

SECURING AMERICA'S VETERANS INSURANCE NEEDS
AND GOALS ACT OF 2010

SEPTEMBER 28, 2010.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. FILNER, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5993]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5993) to amend title 38, United States Code, to ensure that beneficiaries of Servicemembers' Group Life Insurance receive financial counseling and disclosure information regarding life insurance payments, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Securing America’s Veterans Insurance Needs and Goals Act of 2010” or the “SAVINGS Act of 2010”.

SEC. 2. FINANCIAL COUNSELING AND DISCLOSURE INFORMATION FOR SERVICEMEMBERS’ GROUP LIFE INSURANCE BENEFICIARIES.

(a) FINANCIAL COUNSELING AND DISCLOSURE INFORMATION.—

(1) IN GENERAL.—Section 1966 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) In order to be an eligible life insurance company under this section, a life insurance company shall—

“(A) make available, both orally and in writing, financial counseling to a beneficiary or other person otherwise entitled to payment upon the establishment of a valid claim under section 1970(a) of this title; and

“(B) at the time that such beneficiary or other person entitled to payment establishes a valid claim under section 1970(a), provide to such beneficiary or other person the disclosures described in paragraph (2).

“(2) The disclosures provided pursuant to paragraph (1)(B) shall—

“(A) be provided both orally and in writing; and

“(B) include information with respect to the payment of the claim, including—

“(i) an explanation of the methods available to receive such payment, including—

“(I) allowing the insurance company to maintain the payment;

“(II) lump-sum payment; and

“(III) any alternative methods;

“(ii) an explanation that any such payment that is maintained by the life insurance company is not insured by the Federal Deposit Insurance Corporation;

“(iii) an explanation that interest earned on any such payment that is maintained by the life insurance company will be comparable to on-demand account interest rates; and

“(iv) other relevant information.

“(3) In order to be an eligible life insurance company under this section, a life insurance company may not charge any fees to a beneficiary or other person otherwise entitled to payment upon the establishment of a valid claim under section 1970(a) with respect to maintaining such payment with the company.

“(4) The Secretary shall include in each annual performance and accountability report submitted by the Secretary to Congress information concerning—

“(A) the number of individuals who received financial counseling under paragraph (1)(A);

“(B) the number of individuals who received the disclosures under paragraph (1)(B);

“(C) the information received by such individuals during such counseling; and

“(D) any recommendations, complaints, or other information with respect to such counseling that the Secretary considers relevant.”.

(2) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations to carry out section 1966(e) of title 38, United States Code, as added by paragraph (1).

(b) OFFICE OF SURVIVORS ASSISTANCE.—

(1) ADVISORY ROLE.—Subsection (b) of section 321 of such title is amended—

(A) by striking “The Office” and inserting “(1) The Office”; and

(B) by adding at the end the following:

“(2) The Director of the Office shall attend each meeting of the Advisory Council on Servicemembers’ Group Life Insurance under section 1974 of this title.”.

(2) RESOURCES.—Subsection (d) of such section is amended—

(A) by striking “The Secretary” and inserting “(1) The Secretary”; and

(B) by adding at the end the following:

“(2) In carrying out paragraph (1), the Secretary shall ensure that the Office has the personnel necessary to serve as a resource to provide individuals described in paragraph (1) and (2) of subsection (a) with information on how to receive the Servicemembers’ Group Life Insurance financial counseling pursuant to section 1966(e)(1) of this title.”.

PURPOSE AND SUMMARY

H.R. 5993 was introduced on July 30, 2010, by Representative Deborah L. Halvorson of Illinois. H.R. 5993, as amended, would ensure that beneficiaries of Servicemembers’ Group Life Insurance (SGLI) policies receive meaningful financial counseling and improved disclosure information regarding life insurance payment options. It also would require that the Secretary of the U.S. Department of Veterans Affairs (VA) provide to Congress in their annual performance and accountability report information relating to the number of individuals who received the financial counseling; the type of information provided to those individuals; and recommendations, complaints, or other information regarding the counseling deemed relevant by the Secretary.

This legislation would require the Director of the Office of Survivors Assistance (OSA) to attend each SGLI Advisory Council meeting. H.R. 5993 would also require that the Secretary of VA ensure that the OSA have adequate staffing to serve as a resource for beneficiaries on how they may receive the financial counseling offered.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 5993 would require that a life insurance company, as a condition of eligibility for participation under section 1966 of title 38, United States Code, provide financial counseling and disclosures to beneficiaries eligible for payment under a SGLI policy. The bill would also require the Secretary of VA to report to Congress on the financial counseling requirements as outlined in the legislation. Additionally, it would allow the OSA to serve as an information referral resource to those beneficiaries seeking information on financial counseling.

