

JUSTICE FOR ALS VETERANS ACT OF 2023

SEPTEMBER 10, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BOST, from the Committee on Veterans' Affairs,  
submitted the following

R E P O R T

[To accompany H.R. 3790]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3790) to amend title 38, United States Code, to extend increased dependency and indemnity compensation paid to surviving spouses of veterans who die from amyotrophic lateral sclerosis, regardless of how long the veterans had such disease prior to death, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Justice for ALS Veterans Act of 2023”.

**SEC. 2. EXTENSION OF INCREASED DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSES OF VETERANS WHO DIE FROM AMYOTROPHIC LATERAL SCLEROSIS.**

(a) EXTENSION.—Section 1311(a)(2) of title 38, United States Code, is amended—  
 (1) by inserting “(A)” before “The rate”; and  
 (2) by adding at the end the following new subparagraph:

“(B) A veteran who died from amyotrophic lateral sclerosis shall be treated as a veteran described in subparagraph (A) without regard for how long the veteran had such disease prior to death.

“(C) For purposes of the payment of compensation under this subsection by reason of the death of veteran described in subparagraph (B), the term ‘surviving spouse’ means a person who was married to the veteran for a continuous period of eight years or longer prior to the death of the veteran.”

(b) APPLICABILITY.—Subparagraphs (B) and (C) of section 1311(a)(2) of title 38, United States Code, as added by subsection (a), shall apply to a veteran who dies from amyotrophic lateral sclerosis on or after October 1, 2023.

**SEC. 3. REPORT ON ADDITIONAL MEDICAL CONDITIONS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report that includes an identification of any service-connected disability, other than amyotrophic lateral sclerosis, that the Secretary determines should be treated in the same manner as amyotrophic lateral sclerosis is treated under subparagraphs (B) and (C) of section 1311(a)(2) of title 38, United States Code, as added by section 2.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) A comprehensive list of service-connected disabilities with mortality rates exceeding 95 percent within eight years of diagnoses of persons with each such disability.

(2) Detailed information on the average life expectancy for persons with each such disability.

**SEC. 4. MODIFICATION OF CERTAIN HOUSING LOAN FEES.**

The loan fee table in section 3729(b)(2) of title 38, United States Code, is amended by striking “November 15, 2031” each place it appears and inserting “December 2, 2031”.

PURPOSE AND SUMMARY

H.R. 3790, the “Justice for ALS Veterans Act of 2023,” was introduced by Rep. Elissa Slotkin of Michigan on June 1, 2023. The bill, as amended, would authorize the Department of Veterans Affairs (VA) to pay an increased rate of dependency and indemnity compensation (DIC) to surviving spouses of veterans who die from amyotrophic lateral sclerosis (ALS) on or after October 1, 2023, regardless of when the veterans were diagnosed with ALS prior to their death. The bill, as amended, would also require VA to submit a report to Congress identifying other disabilities that could warrant a grant of increased DIC—similar to grants of increased DIC because of ALS—for surviving spouses of veterans with such disabilities because such disabilities other than ALS, would have a mortality rate that exceeds 95% within eight years of diagnosis. Finally, the bill, as amended, would also provide an offset for the cost of these program changes by extending current rates for VA home loan funding fees.

BACKGROUND AND NEED FOR LEGISLATION

*Section 1: Short Title*

This Act may be cited as the “Justice for ALS Veterans Act of 2023.”

*Section 2: Extension of Increased Dependency and Indemnity Compensation to Surviving Spouses of Veterans Who Die From Amyotrophic Lateral Sclerosis*

When a veteran dies from a disability that was related to their military service, VA may pay DIC to that veteran's surviving spouse. Under current law (38 U.S.C. § 1311(a)(2)), VA may pay an increased DIC rate to a surviving spouse of a veteran who, at the time of their death was in receipt of, or was entitled to receive, disability compensation for a service-related disability that was rated totally disabling (a.k.a. a 100% disability rating) for a continuous period of at least eight years immediately preceding their death.

