

Calendar No. 553

111TH CONGRESS
2^D SESSION

S. 3765

[Report No. 111–282]

To amend title 38, United States Code, to improve Servicemembers' Group Life Insurance and Veterans' Group Life Insurance and to modify the provision of compensation and pension to surviving spouses of veterans in the months of the deaths of the veterans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 2, 2010

Mr. AKAKA, from the Committee on Veterans' Affairs, reported, under authority of the order of the Senate of August 5, 2010, the following original bill; which was read twice and placed on the calendar

A BILL

To amend title 38, United States Code, to improve Servicemembers' Group Life Insurance and Veterans' Group Life Insurance and to modify the provision of compensation and pension to surviving spouses of veterans in the months of the deaths of the veterans, 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. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—BENEFIT MATTERS

Sec. 101. Repeal of sunset on 2-year extension of Servicemembers' Group Life Insurance coverage for members of Armed Forces separating from service while totally disabled.

Sec. 102. Authorization for increases by individuals of Veterans' Group Life Insurance coverage upon renewal.

Sec. 103. Modification of month of death benefit for surviving spouses of veterans who die while entitled to compensation or pension.

Sec. 104. Eligibility for presidential memorial certificates of individuals who die while serving in the active military, naval, or air service.

TITLE II—LOAN GUARANTY MATTERS

Sec. 201. Occupancy of property by dependent child of a veteran.

Sec. 202. Covenants and liens created by public entities in response to disaster-relief assistance.

TITLE III—OTHER MATTERS

Sec. 301. Processing of applications for relief from adjudication of mental incompetence for certain purposes.

3 **TITLE I—BENEFIT MATTERS**

4 **SEC. 101. REPEAL OF SUNSET ON 2-YEAR EXTENSION OF**
 5 **SERVICEMEMBERS' GROUP LIFE INSURANCE**
 6 **COVERAGE FOR MEMBERS OF ARMED**
 7 **FORCES SEPARATING FROM SERVICE WHILE**
 8 **TOTALLY DISABLED.**

9 (a) SEPARATION OR RELEASE.—Paragraph (1)(A) of
 10 section 1968(a) of title 38, United States Code, is amend-
 11 ed by striking clause (ii) and inserting the following new
 12 clause (ii):

13 “(ii) The date that is 2 years after the
 14 date of separation or release from such ac-
 15 tive duty or active duty for training, in the

1 case of such a separation or release occur-
 2 ring on or after June 15, 2005.”.

3 (b) SEPARATION OR RELEASE FROM CERTAIN RE-
 4 SERVE ASSIGNMENTS.—Paragraph (4) of such section is
 5 amended by striking subparagraph (B) and inserting the
 6 following new subparagraph (B):

7 “(B) The date that is 2 years after the
 8 date of separation or release from such assign-
 9 ment, in the case of such a separation or re-
 10 lease occurring on or after June 15, 2005.”.

11 **SEC. 102. AUTHORIZATION FOR INCREASES BY INDIVID-**
 12 **UALS OF VETERANS’ GROUP LIFE INSURANCE**
 13 **COVERAGE UPON RENEWAL.**

14 Section 1977(a) of title 38, United States Code, is
 15 amended—

16 (1) in paragraph (1), by striking the second
 17 sentence; and

18 (2) by adding at the end the following new
 19 paragraph:

20 “(3) Subject to the second sentence of para-
 21 graph (1), a veteran who has not attained the age
 22 of 60 years and is insured under Veterans’ Group
 23 Life Insurance for an amount less than the max-
 24 imum amount of Servicemembers’ Group Life Insur-
 25 ance in effect under section 1967(a)(3)(A)(i) of this

1 title at the time of renewal of Veterans' Group Life
 2 Insurance under this section may increase the
 3 amount of the veteran's coverage under Veterans'
 4 Group Life Insurance by not more than \$25,000 at
 5 the time of renewal.”.