This legislation arises out of recent news reports that raised concerns about the nature of accounts currently administered by the Prudential Insurance Company of America (Prudential) to SGLI beneficiaries pursuant to authority vested in the Secretary of VA under section 1966 of title 38, United States Code, to purchase such policies. These reports highlighted at least two beneficiaries who reported problems with several vendors not accepting drafts provided to them by their life insurance company for the allocation of funds contained in Retained Asset Accounts (RAA or RAAs). Prudential calls its Retained Asset Account vehicle the “Alliance Account.”

An RAA operates as an interest-bearing demand account maintained by a life insurance company that is intended to allow sufficient time for beneficiaries to decide how best to allocate the proceeds of their benefit. Because the insurance company, in this instance Prudential, is not a bank, the drafts do not function exactly as would a traditional check. Furthermore, because the accounts are not maintained by a bank or other recognized financial institu-

tion, they are not protected by the Federal Deposit Insurance Corporation.

The news reports also focused on the fact that the money from these accounts is pooled in the company's general fund rather than segregated in any respect. The general fund earns the company a higher rate of interest than it provides to beneficiaries through the account which is more similar to other demand account rates offered at financial institutions, such as banks.

It was reported to the Committee by Prudential that it currently has 27,000 group clients, with about 24 million employees covered by life insurance, including its own employees. It was also reported to the Committee by the American Council of Life Insurers that RAAs have represented the industry standard for administering insurance proceeds pay-outs by its member insurance companies since 1999. As of June 30, 2010, Prudential reported that 10,038 or 7.5 percent of its RAAs are held by SGLI and VGLI beneficiaries. While the bill is silent on the suitability of the RAAs for the SGLI (and VGLI) program, the Committee intends to conduct further oversight on this issue.

The beneficiaries featured in the news reports indicated that they were not made aware of the true nature of the RAAs. H.R. 5993 would ensure that SGLI beneficiaries receive increased financial counseling, and that the insurance company that manages the SGLI policies for the VA provide more disclosure in regard to all of the available options to receive policy proceeds. The Committee found that the current information provided by Prudential and VA did not accomplish this end.

Servicemembers' Group Life Insurance (SGLI) program

SGLI provides group life insurance for the Uniformed Services, such as servicemembers on active duty, ready reservists, and members of the National Guard, among others. SGLI was established in 1965 in response to resistance from private life insurance providers that were unwilling to independently underwrite coverage for members of the Armed Services, primarily because they could not adequately predict the number of casualties for the Vietnam conflict. In 1965, Congress directed the Administrator of the Veterans Administration to purchase group life insurance to meet the need for government-backed insurance for the armed forces. The Administrator selected Prudential. According to information obtained by the Committee, Prudential has maintained a separate office for SGLI and has administered the policies with virtually no complaint for the past 45 years.

Life insurance benefits from SGLI policies are managed by Prudential through Retained Asset Accounts. RAAs are a life insurance claims settlement mechanism that has been available to consumers for at least two decades.¹ The accounts were initially created at the request of consumers to provide options for receiving benefits from a life insurance policy. When a beneficiary makes a proper claim, an RAA is established with the life insurance company for that beneficiary. The beneficiary may immediately draw on that account with drafts (often called "checks") provided by the insurance com-

¹ See e.g. letter from Mr. Thomas R. Sullivan, Insurance Commissioner, State of Connecticut, to Attorney General Richard Blumenthal, July 30, 2010.

pany. With the drafts, a beneficiary at any time may withdraw the entire lump sum of the account and deposit it with a financial institution, invest it, or spend it as they see fit. According to VA, on average, 25 percent of SGLI beneficiaries close their retained asset account within one-month of establishment and 84 percent within one-year after establishment.

The beneficiary may also leave the funds in the account until they are prepared to decide where best to allocate the funds. During the time that the money is maintained in the RAA, it earns interest at a rate set by Prudential, which is currently .5 percent. Since Prudential is not a financial institution, the funds maintained in the RAA are not protected by the Federal Deposit Insurance Corporation. The Committee found that this critical information was not being provided in any form to beneficiaries by either the company or VA.