ALS is a rapidly progressive nervous system disease that weakens muscles and paralyzes physical function over time. When VA determines that a veteran's ALS is related to their military service, VA automatically grants a 100% disability rating for that ALS. However, many veterans diagnosed with ALS live fewer than eight years after their diagnosis due to the rapidity of the disease, which in return disqualifies their surviving spouse from receiving the increased rate of DIC.

In his written testimony at the November 8, 2023, Subcommittee on Disability Assistance and Memorial Affairs legislative hearing on the provisions of this section, Mr. Shane L. Liermann, Deputy National Legislative Director for Disabled American Veterans, stated: "Individuals diagnosed with ALS have an average lifespan of between two to five years. Sadly, many veterans are unable to meet DIC's eight-year requirement."<sup>1</sup> And in a statement for the record for the November 8, 2023, Subcommittee on Disability Assistance and Memorial Affairs legislative hearing, The ALS Association stated: "[W]ith life expectancy for ALS post-diagnosis ranging from 2–5 years, most veterans who have service-connected ALS will not meet the current criterion for the additional DIC payment. This is a fixable injustice for veterans living with ALS who already have little time left with their loved ones."<sup>2</sup>

To address this issue, this section would authorize VA to pay the increased DIC rate to surviving spouses of veterans who died from ALS, even if the veteran did not have ALS for eight years prior to their death. This section would apply to all veterans who died from ALS on or after October 1, 2023.

The Committee believes the DIC increase that would occur upon enactment of this section is warranted because of the speed at which ALS attacks a veteran's body compared to other service-connected diseases or injuries. The surviving spouses of veterans with ALS often put their lives on hold to care for their veteran loved one, and the Committee believes that this section would ensure that those surviving spouses can access the increased DIC benefits that surviving spouses of veterans with totally disabling disabilities other than ALS may be entitled to.

<sup>1</sup> Statement of Shane L. Liermann, Disabled American Veterans (dated October 24, 2023), <https://docs.house.gov/meetings/VR/VR09/20231108/116450/HHRG-118-VR09-Wstate-LiermannS-20231108.pdf>.

<sup>2</sup> Statement for the Record from The ALS Association (dated October 24, 2023), <https://docs.house.gov/meetings/VR/VR09/20231108/116450/HHRG-118-VR09-20231108-SD002.pdf>.

*Section 3: Report on Additional Medical Conditions*

It has been suggested to the Committee that there may be other medical conditions and diseases that are totally disabling and may result in a veteran's death an average of less than eight years after diagnosis. To address this issue, this section would require VA to submit to Congress a report identifying any service-related disabilities that could warrant a grant of increased DIC—similar to grants of increased DIC because of ALS that would be enacted by section two—for surviving spouses of veterans with disabilities other than ALS that may have a rapid mortality rate. This section would require such report to include disabilities that have mortality rates exceeding 95% within eight years of diagnosis, and detailed information on the average life expectancy for persons with each such disability.

The Committee believes that this section is important to ensure that Congress considers all relevant data before enacting any legislative change to the eligibility criteria for increased DIC for surviving spouses of veterans who may pass away from totally disabling disabilities other than ALS.

*Section 4: Modification of Certain Housing Loan Fees*

Under current law, veterans who take advantage of the VA Home Loan Program pay a small fee that can be rolled into their monthly mortgage payments. This section would cover the costs of the other section of this bill by extending the current rates for VA home loan funding fees by two weeks to December 2, 2031. Extending the funding fee increases a veteran's monthly cost by about \$5 on top of the monthly mortgage. Disabled veterans do not pay the funding fee and would not be affected by this extension of the home loan fees. The Committee believes this short-term extension of current funding fee rates is a reasonable way to cover the costs associated with the other sections of this bill.

