

AMENDMENTS TO THE NATIONAL SERVICE LIFE INSURANCE ACT OF 1940

JUNE 1, 1942.—Ordered to be printed

Mr. GEORGE, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 2543]

The Committee on Finance, to whom was referred the bill (S. 2543) to amend subsection (3) of section 602 (d) of the National Service Life Insurance Act, as amended, and for other purposes, having considered the same, report favorably thereon with the following amendments, and with such amendments recommend that the bill do pass.

Page 7 of the bill, after line 12, add the following:

SEC. 7. Section 601 of the National Service Life Insurance Act of 1940, approved October 8, 1940, is hereby amended by adding at the end thereof the following subsection:

"(f) The terms 'parent', 'father', and 'mother', include a father, mother, father through adoption, mother through adoption, and persons who have stood in loco parentis to a member of the military or naval forces at any time prior to entry into service for a period of not less than one year."

SEC. 8. Section 602 (g) of the National Service Life Insurance Act of 1940, approved October 8, 1940, is hereby amended by striking therefrom the following: "(including person in loco parentis if designated as beneficiary by the insured)".

SEC. 9. Section 602 (h) (3) (C) of the National Service Life Insurance Act of 1940, approved October 8, 1940, is hereby amended to read as follows:

"(C) if no widow, widower, or child, to the parent or parents of the insured who last bore that relationship, if living, in equal shares;"

SEC. 10. Effective the first day of the month next following the enactment of this Act, in no event shall monthly payments of yearly renewable term or automatic, or National Service Life Insurance serve to reduce amounts of compensation or pension otherwise payable under existing compensation or pension laws. Section 5, Act of July 19, 1939 (38 U. S. C. 472b), as amended by section 2, Act of August 21, 1941 (Public Law Numbered 242, Seventy-seventh Congress) is modified accordingly."

The purpose of the bill is fully explained in a letter addressed to the President of the Senate by the Administrator of Veterans' Affairs dated May 14, 1942, which is made a part of this report. It will be noted therefrom that the provisions of subsection (3) of section 602 (d) which was added to the National Service Life Insurance Act of 1940 by section 10 of Public, No. 360, Seventy-seventh Congress,

approved December 20, 1941, have been found to leave too much to construction.

The bill is designed to clarify the questions arising thereunder, to afford protection to the additional cases indicated, and to establish definite procedure relative to claims, waiver of premiums, and issuance of policies.

The committee amendments are for the purpose of including sections 7 to 10, inclusive.

Sections 7 to 9 are for the purpose of clarifying the existing legislation pertaining to the permitted class of beneficiaries, with particular reference to the terms "parent," "father," and "mother."

These terms as used in the original act and the amendment of December 20, 1941, are not defined. As a result it could be held that only natural parents are included notwithstanding that in a given case the soldier may have been deserted by the natural parents and have been raised and supported wholly by an adoptive parent or parents. It is intended that they may be designated by the insured and that in case of automatic benefits, failure of designation or death of beneficiary, a person within the class as defined who last bore and exercised the parental relationship may be paid as beneficiary. Sections 8 and 9 are merely perfecting changes in existing law to conform to such intent.

Section 10 would amend section 5 of the act of July 19, 1939 (38 U. S. C. 472b), as amended by section 2 of the act of August 21, 1941 (Public Law No. 242, 77th Cong.), to remove the insurance limitation which, under the existing law, precludes the payment of the higher rates of death compensation or pension where the monthly payment of compensation or pension under Veterans Regulation No. 1 (g), and the monthly payment of yearly renewable term or automatic insurance, or national service life insurance aggregates or exceeds the amount of compensation or pension authorized under section 5 of the act of July 19, 1939, Public, No. 198, Seventy-sixth Congress. Removal of the insurance limitation is deemed advisable because (1) the rates established under Public, No. 198, Seventy-sixth Congress, are considered to be justified for wartime service-connected death cases; (2) such rates should not be reduced because of the added protection the service person secured for his dependents by purchasing insurance—there being presently relatively few cases wherein automatic insurance benefits are payable; and (3) its removal will simplify and expedite adjudication of claims for death pension or compensation.