While the RAA is maintained with Prudential, the company pools the funds with its general fund. The company's general fund is then invested in a number of ways, including some mechanisms with higher risk and therefore greater return. The interest rate for Prudential's general fund runs between roughly 4–5 percent at the time of Committee examination. The Committee found that the rate of return offered by Prudential was not inconsistent with the rate of return for other demand accounts, like general savings and checking accounts, offered by financial institutions such as banks or credit unions.

Greater disclosure, transparency and financial counseling for SGLI beneficiaries

H.R. 5993 would require the insurance company to provide all beneficiaries with financial counseling along with greater disclosures, both orally and in writing. The Committee believes that these improvements would better inform the beneficiaries of the facts associated with disbursement of the insurance proceeds. This includes the ability to receive a lump sum payment—currently provided in the form of a check, to maintain a lump-sum payment with the insurance company in an RAA, to receive 36 equal monthly installments which also collect interest paid by the insurance company, and any other options that may become available.

The company also would be required to disclose that the rate of return on funds maintained by the insurance company will be comparable to those paid for similar demand accounts maintained by financial institutions. H.R. 5993 is not intended to contravene any provisions of current law as outlined under section 1970(d) of title 38, United States Code. H.R. 5993 also is not intended to authorize the retained asset account payment mechanism. Finally, H.R. 5993 is not intended to require that VA provide financial counseling through its congressionally-mandated OSA, created pursuant to section 222 of P.L. 110–389 (122 Stat. 4145). Rather, this subsection of H.R. 5993 is intended to ensure that the Secretary equip this office with proper information to serve as a resource for survivors and beneficiaries.

The Committee notes that in response to this legislation, beneficiaries and actions by this Committee and other stakeholders, VA has recently stated that it now will modify all SGLI/VGLI related information, including frequently asked questions, Web site infor-

mation and handbooks to clearly and completely explain all aspects of the Alliance Account offered by Prudential and all options available to the beneficiary. VA will require that the insurance company conduct follow-up contact with beneficiaries whose accounts remain open after six months to confirm that the beneficiaries understand the terms of their account. Consistent with H.R. 5993, the Committee believes that this follow-up contact should be made both orally and in writing.

VA also indicated that it now will clearly designate the source of correspondence by removing the SGLI seal from all checks, forms, and correspondence and replacing it to show that it is from the insurance company, with the subtitle of Office of Servicemembers' Group Life Insurance; and, that it will identify additional opportunities to encourage beneficiaries to use the free financial counseling service. VA also informed the Committee of its intention to work in coordination with the U.S. Department of Defense to improve support to Casualty Assistant Officers and Transition Assistance Program personnel by helping to prepare additional training materials and instruction. The Committee will continue to conduct stringent oversight and work with VA to ensure that it follows through on these intended changes and makes others as necessary.

HEARINGS

The Committee on Veterans' Affairs did not hold hearings on the legislation.

COMMITTEE CONSIDERATION

On September 15, 2010, the full Committee met in an open markup session, a quorum being present, and ordered H.R. 5993, as amended, reported favorably to the House of Representatives, by voice vote. During consideration of the bill the following amendment was considered:

An amendment in the nature of a substitute, offered by Mrs. Halvorson of Illinois to clarify that VA is not required to provide financial counseling was agreed to by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 5993 reported to the House. A motion by Mr. Filner of California to order H.R. 5993, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 5993 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 5993 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 5993 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 2010.

Hon. BOB FILNER,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5993, the Securing America's Veterans Insurance Needs and Goals Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

H.R. 5993—Securing America's Veterans Insurance Needs and Goals Act of 2010

H.R. 5993 would expand the obligations of insurance companies that provide group life insurance to members of the uniformed services through the Servicemembers Group Life Insurance (SGLI) program administered by the Department of Veterans Affairs (VA).

The bill would require participating companies to provide financial counselling to any beneficiary entitled to payment of a claim. Such counselling would have to include information regarding the advantages and disadvantages of depositing the payment in an account with the life insurance company versus an account at a financial institution. The information provided to the beneficiary also would have to specifically include a discussion of the conditions under which deposits would be insured by the Federal Deposit Insurance Corporation.

H.R. 5993 would prohibit the life insurance company from charging fees if a beneficiary chose to deposit a payment in an account with the company. In addition, the bill would require VA to maintain sufficient personnel to provide survivors with information on how to obtain SGLI financial counselling. Because VA currently provides financial counselling to beneficiaries receiving life insurance payments, including descriptions of payment options and full disclosure of the terms of any payment, CBO does not expect additional personnel would be required to implement the provisions of this bill. Furthermore, any additional costs would be offset by an increase in premiums to the SGLI program, if necessary; therefore, CBO estimates that implementing the bill would have no net budgetary impact.