HEARINGS

On November 8, 2023, the Subcommittee on Disability Assistance and Memorial Affairs held a legislative hearing on H.R. 3790 and other bills that were pending before the subcommittee.

The following witnesses testified:

The Honorable Morgan Luttrell, U.S. House of Representatives; The Honorable Mike Bost, U.S. House of Representatives; The Honorable Elissa Slotkin, U.S. House of Representatives; The Honorable Juan Ciscomani, U.S. House of Representatives; The Honorable Abigail Davis Spanberger, U.S. House of Representatives; The Honorable Keith Self, U.S. House of Representatives; The Honorable David J. Trone, U.S. House of Representatives; The Honorable Darrell Issa, U.S. House of Representatives; Ms. Beth Murphy, Executive Director, Compensation Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. Kevin Friel, Deputy Director, Pension & Fiduciary Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. Kenneth Arnold, Vice Chairman, Board of Veterans' Appeals, U.S. Department of Veterans Affairs; Mr. Shane Liermann, Deputy National Legislative Director, Disabled American Veterans;

Ms. Quandrea N. Patterson, Associate Director, Veterans of Foreign Wars of the United States; and Mr. Zachary M. Stolz, Partner, Chisholm, Chisholm, & Kilpatrick LTD.

The following individuals and organizations submitted statements for the record:

The Honorable Gerald E. Connolly, U.S. House of Representatives; The ALS Association; American Veterans (AMVETS); National Organization of Veterans' Advocates (NOVA); Paralyzed Veterans of America (PVA); Quality. Timeliness. Customer Service (QTC); Special Operations Association of America; Service Women's Action Network, and Military Veterans Advocacy.

#### SUBCOMMITTEE CONSIDERATION

On November 29, 2023, the Subcommittee on Disability Assistance and Memorial Affairs met in an open markup session on proposed legislation, including H.R. 3790. An amendment in the nature of a substitute to H.R. 3790 offered by Ranking Member Pappas was adopted by voice vote and the bill was ordered favorably forwarded for consideration by the full Committee on Veterans' Affairs. The amendment in the nature of a substitute would require VA to submit a report to Congress identifying disabilities other than ALS that could warrant a grant of increased DIC for surviving spouses of veterans with such disabilities. The amendment in the nature of a substitute required that this report would include disabilities with mortality rates exceeding 95% within eight years of diagnosis.

#### COMMITTEE CONSIDERATION

On December 5, 2023, the full Committee met in open markup session, a quorum being present, and ordered H.R. 3790, as amended, be reported favorably to the House of Representatives by voice vote. During consideration of the bill, the following amendment was considered:

An amendment in the nature of a substitute offered by Ranking Member Takano extended the current rates for VA home loan funding fees to pay for mandatory costs. The amendment in the nature of a substitute was approved by voice vote.

A motion by Ranking Member Takano to report H.R. 3790, as amended, favorably to the House of Representatives was agreed to by voice vote.

#### COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, no recorded votes were taken on amendments or in connection with ordering H.R. 3790, as amended, reported to the House.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Commit-

tee's oversight findings and recommendations are reflected in the descriptive portions of this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives of H.R. 3790, as amended, are to ensure that VA pays increased DIC to surviving spouses of veterans with totally disabling service-related disabilities that rapidly result in death.

#### EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3790, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the Congressional Budget Office cost estimate on this measure.

#### BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

<b>At a Glance</b>			
<b>H.R. 3790, Justice for ALS Veterans Act of 2023</b>			
<small>As ordered reported by the House Committee on Veterans' Affairs on December 5, 2023</small>			
<small>By Fiscal Year, Millions of Dollars</small>	<u>2024</u>	<u>2024-2028</u>	<u>2024-2033</u>
Direct Spending (Outlays)	<b>1</b>	<b>11</b>	<b>5</b>
Revenues	<b>0</b>	<b>0</b>	<b>0</b>
Increase or Decrease (-) in the Deficit	<b>1</b>	<b>11</b>	<b>5</b>
Spending Subject to Appropriation (Outlays)	*	*	*
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034? <small>&lt; \$2.5 billion</small>	Statutory pay-as-you-go procedures apply?		Yes
	<b>Mandate Effects</b>		
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034? <small>&lt; \$5 billion</small>	Contains intergovernmental mandate?		No
	Contains private-sector mandate?		No
<small>* = between zero and \$500,000.</small>			

The bill would:

- Increase benefit payments to certain survivors of veterans who die from amyotrophic lateral sclerosis (ALS)
  - Extend the higher fee rates that the Department of Veterans Affairs (VA) charges borrowers for home loan guarantees
- Estimated budgetary effects would mainly stem from:
- Larger benefit payments for survivors of veterans who die from ALS
  - Extending the higher fee rates charged by VA for home loan guarantees

Areas of significant uncertainty include:

- Estimating the number of survivors who would be eligible for increased benefit payments

Bill summary: H.R. 3790 would increase benefit payments to certain survivors of veterans who die from amyotrophic lateral sclerosis (ALS). The bill also would make changes to the Department of Veterans Affairs (VA) home loan guarantee program and would require a report on other service-connected disabilities with high mortality rates.

Estimated Federal cost: The estimated budgetary effects of H.R. 3790 are shown in Table 1. The costs of the legislation fall within budget function 700 (veterans benefits and services).

TABLE 1.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER H.R. 3790

	By fiscal year, millions of dollars—											
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2024– 2028	2024– 2033
<b>Survivor Benefits:</b>												
Budget Authority .....	1	1	2	3	4	5	6	7	8	9	11	46
Estimated Outlays .....	1	1	2	3	4	5	6	7	8	9	11	46
<b>Home Loans:</b>												
Budget Authority .....	0	0	0	0	0	0	0	0	–41	0	0	–41
Estimated Outlays .....	0	0	0	0	0	0	0	0	–41	0	0	–41
<b>Total Increases:</b>												
Budget Authority .....	1	1	2	3	4	5	6	7	–33	9	11	5
Estimated Outlays ...	1	1	2	3	4	5	6	7	–33	9	11	5

<sup>a</sup>In addition to the amounts shown here, the bill would increase spending subject to appropriation by less than \$500,000 over the 2024–2033 period.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 3790 would be enacted early in fiscal year 2024 and that the provisions will take effect upon enactment. CBO estimates that outlays will follow historical spending patterns for affected programs.

**Direct spending:** H.R. 3790 would increase benefits for certain survivors of veterans who die from ALS and extend the higher fees that VA charges borrowers for its loan guarantees. In total, H.R. 3790 would increase direct spending by \$5 million over the 2024–2033 period (See Table 1).

**Benefits for survivors:** Under current law, surviving spouses of veterans who die from a service-related injury or illness may receive monthly payments from VA under the Dependency and Indemnity Compensation program (DIC). Generally, for a surviving spouse to receive DIC payments, the veteran must have died from a service-connected disability or have been rated as totally disabled by VA for at least ten years prior to death. Surviving spouses who have been married to a totally disabled veteran for at least eight of those ten years are eligible to receive higher DIC benefits.

H.R. 3790 would require VA to pay that same higher benefit to surviving spouses of veterans who die from ALS, regardless of how long the veteran had the disease prior to death, as long as the spouse was married to the veteran for at least eight years prior to the veteran's death. Survivors of veterans who die from ALS after October 1, 2023, would be eligible for that enhanced benefit.

Using information from VA about the number of DIC recipients who were married to veterans with ALS for at least eight years and whose veteran spouse did not live eight years after the ALS diagnosis, CBO estimates that about 160 spouses would receive higher payments in 2024 and about 1,800 would receive additional

payments by 2033 as a result of H.R. 3790. Over the 2024–2033 period, VA would make 9,400 annual equivalent payments averaging \$4,650 per year for a total cost of \$46 million, CBO estimates.