6 **SEC. 103. MODIFICATION OF MONTH OF DEATH BENEFIT**
 7 **FOR SURVIVING SPOUSES OF VETERANS WHO**
 8 **DIE WHILE ENTITLED TO COMPENSATION OR**
 9 **PENSION.**

10 (a) SURVIVING SPOUSE BENEFIT FOR MONTH OF
 11 VETERAN'S DEATH.—Subsections (a) and (b) of section
 12 5310 of title 38, United States Code, are amended to read
 13 as follows:

14 “(a) IN GENERAL.—(1) A surviving spouse of a vet-
 15 eran is entitled to a benefit for the month of the veteran's
 16 death if at the time of the veteran's death—

17 “(A) the veteran was receiving compensation or
 18 pension under chapter 11 or 15 of this title; or

19 “(B) the veteran was not receiving compensa-
 20 tion or pension under chapter 11 or 15 of this title
 21 but the veteran had a claim pending for the month
 22 of the veteran's death for which benefits would have
 23 been payable under chapter 11 or 15 of this title
 24 had the veteran not died.

1 “(2) The amount of benefit under paragraph (1) is
2 the amount that the veteran would have received under
3 chapter 11 or 15 of this title for the month of the vet-
4 eran’s death had the veteran not died.

5 “(3) Any benefits payable under this section on be-
6 half of a veteran who was not in receipt of such benefits
7 as of the month of the veteran’s death shall be paid to
8 the surviving spouse as accrued benefits.

9 “(b) CLAIMS PENDING ADJUDICATION.—If a claim
10 for entitlement to compensation or additional compensa-
11 tion under chapter 11 of this title or pension or additional
12 pension under chapter 15 of this title is pending at the
13 time of a veteran’s death and the check or other payment
14 issued to the veteran’s surviving spouse under subsection
15 (a) is less than the amount of the benefit the veteran
16 would have been entitled to for the month of death pursu-
17 ant to the adjudication of the pending claim, an amount
18 equal to the difference between the amount to which the
19 veteran would have been entitled to receive under chapter
20 11 or 15 of this title for the month of the veteran’s death
21 had the veteran not died and the amount of the check or
22 other payment issued to the surviving spouse shall be
23 treated in the same manner as an accrued benefit under
24 section 5121 of this title.”.

1 (b) MONTH OF DEATH BENEFIT EXEMPT FROM DE-
2 LAYED COMMENCEMENT OF PAYMENT.—Section
3 5111(c)(1) of such title is amended by striking “apply to”
4 and all that follows through “death occurred” and insert-
5 ing the following: “not apply to payments made pursuant
6 to section 5310 of this title”.

7 (c) PROHIBITION ON REQUESTS FOR RETURN OF
8 CERTAIN CHECKS AND PAYMENTS.—In the case of a sur-
9 viving spouse who was a dependent with respect to whom
10 additional compensation for dependents was payable under
11 section 1115 of title 38, United States Code, or additional
12 pension as a married veteran under chapter 15 of such
13 title, as of the date of the veteran’s death, if a check or
14 other payment issued to the veteran as a benefit payment
15 under chapter 11 or 15 of title 38, United States Code,
16 for the month in which death occurs is negotiated, depos-
17 ited, or otherwise accessed by the surviving spouse—

18 (1) the check or payment shall be considered to
19 be the benefit payable to the surviving spouse under
20 section 5310(a)(1) of title 38, United States Code
21 (as amended by subsection (a)), to the extent that
22 the check or payment equals the amount which
23 would otherwise be payable under such section; and
24 (2) the Secretary may not require the surviving
25 spouse to return the check or payment.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on the date of the enactment
 3 of this Act, and shall apply with respect to deaths that
 4 occur on or after that date.

5 **SEC. 104. ELIGIBILITY FOR PRESIDENTIAL MEMORIAL CER-**
 6 **TIFICATES OF INDIVIDUALS WHO DIE WHILE**
 7 **SERVING IN THE ACTIVE MILITARY, NAVAL,**
 8 **OR AIR SERVICE.**

9 Section 112 of title 38, United States Code, is
 10 amended—

11 (1) by amending subsection (a) to read as fol-
 12 lows:

13 “(a)(1) At the request of the President, the Secretary
 14 may conduct a program for honoring the memory of cov-
 15 ered individuals by preparing and sending to eligible re-
 16 cipients a certificate bearing the signature of the Presi-
 17 dent and expressing the country’s recognition of the cov-
 18 ered individual’s service in the Armed Forces.

