



H.B. 372

127th General Assembly
(As Introduced)

Rep. R. McGregor

BILL SUMMARY

- Exempts from certain probate fees the estate of a decedent who died while in active service as a United States armed forces or National Guard member serving in a combat zone.
- Exempts retired military personnel pay for service in the United States Army, Navy, Air Force, Coast Guard, or Marine Corps or a reserve component thereof or the National Guard from the Ohio income tax.
- Requires a state or local licensing agency to renew an expired occupational or professional license or certificate held by a member of the National Guard or the reserves that expired because of the member's service.
- Allows a licensee who has been called to active duty upon the order of the Governor to have an extension of time in which to fulfill continuing education requirements.

CONTENT AND OPERATION

Probate fees exemption

(R.C. 2101.16 and 2101.164; Section 3)

Continuing law sets forth a list of fees to be collected by a probate judge for a wide variety of services, many of them related to the estates of decedents. The fees range from \$1 for providing a certified copy of a page of a journal entry, record, or proceeding to \$60 for relieving an estate from administration or granting an order for a summary release from administration.

The bill exempts from certain probate fees the estate of a decedent who dies while in active service as a member of the United States armed forces or the National Guard if the death occurred while the decedent was serving in a combat zone¹ or as a result of wounds, disease, or injury incurred while serving in a combat zone. The exempted probate fees are the following: (1) any fee for or associated with the filing of the decedent's will for probate, (2) any fee for any service rendered by the probate court that is associated with the administration of the decedent's estate, and (3) any fee for relieving the decedent's estate from administration² or granting an order for a summary release from administration.³ By releasing a small estate from administration, a probate court directs the distribution of the decedent's property without all the formalities required in the case of larger estates.

The bill provides that the probate judge, in determining whether a decedent died in a place or manner that exempts the decedent's estate from the foregoing fees, may consider a casualty report issued pursuant to Army Regulation 600-8-1 or the regulations of any of the armed services of the United States; the list of combat zones set forth in Publication 3, "The Armed Forces' Tax Guide," of the Internal Revenue Service; or any other form of documentation satisfactory to the judge.

¹ "Combat zone" means an area that the President, by executive order, designates as an area in which the armed forces or the National Guard are engaging or have been engaged in combat for the purposes of an exemption of certain combat-zone pay from the federal income tax.

² Current law authorizes the court to release an estate from administration if (1) the value of the estate's assets is \$35,000 or less or (2) if the value of the estate's assets is \$100,000 or less and all of the assets will go to a surviving spouse pursuant to a will or by operation of law (R.C. 2113.03, not in the bill).

³ Current law allows a probate court to grant a summary release from administration to: (1) a surviving spouse if: (a) the estate's value does not exceed the allowance for the decedent's surviving spouse and minor children plus funeral and burial expenses of up to \$5,000 and (b) either the decedent's funeral and burial expenses have been prepaid or the surviving spouse has paid or is obligated in writing to pay the funeral and burial expenses or (2) to a person other than the surviving spouse if the estate's value does not exceed the lesser of \$5,000 or the amount of the decedent's funeral and burial expenses and the person has paid or is obligated in writing to pay the funeral and burial expenses (R.C. 2113.031, not in the bill).

Income tax deduction for military retirement benefits

(R.C. 5747.01(A)(26); Section 4)

The bill permits taxpayers receiving military retirement benefits to deduct the benefits in computing their Ohio income tax liability. To be deductible, the retired military personnel pay ("retirement benefits") must be for service in the United States Army, Navy, Air Force, Coast Guard, or Marine Corps or a reserve component thereof, or the National Guard. The retirement benefits are deductible only to the extent they are included in the taxpayer's federal adjusted gross income (which is the starting point for computing the taxpayer's Ohio taxable income). In other words, if the retirement benefits were deducted in deriving the taxpayer's federal adjusted gross income, they cannot be deducted twice, once on the federal return and once on the state return.

Law not amended by the bill grants taxpayers a credit of up to \$200 per year if they receive retirement benefits from or pursuant to a pension, retirement, or profit-sharing plan (R.C. 5747.055). The bill's retirement benefit deduction may reduce the value of the credit for some taxpayers because any amount deducted cannot also be included in retirement income for purposes of computing the credit. And conversely, amounts on the basis of which the credit was claimed cannot be deducted under the bill's retirement benefit deduction.

The deduction is available for taxable years beginning on or after January 1, 2008.

Renewal of occupational or professional license or certificate

(R.C. 5903.10)

Under continuing law, any holder of an expired license or certificate from Ohio or any Ohio political subdivision or agency to practice a trade or profession, whose license or certificate was not renewed because of the holder's service in the United States armed forces, has six months from a discharge to present satisfactory evidence of honorable discharge or separation under honorable conditions. The issuing board or authority must then grant the license or certificate holder a renewal of the holder's license or certificate at the usual cost without penalty and without re-examination if the license or certificate holder is not otherwise disqualified because of mental or physical disability. The bill extends this renewal option to members of the National Guard and reservists.

Continuing education requirement extension

(R.C. 5903.12)

Continuing law requires a number of professional licensing boards to provide extensions for completion of continuing education requirements for their licensees who have been called to active duty as a member of the Ohio National Guard, the Ohio Military Reserve, the Ohio Naval Militia, or a reserve component of the armed forces of the United States. The extension must be equal to the number of months the licensee spent on active duty. The duty may have occurred in either the current or a prior continuing education reporting period. The licensee must submit proper documentation certifying that the licensee has been called to active duty for more than 31 days because of an executive order issued by the President or an act of Congress.

The bill specifies that the extension also applies if a licensee submits proper documentation certifying that the licensee has been called to active duty for more than 31 days because of an order of the Governor.

HISTORY

ACTION	DATE
Introduced	10-30-07