

112TH CONGRESS
1ST SESSION

S. 874

To amend title 38, United States Code, to modify the provision of compensation and pension to surviving spouses of veterans in the months of the deaths of the veterans, to improve housing loan benefits for veterans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2011

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to modify the provision of compensation and pension to surviving spouses of veterans in the months of the deaths of the veterans, to improve housing loan benefits for 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. MODIFICATION OF MONTH OF DEATH BENEFIT**
2 **FOR SURVIVING SPOUSES OF VETERANS WHO**
3 **DIE WHILE ENTITLED TO COMPENSATION OR**
4 **PENSION.**

5 (a) SURVIVING SPOUSE BENEFIT FOR MONTH OF
6 VETERAN'S DEATH.—Subsections (a) and (b) of section
7 5310 of title 38, United States Code, are amended to read
8 as follows:

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

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

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

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

24 “(3) Any benefits payable under this section on be-
25 half of a veteran who was not in receipt of such benefits

1 as of the month of the veteran's death shall be paid to
2 the surviving spouse as accrued benefits.

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

19 (b) MONTH OF DEATH BENEFIT EXEMPT FROM DE-
20 LAYED COMMENCEMENT OF PAYMENT.—Section
21 5111(c)(1) of such title is amended by striking “apply to”
22 and all that follows through “death occurred” and insert-
23 ing the following: “not apply to payments made pursuant
24 to section 5310 of this title”.

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

12 (1) the check or payment shall be considered to
13 be the benefit payable to the surviving spouse under
14 section 5310(a)(1) of title 38, United States Code
15 (as amended by subsection (a)), to the extent that
16 the check or payment equals the amount which
17 would otherwise be payable under such section; and

18 (2) the Secretary may not require the surviving
19 spouse to return the check or payment.

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

1 **SEC. 2. ELIGIBILITY FOR PRESIDENTIAL MEMORIAL CER-**
2 **TIFICATES OF INDIVIDUALS WHO DIE WHILE**
3 **SERVING IN THE ACTIVE MILITARY, NAVAL,**
4 **OR AIR SERVICE.**

5 Section 112 of title 38, United States Code, is
6 amended—

7 (1) by amending subsection (a) to read as fol-
8 lows:

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

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

18 (2) by redesignating subsections (b) and (c) as
19 subsections (c) and (d), respectively; and

20 (3) by inserting after subsection (a) the fol-
21 lowing new subsection (b):

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

24 “(1) A deceased veteran discharged under hon-
25 orable conditions.

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

3 **SEC. 3. MODIFICATION TO AUTHORIZE SATISFACTION OF**
4 **OCCUPANCY REQUIREMENT ON PROPERTY**
5 **FINANCED WITH HOUSING LOAN BENEFITS**
6 **FOR VETERANS BY OCCUPANCY OF DEPEND-**
7 **ENT CHILDREN.**

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

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

15 “(A) the veteran’s spouse occupies or intends to
16 occupy the property as a home and the spouse
17 makes the certification required by paragraph (1); or

18 “(B) the veteran’s dependent child occupies or
19 will occupy the property as a home and the veteran’s
20 attorney-in-fact or a legal guardian of the veteran’s
21 dependent child makes the certification required by
22 paragraph (1).”.

1 **SEC. 4. COVENANTS AND LIENS CREATED BY PUBLIC ENTI-**
2 **TIES IN RESPONSE TO DISASTER-RELIEF AS-**
3 **SISTANCE.**

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

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

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

17 “(ii) a private entity to secure an obligation to
18 such entity for the homeowner’s share of the costs
19 of the management, operation, or maintenance of
20 property, services, or programs within and for the
21 benefit of the development or community in which
22 the veteran’s realty is located, if the Secretary deter-
23 mines that the interests of the veteran borrower and
24 of the Government will not be prejudiced by the op-
25 eration of such covenant.

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

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