

for the work of other non-attorneys such as paralegals and law students based upon prevailing market rates for the kind and quality of the services furnished. 28 U.S.C. §2412(d)(2)(A). See, *Sandoval v. Brown*, 9 Vet. App. 177, 181 (1996).

LEGISLATIVE PROVISIONS NOT ADOPTED  
ARLINGTON NATIONAL CEMETERY

*Current law*

Eligibility for burial at Arlington National Cemetery is governed by federal regulations at section 553.15 of title 32, Code of Federal Regulations. The following categories of persons are eligible for in-ground burial: active duty members of the Armed Forces, except those members serving on active duty for training; retired members of the Armed Forces who have served on active duty, are on a retired list and are entitled to receive retirement pay; former members of the Armed Forces discharged for disability before October 1, 1949, who served on active duty and would have been eligible for retirement under 10 U.S.C. 1202 had the statute been in effect on the date of separation; honorably discharged members of the Armed Forces awarded the Medal of Honor, Distinguished Service Cross, Air Force Cross or Navy Cross, Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who served honorably and who died on or after November 30, 1993; provided they were honorably discharged from the Armed Forces, elected federal officials (the President, Vice President, and Members of Congress), federal cabinet secretaries and deputies, agency directors and certain other high federal officials (level I and II executives), Supreme Court Justices, and chiefs of certain diplomatic missions; the spouse, widow or widower, minor child (under 21 years of age) and, at the discretion of the Secretary of the Army, certain unmarried adult children, and certain surviving spouses.

*House bill*

H.R. 4940 would codify eligibility criteria for in-ground burial at Arlington National Cemetery: members of the Armed Forces who die on active duty; retired members of the Armed Forces, including reservists who served on active duty; members or former members of a reserve component who, but for age, would have been eligible for retired pay; members of a reserve component who die in the performance of duty while on active duty training or inactive duty training; former members of the Armed Forces who have been awarded the Medal of Honor, Distinguished Service Cross (Air Force Cross or Navy Cross), Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who die on or after November 30, 1993; the President or any former President; members of the Guard or Reserves who served on active duty, who are eligible for retirement, but who have not yet retired; the spouse, surviving spouse, minor child and at the discretion of the Superintendent of Arlington, and certain unmarried adult children. Veterans who do not meet these requirements might qualify for the placement of their cremated remains in Arlington's columbarium.

H.R. 4940 would also provide the President the authority to grant a waiver for burial at Arlington in the case of an individual not otherwise eligible for burial under the criteria outlined above but whose acts, service, or contributions to the Armed Forces were so extraordinary as to justify burial at Arlington. The President would be allowed to delegate the waiver authority only to the Secretary of the Army.

H.R. 4940 would codify existing regulatory eligibility for interment of cremated re-

mains in the columbarium at Arlington (generally, this includes all veterans with honorable service and their dependents), clarify that only memorials honoring military service may be placed at Arlington and set a 25-year waiting period for such memorials, and clarify that in the case of individuals buried in Arlington before the date of enactment, the surviving spouse is deemed to be eligible if buried in the same gravesite.

*Senate bill*

The Senate Bill contains no comparable provision.

Increase of Veterans' Mortgage Life Insurance ("VMLI") Coverage to \$150,000

*Current law*

Section 2106(b) of title 38, United States Code, provides that VMLI may not exceed \$90,000.

*House bill*

Section 5(a) of H.R. 4085 would increase the maximum amount of coverage available under Veterans' Mortgage Life Insurance from \$90,000 to \$150,000. This would increase the amount of the outstanding mortgage, which would be payable if the veteran were to die before the mortgage is paid in full.

*Senate bill*

The Senate Bill contains no comparable provision.

Uniform Home Loan Guaranty Fees for Qualifying Members of the Selected Reserve and Active Duty Veterans

*Current law*

Section 3729(b) of title 38, United States Code, provides the amounts in fees to be collected from each person participating in VA's Home Loan Guaranty Program. Currently, members of the Selected Reserve pay a 0.75 percent higher funding fee under the home loan program than other eligible veterans.

*House bill*

Section 4 of H.R. 4085 would amend the Loan Fee Table in section 3729(b) of title 38, United States Code, to provide for uniformity in the funding fees charged to members of the Selected Reserve and active duty veterans for VA home loans. The fee would be reduced for the period beginning on October 1, 2002, and ending on September 30, 2005.

*Senate bill*

The Senate Bill contains no comparable provision.

Prohibit Assignment of Monthly Veterans Benefits and Create an Education and Outreach Campaign About Financial Services Available to Veterans

*Current law*

Section 5301 of title 38, United States Code, currently prohibits the assignment or attachment of a veteran's disability compensation or pension benefits. In recent years, private companies have offered contracts to veterans that exchange up-front lump sums for future benefits.

*Senate bill*

Section 105 of S. 2237 would clarify the applicability of the prohibition on assignment of veterans benefits through agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation. This provision would make violation of this prohibition punishable by a fine and up to one year in jail.

This provision would also require VA to create a five-year education and outreach campaign to inform veterans about available financial services.

*House bill*

The House Bills contain no comparable provision.

Clarification of Retroactive Application of Provisions of the Veterans Claims Assistance Act

*Current law*

Public Law 106-475, the Veterans Claims Assistance Act of 2000 ("VCAA"), restored and enhanced VA's duty to assist claimants in developing their claims for veterans benefits. Specifically, section 3(a) of the VCAA requires VA to take certain steps to assist claimants.

Two recent decisions by the U.S. Court of Appeals for the Federal Circuit have found that the provisions in the VCAA pertaining to VA's duty to assist cannot be applied retroactively to claims pending at the time of its enactment. In *Dyment v. Principi*, 287 F.3d 1377 (Fed. Cir. 2002), the Federal Circuit stated: "The Supreme Court has held that a federal statute will not be given retroactive effect unless Congress has made its contrary intention clear. There is nothing in the VCAA to suggest that section 3(a) was intended to applied [sic] retroactively." In *Bernklau v. Principi*, 291 F.3d 795, 806 (Fed. Cir. 2002), the Court again concluded: "[S]ection 3(a) of the VCAA does not apply retroactively to require that proceedings that were complete before the Department of Veterans Affairs and were on appeal to the Court of Appeals for Veterans Claims or this court be remanded for readjudication under the new statute."

*Senate bill*

Section 504 of S. 2237 would apply section 3 of VCAA retroactively to cases that were ongoing either at various adjudication levels within VA or pending at the applicable Federal courts prior to the date of VCAA's enactment. Section 505 of the Senate Bill would provide for claims decided between the handing down of the *Dyment* case and enactment of this provision to receive the full notice, assistance, and protection afforded under the VCAA.

*House bill*

The House Bills contain no comparable provision.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the various titles are amended.

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the measures just passed, the Clerk be authorized to correct spelling, punctuation, numbering, and cross references, and to make such other changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measures just passed and to insert extraneous material thereon.