19 “(2) The award of a certificate to one eligible recipi-
 20 ent shall not preclude authorization of another certificate
 21 if a request is received from some other eligible recipient.”;

22 (2) by redesignating subsections (b) and (c) as
 23 subsections (c) and (d), respectively; and

24 (3) by inserting after subsection (a) the fol-
 25 lowing new subsection (b):

1 “(b) For purposes of this section, a covered individual
2 is any of the following:

3 “(1) A deceased veteran discharged under hon-
4 orable conditions.

5 “(2) An individual who dies while serving in the
6 active military, naval, or air service.”.

7 **TITLE II—LOAN GUARANTY** 8 **MATTERS**

9 **SEC. 201. OCCUPANCY OF PROPERTY BY DEPENDENT** 10 **CHILD OF A VETERAN.**

11 Paragraph (2) of section 3704(c) of title 38, United
12 States Code, is amended to read as follows:

13 “(2) In any case in which a veteran is in active duty
14 status as a member of the Armed Forces and is unable
15 to occupy a property because of such status, the occupancy
16 requirements of this chapter shall be considered to be sat-
17 isfied if—

18 “(A) the veteran’s spouse occupies or intends to
19 occupy the property as a home and the spouse
20 makes the certification required by paragraph (1) of
21 this subsection; or

22 “(B) the veteran’s dependent child occupies or
23 will occupy the property as a home and the veteran’s
24 attorney-in-fact or a legal guardian of the veteran’s

1 dependent child makes the certification required by
 2 paragraph (1) of this subsection.”.

3 **SEC. 202. COVENANTS AND LIENS CREATED BY PUBLIC EN-**
 4 **TITIES IN RESPONSE TO DISASTER-RELIEF**
 5 **ASSISTANCE.**

6 Paragraph (3) of section 3703(d) of title 38, United
 7 States Code, is amended to read as follows:

8 “(3)(A) Any real estate housing loan (other than for
 9 repairs, alterations, or improvements) shall be secured by
 10 a first lien on the realty. In determining whether a loan
 11 is so secured, the Secretary may either disregard or allow
 12 for subordination to a superior lien created by a duly re-
 13 corded covenant running with the realty in favor of—

14 “(i) a public entity that has provided or will
 15 provide assistance in response to a major disaster as
 16 declared by the President under section 401 of the
 17 Robert T. Stafford Disaster Relief and Emergency
 18 Assistance Act (42 U.S.C. 5170); or

19 “(ii) a private entity to secure an obligation to
 20 such entity for the homeowner’s share of the costs
 21 of the management, operation, or maintenance of
 22 property, services, or programs within and for the
 23 benefit of the development or community in which
 24 the veteran’s realty is located, if the Secretary deter-
 25 mines that the interests of the veteran borrower and

1 of the Government will not be prejudiced by the op-
 2 eration of such covenant.

3 “(B) With respect to any superior lien described in
 4 subparagraph (A) created after June 6, 1969, the Sec-
 5 retary’s determination under clause (ii) of such subpara-
 6 graph shall have been made prior to the recordation of
 7 the covenant.”.

8 **TITLE III—OTHER MATTERS**

9 **SEC. 301. PROCESSING OF APPLICATIONS FOR RELIEF** 10 **FROM ADJUDICATION OF MENTAL INCOM-** 11 **PETENCE FOR CERTAIN PURPOSES.**

12 (a) IN GENERAL.—Chapter 55 of title 38, United
 13 States Code, is amended by adding at the end the fol-
 14 lowing new section:

15 **“§ 5511. Processing of applications for relief from ad-** 16 **judication of mental incompetence for** 17 **certain purposes**

18 “Notwithstanding clause (ii) of section 101(c)(2)(A)
 19 of the NICS Improvement Amendments Act of 2007 (Pub-
 20 lic Law 110–180; 18 U.S.C. 922 note), each application
 21 for relief submitted to the Secretary under the program
 22 required by clause (i) of such section shall be processed
 23 by the Secretary not later than 180 days after the receipt
 24 of the application. If the Secretary fails to resolve such
 25 application for relief within 180 days for any reason, in-

1 cluding a lack of appropriated funds, the Secretary shall
2 be deemed to have granted such application for relief.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 55 of such title is amended
5 by adding at the end the following new item:

“5511. Processing of applications for relief from adjudication of mental incompetency for certain purposes.”.

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