**Home loan fees:** The bill would extend—for about two weeks—the higher fees that VA charges borrowers for its loan guarantees. VA provides loan guarantees to lenders that allow eligible borrowers to obtain better loan terms—such as lower interest rates or smaller down payments—to purchase, construct, improve, or refinance a home. VA typically pays lenders up to 25 percent of the outstanding mortgage balance if a borrower’s home is foreclosed upon. Those payments, net of fees paid by borrowers and recoveries by lenders, constitute the subsidy cost for the loan guarantees.<sup>1</sup>

Under current law, the rates for most of the fees that borrowers pay to VA for loans guaranteed after November 15, 2031, will drop from a weighted average of about 2.4 percent to about 1.2 percent of the loan amount. H.R. 3790 would extend the higher rates through December 2, 2031, thereby reducing the subsidy cost of loans guaranteed during that period. Using information from VA, CBO estimates that extending the higher rates would decrease direct spending by \$41 million over the 2024–2033 period.

**Spending subject to appropriation:** The bill would require VA to report to the Congress on service-connected disabilities with mortality rates that exceed 95 percent within eight years of diagnoses. Using information about the cost of similar reports, CBO estimates providing the report would increase costs by less than \$500,000. Such spending would be subject to the availability of appropriated funds.

**Uncertainty:** CBO’s estimate of the bill’s costs is subject to uncertainty about the number of survivors who would be eligible for additional DIC payments in each year. If more or fewer survivors become eligible than CBO expects, costs could be higher or lower than CBO’s estimates.

**Pay-As-You-Go considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

**Increase in long-term net direct spending and deficits:** CBO estimates that enacting H.R. 3790 would not increase net direct spending by more than \$2.5 billion in any of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting H.R. 3790 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2034.

**Mandates:** The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

**Estimate prepared by:** Federal costs: Logan Smith (for survivor benefits), Paul Holland (for home loans); Mandates: Grace Watson.

<sup>1</sup> Under the Federal Credit Reform Act of 1990, the subsidy cost of a loan guarantee is the net present value of estimated payments by the government to cover defaults and delinquencies, interest subsidies, or other expenses offset by any payments to the government, including origination or other fees, penalties, and recoveries on defaulted loans. Such subsidy costs are calculated by discounting those expected cash flows using the rate on Treasury securities of comparable maturity. The resulting estimated subsidy costs are recorded in the budget when the loans are disbursed or modified. A positive subsidy indicates that the loan results in net outlays from the Treasury; a negative subsidy indicates that the loan results in net receipts to the Treasury.

Estimate reviewed by: David Newman, Chief, Defense, International Affairs, and Veterans' Affairs Cost Estimates Unit; Christina Hawley Anthony, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

#### FEDERAL MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act), P.L. 104-4 is inapplicable to H.R. 3790, as amended.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3790, as amended.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 3790, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3790, as amended, would establish or reauthorize a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

Section 1 would establish the short title of the bill as the "Justice for ALS Veterans Act of 2023."

##### *Section 2. Extension of increased dependency and indemnity compensation to surviving spouses of veterans who die from Amyotrophic Lateral Sclerosis*

Section 2 would amend 38 U.S.C. § 1311(a)(2) by adding a new subparagraph that would require VA to pay the increased DIC rate to a surviving spouse of a veteran who died from ALS regardless of how long that veteran had ALS prior to death. For purposes of eligibility for the increased DIC rate, this section would require that that surviving spouse be married to the veteran for a continuous period of eight years or longer before the veteran's death. And this section would apply to a veteran who died from ALS on or after October 1, 2023.

##### *Section 3. Report on additional medical conditions*

Section 3 would require VA to submit to Congress a report that includes an identification of any service-connected disabilities that

could warrant a grant of increased DIC for surviving spouses of veterans with such disabilities. This section would require the report to include a comprehensive list of service-connected disabilities with mortality rates exceeding 95% within eight years of diagnosis and detailed information on the average life expectancy for persons with each such disability.

