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109TH CONGRESS
1ST SESSION

# H. R. 961

To amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and to increase the lump sum death payment to reflect changes in the cost of living.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mr. PLATTS introduced the following bill; which was referred to the Committee on Ways and Means

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# A BILL

To amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and to increase the lump sum death payment to reflect changes in the cost of living.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Social Security Fairness Act of 2005".

**SEC. 2. COMPUTATION AND PAYMENT OF LAST MONTHLY PAYMENT.**

(a) OLD-AGE AND SURVIVORS INSURANCE BENEFITS.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Last Payment of Monthly Insurance Benefit Terminated by Death

"(z)(1) In any case in which an individual dies during the first 15 days of a calendar month, the amount of such individual's monthly insurance benefit under this section paid for such month shall be an amount equal to 50 percent of the amount of such benefit (as determined without regard to this subsection), rounded, if not a multiple of $1, to the next higher multiple of $1. This subsection shall apply with respect to such benefit after all other adjustments with respect to such benefit provided by this title have been made.

"(2) Any payment of an individual's benefit under this section for the month in which such individual dies shall be made in accordance with section 204(d).".

(b) DISABILITY INSURANCE BENEFITS.—Section 223 of such Act (42 U.S.C. 423) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"Last Payment of Benefit Terminated by Death

"(j)(1) In any case in which an individual dies during the first 15 days of a calendar month, the amount of such individual's monthly insurance benefit under this section paid for such month shall be an amount equal to 50 percent of the amount of such benefit (as determined without regard to this subsection), rounded, if not a multiple of $1, to the next higher multiple of $1. This subsection shall apply with respect to such benefit after all other adjustments with respect to such benefit provided by this title have been made.

"(2) Any payment of an individual's benefit under this section for the month in which such individual dies shall be made in accordance with section 204(d).".

(c) BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS.—Section 228 of such Act (42 U.S.C. 428) is amended by adding at the end the following new subsection:

"Last Payment of Benefit Terminated by Death

"(i)(1) In any case in which an individual dies during the first 15 days of a calendar month, the amount of such individual's monthly insurance benefit under this section paid for such month shall be an amount equal to 50 per-

cent of the amount of such benefit (as determined without regard to this subsection), rounded, if not a multiple of $1, to the next higher multiple of $1. This subsection shall apply with respect to such benefit after all other adjustments with respect to such benefit provided by this title have been made.

"(2) Any payment of an individual's benefit under this section for the month in which such individual dies shall be made in accordance with section 204(d).".

(d) CONFORMING AMENDMENTS REGARDING PAYMENT OF BENEFITS FOR MONTH OF RECIPIENT'S DEATH.—

(1) OLD-AGE INSURANCE BENEFITS.—Section 202(a) of the Social Security Act (42 U.S.C. 402(a)) is amended by striking "the month preceding" in the matter following subparagraph (B).

(2) WIFE'S INSURANCE BENEFITS.—

(A) IN GENERAL.—Section 202(b)(1) of such Act (42 U.S.C. 402(b)(1)) is amended—

(i) by striking "and ending with the month" in the matter immediately following clause (ii) and inserting "and ending with the month in which she dies or (if earlier) with the month";

(ii) by striking subparagraph (E); and

(iii) by redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J), respectively.

(B) CONFORMING AMENDMENT.—Section 202(b)(4)(B) of such Act (42 U.S.C. 402(b)(4)(B)) is amended by striking ''(E), (F), (H), or (J)'' and inserting ''(E), (G), or (I)''.

(3) HUSBAND'S INSURANCE BENEFITS.—

(A) IN GENERAL.—Section 202(c)(1) of such Act (42 U.S.C. 402(c)(1)) is amended—

(i) by striking ''and ending with the month'' in the matter immediately following clause (ii) and inserting ''and ending with the month in which he dies or (if earlier) with the month'';

(ii) by striking subparagraph (E); and

(iii) by redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J), respectively.

(B) CONFORMING AMENDMENT.—Section 202(c)(4)(B) of such Act (42 U.S.C. 402(c)(4)(B)) is amended by striking ''(E), (F), (H), or (J)'' and inserting ''(E), (G), or (I)''.

