

Expand Tax Relief for Surviving Spouses of Military Services Members
“Killed in Action” to also include “Died on Active Duty”

Military Officers Association of America (MOAA-1)
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OBJECTIVE:

To reform the Virginia state law, Tax Relief for Surviving Spouse of a Member of the Armed Forces “Killed in Action” through a Virginia Constitutional Amendment to include died on active duty in the section that addresses surviving spouses of members of the armed forces killed in action.

BACKGROUND:

The Virginia Code Title 58.1, Chapter 32, section 58-1-3219.9 species the conditions for exemption from taxes on property of surviving spouses of members of the armed forces killed in action.

The Commonwealth of Virginia also exempts from taxation the real property, including the joint real property of husband and wife, of any veteran who has been rated by the U. S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100% service-connected permanent and total disability, and who occupies the real property as his or her principal place of residence. This provision would cover the spouse if the veteran were 100% disabled and subsequently died.

If the military member dies before receiving a 100% rating, the surviving spouse is denied the same benefit.

In the 2022 Legislative session, HB 957 was signed by the governor on April 5, 2022, creating a voluntary by locality, property tax provision for the above category of surviving spouse.

DISCUSSION:

- a. This constitutional amendment will equalize the benefit for surviving spouses with the other three categories that are eligible to receive it stated above.
- b. Approximately only one percent of the American population served in our Armed Forces.
- c. Virginia Code states a surviving spouse is eligible for exemption of real estate taxes if the spouse is “Killed in Action” verified by Department of Defense requiring all tax jurisdictions to exempt the property tax for these surviving spouses.
- d. Disabled Veterans who are 100% Permanent and Total rating by the Veterans Administration are eligible for the tax exemption.
- e. If this 100% Disabled Veteran dies of a service-connected disability his/her spouse will receive the same benefit.
- f. Through a Freedom of Information Act (FOIA) request, we have found that the number of servicemembers who died on duty, meaning that their spouse received Servicemen’s Group Life Insurance for the last three years was as follows:
2018 – 40, 2019 – 44, 2020 – 31 In the entire the Commonwealth of Virginia per the Department of Defense statistics show 182 surviving spouses (including surviving spouses of those who were killed in action) (DoD Actuarial Report September 2021).

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- h. These numbers do not properly inform how many widowed spouses of the service members owned a Virginia home and/ or moved out of state after the death of their spouse.

RECOMMENDATION: Legislation to be introduced in the General Assembly to amend the constitution to equalize this benefit with those by changing the Code of Virginia to change “Killed in Action” to “died on active duty.”