

Michigan Law Review

Volume 42 | Issue 3

1943

Life Insurance

Follow this and additional works at: <https://repository.law.umich.edu/mlr>



Part of the [Insurance Law Commons](#), and the [Military, War, and Peace Commons](#)

Recommended Citation

Life Insurance, 42 MICH. L. REV. 500 (1943).

Available at: <https://repository.law.umich.edu/mlr/vol42/iss3/10>

This Response or Comment is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

Life Insurance

The Soldiers' and Sailors' Civil Relief Act of 1940, as amended in 1942, contains provisions which are designed to enable the serviceman to avoid forfeiting life insurance because of the lack of financial resources.

Section 305, added by the 1942 amendments, covers the case in which the insured serviceman, prior to his entry into service, has assigned a policy on his life to an assignee as security for the performance of an obligation. It is provided that the creditor-assignee may not exercise any right or option which he would otherwise have a right to exercise by reason of the assignment without leave of court granted on application of the assignee. The court is authorized to refuse to permit such exercise, unless, in its opinion, the ability of the serviceman to comply with the terms of his obligation is not materially affected by reason of his military service. The prohibition is operative for the full period of military service and for one year thereafter. An exception is made of the case in which premiums on the policy are due and unpaid. However, it is to be noted that for this purpose premiums are not to be deemed due and unpaid if their ultimate payment is guaranteed by the government as stated below. Neither does the prohibition apply to an assignment made to an insurer in connection with a policy loan. Also, it no longer operates after the death of the serviceman. It is provided that the serviceman may waive the benefit of this provision by an instrument in writing executed during the period of service or within one year thereafter.

The provisions of article IV, sections 400 to 408, as amended in 1942, operate directly upon the insurer to prevent the forfeiture of life insurance policies for nonpayment of premiums, and give to the insurer the guarantee of the government for their ultimate payment. It applies to all private insurers whether they be regular companies or

mutual benefit associations, and to all policies whether on a life, endowment or term plan, which were executed and a premium paid thereon before October 6, 1942 (the date of the enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942), or not less than thirty days before the date on which the insured entered into the military service, and which are in force at the time application for protection is made as noted below. However, an exception is made of policies which restrict coverage, limit benefits, or require the payment of additional premium because of military service. Such policies are not protected by the act. Moreover, the act operates only in favor of the serviceman who is the owner or holder of an insurance policy on his own life, in which he still has an interest.

It is to be noted, also, that the act is not self-operating. To make it applicable to a particular policy of insurance, the insured serviceman, or a person designated by him, must make written application for such protection to the insurer and must send a copy of the application to the Veterans' Administration. If the insured is outside the continental United States (excluding Alaska and the Panama Canal Zone), the application may be made by a beneficiary. Even then the act does not become operative unless it is found by the Administrator of Veterans' Affairs that the policy in question is entitled to protection under the statute. If it is found to be entitled to protection, then the policy will not lapse, and it may not be terminated or forfeited by the insurer for nonpayment of a premium or any indebtedness or interest becoming due and payable subsequent to the date of the application and during the period of military service and the two years immediately following the termination of such service.

The total amount of insurance for which protection can be obtained under the act is limited to \$10,000. If application is made for the protection of policies exceeding this amount, the Administrator of Veterans' Affairs is authorized to have the insurance divided into two or more policies for a total amount of insurance within the maximum specified. In doing this the administrator is directed to give a preference to the policies which give the best security to the government.

For the protection of the government, it is provided that the insurer shall not make any payments of any kind to the insured on the policy, or permit him to purchase any dividend additions, or to receive any cash or loan value, while the policy is under the protection of the act, without the consent of the Veterans' Administration. All accretions during this period shall be added to the value of the policy.

The insurer is given the right to deduct the amount of all unpaid premiums, with interest at the rate specified or, if no rate is specified, then at the policy loan rate, from the value of the policy at its maturity, in making settlement under it, when the policy matures during

the period of protection. If it does not mature during the period of protection, and if the amount of the premium with interest thereon at the permissible rate, which became due during the period of protection, is not paid prior to the expiration of such period, the amount due shall be treated as a loan on the policy, provided the amount due is less than the cash surrender value of the policy. If the amount due exceeds the cash surrender value, it is provided that the policy shall terminate and the United States shall pay to the insurer any difference still owing to the insurer.

Any amount so paid by the United States is made an obligation of the insured to the United States which may be collected like any other obligation.

G. C. G.