Enacting H.R. 5993 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 5993 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Dwayne M. Wright. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 5993 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 5993.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. 5993 is provided by Article I, section 8 of the Constitution of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section would provide the short title of H.R. 5993 as the “Securing America’s Veterans Insurance Needs and Goals Act of 2010” or the “SAVINGS Act of 2010.”

Section 2. Financial counseling and disclosure information for servicemembers’ Group Life Insurance beneficiaries

Subsection (a) of section 2 of H.R. 5993 would amend section 1966 of title 38, United States Code, by adding a new subsection (e) following section 1966(d).

New paragraph (1) would require an eligible insurance company to provide beneficiaries of valid 1970(a) claims with financial counseling both orally and in writing.

New paragraph (2) would require that the insurance company provide disclosure information both orally and in writing on methods available to receive proceeds of payment, including maintaining an account with the insurer’s receipt of a lump-sum payment, receipt of 36 monthly payments; on the type of interest rates earned on payments maintained by the insurance company; and, information on whether the funds maintained with the insurer are protected by the FDIC.

New paragraph (3) would prevent an eligible life insurance company from charging any fees for any reason in relation to benefits received from a valid claim under section 1970(a) including those that are maintained by the insurance company or paid in 36 equal monthly installments.

New paragraph (4) would require that each annual performance and accountability report submitted to Congress by the VA include information on the number of beneficiaries who received financial counseling, the type of information provided to those individuals, and any recommendations, complaints, or other relevant information related to such counseling.

Subsection (b) of H.R. 5993 would require that the Director of the Office of Survivors Assistance attend each meeting of the Advisory Council on Servicemembers’ Group Life Insurance under section 1974 of title 38, United States Code. In addition, this subsection would require that VA ensure that the Office of Survivors Assistance have adequate staff to provide beneficiaries with information on how to receive financial counseling.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

* * * * *

§ 321. Office of Survivors Assistance

(a) * * *

(b) **ADVISORY DUTIES.**—**[The Office]** (1) *The Office* shall serve as a primary advisor to the Secretary on all matters related to the policies, programs, legislative issues, and other initiatives affecting the survivors and dependents described in subsection (a).

(2) *The Director of the Office shall attend each meeting of the Advisory Council on Servicemembers' Group Life Insurance under section 1974 of this title.*

* * * * *

(d) **RESOURCES.**—**[The Secretary]** (1) *The Secretary* shall ensure that appropriate personnel, funding, and other resources are provided to the Office to carry out its responsibilities.

(2) *In carrying out paragraph (1), the Secretary shall ensure that the Office has the personnel necessary to serve as a resource to provide individuals described in paragraph (1) and (2) of subsection (a) with information on how to receive the Servicemembers' Group Life Insurance financial counseling pursuant to section 1966(e)(1) of this title.*

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PART II—GENERAL BENEFITS

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CHAPTER 19—INSURANCE

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SUBCHAPTER III—SERVICEMEMBERS' GROUP LIFE INSURANCE

* * * * *

§ 1966. Eligible insurance companies

(a) * * *

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(e)(1) *In order to be an eligible life insurance company under this section, a life insurance company shall—*

(A) *make available, both orally and in writing, financial counseling to a beneficiary or other person otherwise entitled to payment upon the establishment of a valid claim under section 1970(a) of this title; and*

(B) *at the time that such beneficiary or other person entitled to payment establishes a valid claim under section 1970(a), provide to such beneficiary or other person the disclosures described in paragraph (2).*

- (2) *The disclosures provided pursuant to paragraph (1)(B) shall—*
 - (A) *be provided both orally and in writing; and*
 - (B) *include information with respect to the payment of the claim, including—*
 - (i) *an explanation of the methods available to receive such payment, including—*
 - (I) *allowing the insurance company to maintain the payment;*
 - (II) *lump-sum payment; and*
 - (III) *any alternative methods;*
 - (ii) *an explanation that any such payment that is maintained by the life insurance company is not insured by the Federal Deposit Insurance Corporation;*
 - (iii) *an explanation that interest earned on any such payment that is maintained by the life insurance company will be comparable to on-demand account interest rates; and*
 - (iv) *other relevant information.*
- (3) *In order to be an eligible life insurance company under this section, a life insurance company may not charge any fees to a beneficiary or other person otherwise entitled to payment upon the establishment of a valid claim under section 1970(a) with respect to maintaining such payment with the company.*
- (4) *The Secretary shall include in each annual performance and accountability report submitted by the Secretary to Congress information concerning—*
 - (A) *the number of individuals who received financial counseling under paragraph (1)(A);*
 - (B) *the number of individuals who received the disclosures under paragraph (1)(B);*
 - (C) *the information received by such individuals during such counseling; and*
 - (D) *any recommendations, complaints, or other information with respect to such counseling that the Secretary considers relevant.*