(4) CHILD'S INSURANCE BENEFITS.—Section 202(d)(1) of such Act (42 U.S.C. 402(d)(1)) is amended—

(A) by striking ''and ending with the month'' in the matter immediately preceding subparagraph (D) and inserting ''and ending with the month in which such child dies or (if earlier) with the month''; and

(B) by striking ''dies, or'' in subparagraph (D).

(5) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(1) of such Act (42 U.S.C. 402(e)(1)) is amended by striking ''ending with the month preceding the first month in which any of the following occurs: she remarries, dies,'' in the matter following subparagraph (F) and inserting ''ending with the month in which she dies or (if earlier) with the month preceding the first month in which any of the following occurs: she remarries, or''.

(6) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(1) of such Act (42 U.S.C. 402(f)(1)) is amended by striking ''ending with the month preceding the first month in which any of the following occurs: he remarries, dies,'' in the matter following subparagraph (F) and inserting ''ending with the

month in which he dies or (if earlier) with the month preceding the first month in which any of the following occurs: he remarries,''.

(7) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(1) of such Act (42 U.S.C. 402(g)(1)) is amended—

(A) by inserting ''with the month in which he or she dies or (if earlier)'' after ''and ending'' in the matter following subparagraph (F); and

(B) by striking ''he or she remarries, or he or she dies'' and inserting ''or he or she remarries''.

(8) PARENT'S INSURANCE BENEFITS.—Section 202(h)(1) of such Act (42 U.S.C. 402(h)(1)) is amended by striking ''ending with the month preceding the first month in which any of the following occurs: such parent dies, marries,'' in the matter following subparagraph (E) and inserting ''ending with the month in which such parent dies or (if earlier) with the month preceding the first month in which any of the following occurs: such parent marries,''.

(9) DISABILITY INSURANCE BENEFITS.—Section 223(a)(1) of such Act (42 U.S.C. 423(a)(1)) is amended by striking ''ending with the month pre-

ceding whichever of the following months is the earliest: the month in which he dies,'' in the matter following subparagraph (D) and inserting the following: ''ending with the month in which he dies or (if earlier) with whichever of the following months is the earliest:''.

(10) BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS.—Section 228(a) of such Act (42 U.S.C. 428(a)) is amended by striking ''the month preceding'' in the matter following paragraph (4).

(11) EXEMPTION FROM MAXIMUM BENEFIT CAP.—Section 203 of such Act (42 U.S.C. 403 is amended by adding at the end the following new subsection:

''Exemption From Maximum Benefit Cap

''(m) Notwithstanding any other provision of this section, the application of this section shall be made without regard to any benefit of an individual under section 202, 223, or 228 for the month in which such individual dies.''.

**SEC. 3. INCREASE IN LUMP-SUM DEATH PAYMENTS.**

Section 202(i) of the Social Security Act (42 U.S.C. 402(i)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) in subparagraph (B) (as redesignated), by striking ''paragraph (1)'' and inserting ''subparagraph (A)'';

(3) by inserting ''(1)'' after ''(i)'';

(4) by striking ''three times'' and all that follows through ''smaller,'' and inserting ''the applicable dollar amount for the calendar year in which the death occurs (determined under paragraph (2))''; and

(5) by adding at the end the following new paragraph:

''(2)(A) Except as otherwise provided in subparagraph (B), the applicable dollar amount for any calendar year is $970.

''(B) In each calendar year after 2005, the Commissioner of Social Security shall determine and publish in the Federal Register, on or before November 1 of such calendar year, the applicable dollar amount for the next calendar year. Such dollar amount shall be equal to the product derived by multiplying—

''(i) $970, by

''(ii) the ratio of—

''(I) the national average wage index (as defined in section 209(k)(1)) for the calendar

year before the calendar year in which the determination is made, to

"(II) the national average wage index (as so defined) for calendar year 2004.

If such product is not a multiple of $5.00, such product shall be rounded to the next higher multiple of $5.00 in any case in which such product is a multiple of $2.50 but not of $5.00, and to the nearest multiple of $5.00 in any other case.".

**SEC. 4. EFFECTIVE DATE.**

The amendments made by this Act shall apply with respect to deaths occurring after 90 days after the date of the enactment of this Act.

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