*Section 4. Modification of certain housing loan fees*

Section 4 would extend current rates for VA home loan funding fees as established in section 3729 of title 38, U.S.C. from November 15, 2031 to December 2, 2031.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART II—GENERAL BENEFITS**

\* \* \* \* \*

**CHAPTER 13—DEPENDENCY AND INDEMNITY  
COMPENSATION FOR SERVICE-CONNECTED DEATHS**

\* \* \* \* \*

**SUBCHAPTER II—DEPENDENCY AND INDEMNITY  
COMPENSATION**

\* \* \* \* \*

**§ 1311. Dependency and indemnity compensation to a surviving spouse**

(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of \$1,154.

(2)(A) The rate under paragraph (1) shall be increased by \$246 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for

purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

*(B) A veteran who died from amyotrophic lateral sclerosis shall be treated as a veteran described in subparagraph (A) without regard for how long the veteran had such disease prior to death.*

*(C) For purposes of the payment of compensation under this subsection by reason of the death of veteran described in subparagraph (B), the term "surviving spouse" means a person who was married to the veteran for a continuous period of eight years or longer prior to the death of the veteran.*

(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by \$286 for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by \$286 if the spouse is (1) a patient in a nursing home or (2) blind, or so nearly blind or significantly disabled as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by \$135 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

(e) In the case of an individual who is eligible for dependency and indemnity compensation under this section by reason of section 103(d)(2)(B) of this title who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then, notwithstanding any other provision of law (other than section 5304(b)(3) of this title), no reduction in benefits under such other provision of law shall be made by reason of such individual's eligibility for benefits under this section.

(f)(1) Subject to paragraphs (2) and (3), if there is a surviving spouse with one or more children below the age of 18, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by \$250 (as increased from time to time under paragraph (4)), regardless of the number of such children.

(2) Dependency and indemnity compensation shall be increased under this subsection only for months occurring during the two-year period beginning on the date on which entitlement to dependency and indemnity compensation commenced.

(3) The increase in dependency and indemnity compensation of a surviving spouse under this subsection shall cease beginning with the first month commencing after the month in which all children of the surviving spouse have attained the age of 18.

(4) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the amount payable under paragraph (1), as such amount was in effect immediately prior to the date of such increase in benefit amounts, by the same percentage as the percentage by which such benefit amounts are increased. Any increase in a dollar amount under this paragraph shall be rounded down to the next lower whole dollar amount.

(5) Dependency and indemnity compensation under this subsection is in addition to any other dependency and indemnity compensation payable under this chapter.

\* \* \* \* \*

**PART III—READJUSTMENT AND RELATED BENEFITS**

\* \* \* \* \*

**CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS**

\* \* \* \* \*

**SUBCHAPTER III—ADMINISTRATIVE PROVISIONS**

\* \* \* \* \*

**§ 3729. Loan fee**

(a) **REQUIREMENT OF FEE.**—(1) Except as provided in subsection (c), a fee shall be collected from each person obtaining a housing loan guaranteed, insured, or made under this chapter, and each person assuming a loan to which section 3714 of this title applies. No such loan may be guaranteed, insured, made, or assumed until the fee payable under this section has been remitted to the Secretary.

(2) The fee may be included in the loan and paid from the proceeds thereof.