* * * * *

ADDITIONAL VIEWS OF HONORABLE STEVE BUYER

H.R. 5993, as amended, acknowledges a controversial practice by the Department of Veterans Affairs (VA) and the Prudential Insurance Company of America known as retained asset or “Alliance” accounts for paying Servicemembers Group Life Insurance (SGLI) benefits to families of deceased servicemembers.

In response to media reports regarding the VA’s use of retained asset accounts, H.R. 5993 was introduced on July 30, 2010. It was then placed on the full Committee mark-up agenda on September 15, 2010. During the intervening period, the neither the Committee on Veterans’ Affairs nor any of its subcommittees held legislative or oversight hearings on the issue or the bill, and consequently no record was established on which we could base informed policy decisions. The issues surrounding retained asset accounts are complex and unfamiliar to most of the Members of the Committee.

We should not have to rely on media reports and our own individual efforts to obtain information to fully understand the implications of passing this legislation and any possible unintended consequences it could bring. The sponsor of this bill argues that H.R. 5993, as amended, does not change the existing payment authority and does not address the legality of retained asset accounts for SGLI purposes. I disagree and respectfully suggest that it may.

While it is laudable to require VA to counsel SGLI beneficiaries on their benefits and the payment methods available to them, H.R. 5993, as amended, goes farther and specifically requires counseling about something euphemistically termed “maintaining the payment.” This is clearly a reference to the retained asset account method of payment and could well be interpreted as ratifying it or clarifying the existing statutory payment authority. The use of these accounts in place of the SGLI lump sum payment is currently the subject of a lawsuit in a federal district court² by five plaintiffs against the Prudential Insurance Company of America. Prudential is VA’s contractor for managing the SGLI program and making the payments to beneficiaries. New York’s Attorney General has launched an investigation of Prudential as well.

This controversial issue is placed directly before the Committee by this bill. We should not be effectively approving this practice by specifically requiring VA to counsel beneficiaries about it. Instead, we should give it careful scrutiny and make sure we understand it sufficiently before deciding whether to expressly authorize it in law for the future. Our servicemembers, veterans, their families, VA, Prudential, and life insurance experts should all have an opportunity to weigh in on the record. I want to make it clear that

²Lucey v. Prudential Insurance Company of America, 10–30163, U.S. District Court, Western District of Massachusetts (Springfield).

I am not taking a position for or against this practice with my additional views.

The real problem is that retained asset accounts, now that they have been questioned and are receiving scrutiny, appear not to conform to the payment authorization in section 1970(d) of title 38, United States Code, which only authorizes payment by a lump sum or 36 equal monthly installments, as follows:

(d) The member may elect settlement of insurance under this subchapter either in a lump sum or in thirty-six equal monthly installments. If no such election is made by the member the beneficiary or beneficiaries may elect settlement either in a lump sum or in thirty-six equal monthly installments. If the member has elected settlement in a lump sum, the beneficiary or beneficiaries may elect settlement in thirty-six equal monthly installments.

Certainly, it is a legitimate question whether the retained asset account is the same as a lump sum payment. With respect to SGLI, it is a question of first impression for the federal courts. Although this issue has lain dormant since VA approved the use of retained asset accounts in 1999, we are fully aware of it now. At the full Committee mark-up, the first time the Committee had the opportunity to discuss or consider HR 5993, I requested a prompt hearing on the bill before it was marked up, but the markup proceeded.

VA has already issued new guidelines on counseling that provides for more counseling and disclosure than would H.R. 5993, as amended. On September 13, 2010, VA released its new guidelines in the attached fact sheet: "Actions for Improving the Alliance Account Program." While VA's new counseling approach should give SGLI beneficiaries a much better understanding of their payment options, it does not address the basic problem that the use of retained asset accounts as a method of payment may not be authorized by law.

There is no critical necessity or emergency requiring passage of this bill without establishing a full record and giving it careful consideration. This Committee's consideration of H.R. 5993, as amended is premature and should have followed regular order.

STEVE BUYER.

