

115TH CONGRESS
2D SESSION

H. R. 299

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2018

Received

JUNE 28, 2018

Read twice and referred to the Committee on Veterans' Affairs

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Blue Water Navy Viet-
3 nam Veterans Act of 2018”.

4 **SEC. 2. CLARIFICATION OF PRESUMPTIONS OF EXPOSURE**
5 **FOR VETERANS WHO SERVED IN VICINITY OF**
6 **REPUBLIC OF VIETNAM.**

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

10 **“§ 1116A. Presumptions of service connection for vet-**
11 **erans who served offshore of the Repub-**
12 **lic of Vietnam**

13 “(a) SERVICE CONNECTION.—For the purposes of
14 section 1110 of this title, and subject to section 1113 of
15 this title, a disease covered by section 1116 of this title
16 becoming manifest as specified in that section in a veteran
17 who, during active military, naval, or air service, served
18 offshore of the Republic of Vietnam during the period be-
19 ginning on January 9, 1962, and ending on May 7, 1975,
20 shall be considered to have been incurred in or aggravated
21 by such service, notwithstanding that there is no record
22 of evidence of such disease during the period of such serv-
23 ice.

24 “(b) EXPOSURE.—A veteran who, during active mili-
25 tary, naval, or air service, served offshore of the Republic
26 of Vietnam during the period beginning on January 9,

1 1962, and ending on May 7, 1975, shall be presumed to
2 have been exposed during such service to an herbicide
3 agent unless there is affirmative evidence to establish that
4 the veteran was not exposed to any such agent during that
5 service.

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

10 “(2)(A) Notwithstanding subsection (g) of section
11 5110 of this title, the Secretary shall determine the effec-
12 tive date of an award based on a claim under this section
13 for an individual described in subparagraph (B) by treat-
14 ing the date on which the individual filed the prior claim
15 specified in clause (i) of such subparagraph as the date
16 on which the individual filed the claim so awarded under
17 this section.

18 “(B) An individual described in this subparagraph is
19 a veteran, or a survivor of a veteran, who meets the fol-
20 lowing criteria:

21 “(i) The veteran or survivor submitted a claim
22 for disability compensation on or after September
23 25, 1985, and before January 1, 2019, for a disease
24 covered by this section, and the claim was denied by
25 reason of the claim not establishing that the disease

1 was incurred or aggravated by the service of the vet-
 2 eran.

3 “(ii) The veteran or survivor submits a claim
 4 for disability compensation on or after January 1,
 5 2019, for the same condition covered by the prior
 6 claim under clause (i), and the claim is approved
 7 pursuant to this section.

8 “(d) DETERMINATION OF OFFSHORE.—Notwith-
 9 standing any other provision of law, for purposes of this
 10 section, the Secretary shall treat a location as being off-
 11 shore of Vietnam if the location is not more than 12 nau-
 12 tical miles seaward of a line commencing on the south-
 13 western demarcation line of the waters of Vietnam and
 14 Cambodia and intersecting the following points:

“Points Geographic Names	Latitude North	Lon- gitude 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 Is- land 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’

“Points Geographic Names	Latitude North	Longitude East
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’

1 “(e) HERBICIDE AGENT.—In this section, the term
2 ‘herbicide agent’ has the meaning given that term in sec-
3 tion 1116 (a)(3) of this title.”.

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

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

8 (c) IMPLEMENTATION.—

9 (1) GUIDANCE.—Notwithstanding section 501
10 of such title, the Secretary of Veterans Affairs may
11 issue guidance to implement section 1116A of title
12 38, United States Code, as added by subsection (a).

13 (2) UPDATES.—On a quarterly basis during the
14 period beginning on the date of the enactment of
15 this Act and ending on the date on which regula-
16 tions are prescribed to carry out such section
17 1116A, the Secretary shall submit to the Commit-
18 tees on Veterans’ Affairs of the House of Represent-

1 atives and the Senate updates on the status of such
2 regulations.