(b) **DETERMINATION OF FEE.**—(1) The amount of the fee shall be determined from the loan fee table in paragraph (2). The fee is expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

(2) The loan fee table referred to in paragraph (1) is as follows:

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
(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 April 7, 2023).	2.30	2.30	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 April 7, 2023, and before <del>November 15, 2031</del> <i>December 2, 2031</i> ).	2.15	2.15	NA

Type of loan	Active duty veteran	Reservist	Other obligor
(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 <b>November 15, 2031</b> <i>December 2, 2031</i> ).	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 April 7, 2023).	3.60	3.60	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 April 7, 2023, and before <b>November 15, 2031</b> <i>December 2, 2031</i> ).	3.30	3.30	NA

Type of loan	Active duty veteran	Reservist	Other obligor
(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 <b>November 15, 2031</b> <i>December 2, 2031</i> ).	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, 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 April 7, 2023).	1.65	1.65	NA
(C)(iii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after April 7, 2023, and before <b>November 15, 2031</b> <i>December 2, 2031</i> ).	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 <b>November 15, 2031</b> <i>December 2, 2031</i> ).	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

Type of loan	Active duty veteran	Reservist	Other obligor
(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 April 7, 2023).	1.40	1.40	NA
(D)(iii) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after April 7, 2023, and before <del>November 15, 2031</del> <i>December 2, 2031</i> ).	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 <del>November 15, 2031</del> <i>December 2, 2031</i> ).	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.

(3) Any reference to a section in the “Type of loan” column in the loan fee table in paragraph (2) refers to a section of this title.

(4) For the purposes of paragraph (2):

(A) The term “active duty veteran” means any veteran eligible for the benefits of this chapter other than a Reservist.

(B) The term “Reservist” means a veteran described in section 3701(b)(5)(A) of this title who is eligible under section 3702(a)(2)(E) of this title.

(C) The term “other obligor” means a person who is not a veteran, as defined in section 101 of this title or other provision of this chapter.

(D)(i) The term “initial loan” means a loan to a veteran guaranteed under section 3710 or made under section 3711 of this title if the veteran has never obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(ii) If a veteran has obtained a loan guaranteed under section 3710 or made under section 3711 of this title and the dwelling securing such loan was substantially damaged or destroyed by a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), the Secretary shall treat as an initial loan, as defined in clause (i), the next loan the Secretary guarantees or makes to such veteran under section 3710 or 3711, respectively, if—

(I) such loan is guaranteed or made before the date that is three years after the date on which the dwelling was substantially damaged or destroyed; and

(II) such loan is only for repairs or construction of the dwelling, as determined by the Secretary.

(E) The term “subsequent loan” means a loan to a veteran, other than an interest rate reduction refinancing loan, guaranteed under section 3710 or made under section 3711 of this title that is not an initial loan.

(F) The term “interest rate reduction refinancing loan” means a loan described in section 3710(a)(8), 3710(a)(9)(B)(i), 3710(a)(11), 3712(a)(1)(F), or 3762(h) of this title.

(G) The term “0-down” means a downpayment, if any, of less than 5 percent of the total purchase price or construction cost of the dwelling.

(H) The term “5-down” means a downpayment of at least 5 percent or more, but less than 10 percent, of the total purchase price or construction cost of the dwelling.

(I) The term “10-down” means a downpayment of 10 percent or more of the total purchase price or construction cost of the dwelling.

(c) WAIVER OF FEE.—(1) A fee may not be collected under this section from a veteran who is receiving compensation (or who, but for the receipt of retirement pay or active service pay, would be entitled to receive compensation), from a surviving spouse of any veteran (including a person who died in the active military, naval, air, or space service) who died from a service-connected disability, or from a member of the Armed Forces who is serving on active duty and who provides, on or before the date of loan closing, evidence of having been awarded the Purple Heart.

(2)(A) A veteran described in subparagraph (B) shall be treated as receiving compensation for purposes of this subsection as of the date of the rating described in such subparagraph without regard to whether an effective date of the award of compensation is established as of that date.

(B) A veteran described in this subparagraph is a veteran who is rated eligible to receive compensation—

(i) as the result of a pre-discharge disability examination and rating; or

(ii) based on a pre-discharge review of existing medical evidence (including service medical and treatment records) that results in the issuance of a memorandum rating.

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