The letter from the Administrator of Veterans' Affairs to the President of the Senate is as follows:

[Copy]

MAY 14, 1942.

The PRESIDENT OF THE SENATE,
The Capitol, Washington, D. C.

SIR: There is transmitted herewith a draft of a bill to amend subsection 3 of section 602 (d) of the National Service Life Insurance Act, as amended, and for other purposes, with the request that it be referred to the appropriate committee of the Senate, in order that it may be introduced and enacted into law. For the reasons hereinafter set forth, early enactment of the proposed legislation is recommended as urgently necessary and desirable.

Subsection 3 of section 602 (d), which was added to the National Service Life Insurance Act of 1940 by section 10 of Public, No. 360, Seventy-seventh Congress, approved December 20, 1941, as now enacted, provides:

"(3) Any person in the active service on or after October 8, 1940, who, while in such service and before the expiration of one hundred and twenty days after the date of enactment of this amendatory Act, suffers in line of duty total disability continuously for six months or more without having in force at the time of such disability insurance under the War Risk Insurance Act, as amended, the World War Veterans' Act, 1924, as amended, or this Act, in the aggregate amount of at least \$5,000, shall be deemed to have applied for and to have been granted insurance in the aggregate sum of \$5,000 effective as of the date such disability was so suffered but not prior to October 8, 1940. Such premiums shall be waived during the continuation of such total disability. The Administrator is authorized and directed to transfer from the National Service Life Insurance appropriation to the National Service Life Insurance Fund such sums as may be necessary to cover all losses incurred and premiums waived under paragraphs (2) and (3) of this subsection."

In practice the provisions of subsection 3 have been found even at this early date to be almost inoperable in that too much is left to construction. For example, does the quoted language mean that the entire 6 months of total disability be "suffered" while in active service and before the expiration of 120 days after the date of the act, or that the inception only of the disability must be within such service and period? Does the provision respecting insurance in force refer to beginning of the total disability or any time within the 6 months' period? Is the question of waiver to be determined by the Administrator, and if so, is such determination final? Are policies to be issued, if so, when? That is, may one wait indefinitely, say 25 years, before claiming benefits, with consequent difficulty of securing adequate proof? Are these "automatic" provisions subject to jurisdiction of the courts? And finally, entirely within the limitation against extending further congressional relief contained in subsection (4), can any protection be afforded those captured, besieged, or otherwise isolated by the enemy with resultant impossibility of applying either for insurance or for automatic protection?

It is the opinion of the Veterans' Administration that the language above quoted should be clarified; that those protected by insurance for which no premium is charged ought not to be granted rights in the matter of waiver of premiums denied those who are required to make application for and pay premiums on their insurance; and that those who are captured, besieged, or otherwise isolated by the forces of the enemy between December 7, 1941, and April 20, 1942, who are or may be without any insurance protection and who are unable, by reason of circumstances of which they have no control, to apply for the same, are in as great need of insurance protection as those who are known to be totally disabled. Further, it is believed there should be a definite limitation upon the time in which insurance protection, or benefit, under such provisions may be claimed, and that there should be relief for those who through legal or mental incompetence are unable to apply within the limited time.

The enclosed draft of the bill is designed to meet the questionable features above pointed out, and to afford protection to the additional cases indicated.