3 (3) PENDING CASES.—

4 (A) AUTHORITY TO STAY.—The Secretary
5 may stay a claim described in subparagraph
6 (B) until the date on which the Secretary com-
7 mences the implementation of such section
8 1116A.

9 (B) CLAIMS DESCRIBED.—A claim de-
10 scribed in this subparagraph is a claim for dis-
11 ability compensation—

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

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

20 (d) OUTREACH.—

21 (1) REQUIREMENT.—The Secretary of Veterans
22 Affairs shall conduct outreach to inform veterans de-
23 scribed in paragraph (2) of the ability to submit a
24 claim for disability compensation under section

1 1116A of title 38, United States Code, as added by
2 subsection (a).

3 (2) VETERAN DESCRIBED.—A veteran described
4 in this paragraph is a veteran who, during active
5 military, naval, or air service, served offshore of the
6 Republic of Vietnam during the period beginning on
7 January 9, 1962, and ending on May 7, 1975.

8 (e) REPORTS.—Not later than January 1, 2020, and
9 not later than January 1, 2022, the Secretary of Veterans
10 Affairs shall submit to the Committees on Veterans' Af-
11 fairs of the House of Representatives and the Senate a
12 report on claims for disability compensation under section
13 1116A of title 38, United States Code, as added by sub-
14 section (a). Each report shall include the following with
15 respect to the period covered by the report, disaggregated
16 by the regional offices of the Department of Veterans Af-
17 fairs:

18 (1) The number of claims filed under such sec-
19 tion.

20 (2) The number of such claims granted.

21 (3) The number of such claims denied.

22 (f) HEALTH CARE.—Section 1710(e)(4) of title 38,
23 United States Code, is amended by inserting “(including
24 offshore of such Republic as described in section 1116A(d)

1 of this title)” after “served on active duty in the Republic
2 of Vietnam”.

3 (g) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on January 1, 2019.

5 **SEC. 3. PRESUMPTION OF HERBICIDE EXPOSURE FOR CER-**
6 **TAIN VETERANS WHO SERVED IN KOREA.**

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

10 **“§ 1116B. Presumption of herbicide exposure for cer-**
11 **tain veterans who served in Korea**

12 “(a) PRESUMPTION OF SERVICE-CONNECTION.—(1)
13 For the purposes of section 1110 of this title, and subject
14 to section 1113 of this title, a disease specified in sub-
15 section (b) that becomes manifest as specified in that sub-
16 section in a veteran described in paragraph (2) shall be
17 considered to have been incurred or aggravated in the line
18 of duty in the active military, naval, or air service, not-
19 withstanding that there is no record of evidence of such
20 disease during the period of such service.

21 “(2) A veteran described in this paragraph is a vet-
22 eran who, during active military, naval, or air service,
23 served in or near the Korean Demilitarized Zone (DMZ),
24 during the period beginning on September 1, 1967, and
25 ending on August 31, 1971.

1 “(b) DISEASES.—A disease specified in this sub-
2 section is—

3 “(1) a disease specified in paragraph (2) of
4 subsection (a) of section 1116 of this title that be-
5 comes manifest as specified in that paragraph; or

6 “(2) any additional disease that—

7 “(A) the Secretary determines in regula-
8 tions warrants a presumption of service-conne-
9 ction by reason of having positive association
10 with exposure to an herbicide agent; and

11 “(B) becomes manifest within any period
12 prescribed in such regulations.

13 “(c) HERBICIDE AGENT.—For purposes of this sec-
14 tion, the term ‘herbicide agent’ has the meaning given
15 such term in section 1821(d) of this title.”.

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

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

20 (c) PENDING CASES.—

21 (1) AUTHORITY TO STAY.—The Secretary may
22 stay a claim described in subparagraph (B) until the
23 date on which the Secretary commences the imple-

1 mentation of section 1116B of title 38, United
2 States Code, as added by subsection (a).

