness” and inserting in place thereof the word:—
115 unemployment.

116 SECTION 13. Said section 5 of chapter 115, as so appearing, is further amended by
117 striking out in line 44, the words “continuous vicious habits” and inserting in place thereof the
118 words:— unwholesome habits.

119 SECTION 14. Said section 5 of chapter 115, as so appearing, is hereby further amended
120 by striking out in line 103, the word “budget” and inserting in place thereof the following
121 words:— schedule of benefits.

122 SECTION 15. Section 5A of chapter 115, as appearing in the 2000 Official Edition, is
123 hereby amended by striking out in lines 5, 25, 42, and 48 the word “agent” and inserting in place
124 thereof the words:— service officer.

125 SECTION 16. Section 6 of chapter 115, as appearing in the 2000 Official Edition, is
126 hereby amended by striking out in line 13, the word “agent” and inserting in place thereof the
127 words:— service officer.

128 SECTION 17. Section 7 of chapter 115, as appearing in the 2000 Official Edition, is
129 hereby amended by striking out in line 2, the word “agent” and inserting in place thereof the
130 words:— service officer.

131 SECTION 18. Section 10 of chapter 115, as appearing in the 2000 Official Edition, is
132 hereby amended by striking out in line 16 the word “Two” and inserting in place thereof the
133 following:—Subject to the commissioner’s approval, two.

134 SECTION 19. Section 15 of chapter 115, as so appearing, is hereby amended by striking
135 out in lines 1 and 2 the words “department of corporation and taxation” and inserting in place
136 thereof the words:— department of revenue.