Section 1 of the proposed bill repeals and amends subsection 3 as of the original effective date and provides (A) that the 6 months' total disability upon which insurance protection is based must commence before April 20, 1942, and exist for 6 or more months without interruption, and that in such case premiums will be waived until 6 months after the insured ceases to be totally disabled or until April 20, 1943, whichever is the earlier date, and that such protection shall cease and terminate unless within such period the insured, if living, makes application in writing for continuance of all or any part of such insurance and shall submit evidence satisfactory to the Administrator of entitlement to waiver of premiums under section 602 (n) or tender the premiums thereafter becoming due. It is provided that waiver of premiums under section 602 (n) shall not be denied under this subsection on the ground that total disability commenced prior to the effective date of such insurance, and it is also provided that anyone granted insurance upon application after becoming totally disabled, and who but for such application would have been entitled to insurance under this subsection, shall have the right, upon application within the time and in the manner as above limited, to elect to surrender insurance applied for and to be issued insurance hereunder, or if such insurance has lapsed without election, that such person shall be considered subject in all respects to the provisions of this subsection, as hereby amended.

And (B) grants insurance protection to those captured, besieged, or otherwise isolated by the forces of an enemy of the United States for a period of at least

30 days, and provides that such insurance shall remain in force and premiums on such insurance shall be waived while such persons remain so captured, besieged, or isolated and for 6 months thereafter, at which time such insurance shall cease and terminate unless such person shall make application in writing for continuance of all or any part of such insurance and submit evidence satisfactory to the Administrator of entitlement to waiver of premiums, or tender the premiums thereafter becoming due.

Section 2 of the proposed bill provides that any person deemed to have been granted insurance under subsection (3) (A) or (B) dies without filing application and within the time limited therefor, death insurance benefits shall be payable in the manner and to the persons as stated in subsection (2). This section requires application for insurance payments under subsection (2) or (3) to be filed within 1 year of the date of death of the insured or within 1 year after the date of enactment of the bill, whichever is the later date, and requires proof of relationship and dependency of the applicant satisfactory to the Administrator. If an applicant is shown to the satisfaction of the Administrator to have been mentally or legally incompetent at the time the right to apply for the continuation of insurance or death benefits expires, such applicant may make such application at any time within 1 year after the removal of such disability.

Section 3 of the proposed bill would add a new subsection (6) to section 602 (d) to provide that policies issued upon application, as provided in subsection (3) (A) or (B), shall be issued upon the same terms and conditions as are contained in the standard policies of national service life insurance.

Section 4 of the proposed bill contains the present provision of law authorizing the Administrator to transfer from the national service life insurance appropriation to the national service life insurance fund such sums as may be necessary to cover the losses incurred and the premiums waived under subsections (2), (3) and (4) of section 602 (d), as amended.

Section 5 of the proposed bill would amend subsection 602 (n) of the National Service Life Insurance Act of 1940 to authorize waiver of premiums during the continuous total disability of the insured, which continues or has continued for 6 or more consecutive months, effective as of the commencement of such disability if the disability commenced subsequent to the date of application for insurance while the insurance was in force under premium-paying conditions and prior to the insured's sixtieth birthday, but waiver may not be granted of any premium becoming due more than 1 year prior to receipt in the Veterans' Administration of application for the same, except when failure to make such application was due to circumstances beyond the control of the insured, and to authorize refund of any premiums paid for months during which such waiver is effective. The Administrator is authorized to require examination or reexamination of an insured claiming entitlement to waiver and to deny benefits for failure to cooperate. The waiver of premiums shall cease as of the date of finding that the insured is no longer totally disabled but the policy of insurance may be continued by payment of premiums. Premium rates on insurance are to be calculated without charge for the cost of waiver of premiums and no deductions from benefits otherwise payable are to be made on account of any premiums waived.

Section 6 of the proposed bill would amend section 617 of the National Service Life Insurance Act of 1940 to make the decision of the Administrator as to waiver or nonwaiver of premiums under this act, as now or hereafter amended, conclusive and binding on the court.

The bill, if enacted, will result in some saving to the Government by requiring prompt determination of the amount of insurance protection granted by reason of total disability, and will result in additional cost for the insurance protection of those captured, besieged, or isolated by an enemy of the United States. The Veterans' Administration has not sufficient data upon which to estimate such increased cost.

Advice has been received from the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress.

Respectfully,

FRANK T. HINES, *Administrator.*