3 (2) CLAIMS DESCRIBED.—A claim described in
4 this subparagraph is a claim for disability compensa-
5 tion—

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

8 (B) that is pending at the Veterans Bene-
9 fits Administration or the Board of Veterans’
10 Appeals on or after the date of the enactment
11 of this Act and before the date on which the
12 Secretary commences the implementation of
13 such section 1116B.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on January 1, 2019.

16 **SEC. 4. BENEFITS FOR CHILDREN OF CERTAIN THAILAND**
17 **SERVICE VETERANS BORN WITH SPINA**
18 **BIFIDA.**

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

22 **“§ 1822. Benefits for children of certain Thailand**
23 **service veterans born with spina bifida**

24 “(a) BENEFITS AUTHORIZED.—The Secretary may
25 provide to any child of a veteran of covered service in

1 Thailand who is suffering from spina bifida the health
2 care, vocational training and rehabilitation, and monetary
3 allowance required to be paid to a child of a Vietnam vet-
4 eran who is suffering from spina bifida under subchapter
5 I of this chapter as if such child of a veteran of covered
6 service in Thailand were a child of a Vietnam veteran who
7 is suffering from spina bifida under such subchapter.

8 “(b) SPINA BIFIDA CONDITIONS COVERED.—This
9 section applies with respect to all forms and manifesta-
10 tions of spina bifida, except spina bifida occulta.

11 “(c) VETERAN OF COVERED SERVICE IN THAI-
12 LAND.—For purposes of this section, a veteran of covered
13 service in Thailand is any individual, without regard to
14 the characterization of that individual’s service, who—

15 “(1) served in the active military, naval, or air
16 service in Thailand, as determined by the Secretary
17 in consultation with the Secretary of Defense, dur-
18 ing the period beginning on January 9, 1962, and
19 ending on May 7, 1975; and

20 “(2) is determined by the Secretary, in con-
21 sultation with the Secretary of Defense, to have been
22 exposed to a herbicide agent during such service in
23 Thailand.

24 “(d) HERBICIDE AGENT.—For purposes of this sec-
25 tion, the term ‘herbicide agent’ means a chemical in a her-

1 bicide used in support of United States and allied military
2 operations in Thailand, as determined by the Secretary in
3 consultation with the Secretary of Defense, during the pe-
4 riod beginning on January 9, 1962, and ending on May
5 7, 1975.”.

6 (b) CONFORMING AMENDMENT TO DEFINITION OF
7 “CHILD”.—Section 1831(1) of such title is amended—

8 (1) in subparagraph (B)—

9 (A) by striking “subchapter III of this
10 chapter” and inserting “section 1821 of this
11 title”; and

12 (B) in clause (i), by striking “section 1821
13 of this title” and inserting “that section”; and

14 (2) by adding at the end the following new sub-
15 paragraph:

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

19 “(i) is the natural child of a veteran
20 of covered service in Thailand (as deter-
21 mined for purposes of that section); and

22 “(ii) was conceived after the date on
23 which that veteran first entered service de-
24 scribed in subsection (c) of that section.”.

25 (c) CLERICAL AMENDMENTS.—

1 (1) SUBCHAPTER HEADING.—The heading for
2 subchapter III of chapter 18 of such title is amend-
3 ed by inserting “AND THAILAND” after
4 “KOREA”.

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

8 (A) by striking the item relating to sub-
9 chapter III and inserting the following new
10 item:

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

11 and

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

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

14 (d) PENDING CASES.—

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

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

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

1 (B) that is pending at the Veterans Bene-
2 fits Administration or the Board of Veterans'
3 Appeals on or after the date of the enactment
4 of this Act and before the date on which the
5 Secretary commences the implementation of
6 such section 1822.

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

13 (1) the military installations of the United
14 States located in Thailand during the period begin-
15 ning on January 9, 1962, and ending on May 7,
16 1975, at which an herbicide agent (as defined in sec-
17 tion 1822 of title 38, United States Code, as added
18 by subsection (a)) was actively used; and

19 (2) the period of such use.

20 (f) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on January 1, 2019.

22 **SEC. 5. UPDATED REPORT ON CERTAIN GULF WAR ILLNESS**
23 **STUDY.**

24 Not later than 180 days after the date of the enact-
25 ment of this Act, the Secretary of Veterans Affairs shall

1 submit to the Committees on Veterans' Affairs of the
2 House of Representatives and the Senate an updated re-
3 port on the findings, as of the date of the updated report,
4 of the Follow-up Study of a National Cohort of Gulf War
5 and Gulf Era Veterans under the epidemiology program
6 of the Department of Veterans Affairs.

7 **SEC. 6. LOANS GUARANTEED UNDER HOME LOAN PRO-**
8 **GRAM OF DEPARTMENT OF VETERANS AF-**
9 **FAIRS.**

10 (a) **ADJUSTMENT OF LOAN LIMIT.**—Section
11 3703(a)(1) of title 38, United States Code, is amended—

12 (1) in subparagraph (A)(i)(IV)—

13 (A) by striking “the lesser of”; and

14 (B) by striking “or 25 percent of the
15 loan”; and

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

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

“Type of loan	Active duty veteran	Reservist	Other obli- gor
(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, 2019)	2.15	2.40	NA
(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, 2019, and before December 1, 2027)	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, 2027, and before October 1, 2028)	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, 2028)	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, 2019)	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, 2019, and before December 1, 2027)	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, 2027, and before October 1, 2028)	3.30	3.30	NA

“Type of loan	Active duty veteran	Reservist	Other obli- gor
(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, 2028)	1.25	1.25	NA
(C)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed before January 1, 2019)	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, 2019, and before December 1, 2027)	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, 2027, and before October 1, 2028)	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, 2028)	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, 2019)	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, 2019, and before December 1, 2027)	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, 2027, and before October 1, 2028)	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, 2028)	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

“Type of loan	Active duty veteran	Reservist	Other obli- gor
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733(a)	2.25	2.25	2.25”.

1 (c) WAIVER OF FEES FOR PURPLE HEART RECIPI-
2 ENTS; COLLECTION OF CERTAIN LOAN FEES.—Section
3 3729(c) of such title is amended—

4 (1) in paragraph (1)—

5 (A) by striking “A fee” and inserting
6 “Subject to paragraph (3), a fee”;

7 (B) by striking “or from a surviving
8 spouse” and inserting “, from a surviving
9 spouse”; and

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

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

16 “(3) A fee shall be collected under this section from
17 any veteran with a service-connected disability rated as
18 less than total, any surviving spouse of such a veteran,
19 and any member of the Armed Forces who, on or after
20 January 1, 2019, receives a loan in an amount that ex-
21 ceeds the Freddie Mac conforming loan limit limitation de-
22 termined under section 305(a)(2) of the Federal Home

1 Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2))
2 for a single-family residence, as adjusted for the year in-
3 volved.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to a loan guaranteed
6 under section 3710 of title 38, United States Code, on
7 or after January 1, 2019.

8 (e) GUIDANCE.—Notwithstanding section 501 of such
9 title, the Secretary of Veterans Affairs may issue guidance
10 to implement this section before prescribing new regula-
11 tions under sections 3703 and 3729 of such title, as
12 amended by subsections (a), (b), and (c).

13 **SEC. 7. INFORMATION GATHERING FOR DEPARTMENT OF**
14 **VETERANS AFFAIRS HOME LOAN APPRAIS-**
15 **ALS.**

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

19 “(3) The Secretary shall permit an appraiser on a
20 list developed and maintained under subsection (a)(3) to
21 make an appraisal for the purposes of this chapter based
22 solely on information gathered by a person with whom the
23 appraiser has entered into an agreement for such serv-
24 ices.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to an appraisal under
3 section 3731 of such title, on or after January 1, 2019.

4 (c) GUIDANCE.—Notwithstanding section 501 of such
5 title, the Secretary of Veterans Affairs may issue guidance
6 to implement this section before prescribing new regula-
7 tions under sections 3731 of such title, as amended by
8 subsection (a).

Passed the House of Representatives June 25, 2018.

Attest:

KAREN L. HAAS,

Clerk.