

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88-130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 284. Regular Coast Guard; officers serving under temporary appointments

(a) Each officer of the Regular Coast Guard appointed under section 214 of this title who is serving in the grade of lieutenant (junior grade) or lieutenant and who has failed of selection for promotion to the grade of lieutenant or lieutenant commander, respectively, for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if on the date specified for his discharge in this section he is eligible for retirement under any law, be retired under that law on that date.

(b) Each officer subject to discharge or retirement under subsection (a) may elect to revert to his permanent grade.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 94-546, §1(23), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-546 substituted “promotion year” for “fiscal year”.

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Savings provisions in section 5(h) of Pub. L. 88-130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

(a) Each officer of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) if he has completed at least 20 years of active service or is eligible for retirement

under any law on June 30 of the promotion year in which his second failure of selection occurs, be retired on that date; or

(2) if ineligible for retirement on the date specified in clause (1) be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 93-283, §1(7), May 14, 1974, 88 Stat. 140; Pub. L. 94-546, §1(24), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 107-295, title IV, §412, Nov. 25, 2002, 116 Stat. 2118.)

AMENDMENTS

2002—Pub. L. 107-295 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1976—Pub. L. 94-546 substituted “promotion year” for “fiscal year” in cl. (1).

1974—Pub. L. 93-283 substituted “if he has completed at least 20 years of active service or is eligible” for “if eligible” in cl. (1).

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3 of Pub. L. 88-130 authorized the Secretary, until July 1, 1966, to convene boards to recommend for continuation on active duty officers of the Coast Guard on the active duty promotion list in specified categories.

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EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88-130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 286. Discharge in lieu of retirement; separation pay

(a) Each officer who is retained on active duty under section 283(a)(4), 283(b), or 285 of this title may, if he so requests, with the approval of the Secretary, be honorably discharged at any time prior to the date otherwise specified for his retirement or discharge.

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

(d) Notwithstanding subsections (a) and (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 107-295, title IV, §416(a)(3), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Pub. L. 107-295 substituted “separation” for “severance” in section catchline, added subsecs. (b) to (d), and struck out former subsec. (b) which read as follows: “Each officer discharged under this section or under section 282, 283, or 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months’ basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing this payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this sec-

tion until the total amount deducted equals the amount of the lump-sum payment.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-295, title IV, §416(c), Nov. 25, 2002, 116 Stat. 2122, provided that: “The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) [amending this section and sections 283, 286a, and 327 of this title] shall take effect 4 years after the date of enactment of this Act [Nov. 25, 2002], except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section, shall take effect on the date of enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) [amending the table of sections for this chapter] of this section shall take effect 4 years after the date of enactment of this Act.”

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3(p) of Pub. L. 88-130 authorized officers who failed of selection for continuation to request their discharge with severance pay computed in accordance with this section.

§ 286a. Regular warrant officers: separation pay

(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

(c) In determining a member’s years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(d) The acceptance of severance pay under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received severance pay under this section, until the total deductions equal the amount of such severance pay.

(Added Pub. L. 96-513, title V, §505(a)(1), Dec. 12, 1980, 94 Stat. 2918; amended Pub. L. 102-190, div. A, title XI, §1125(b)(1), Dec. 5, 1991, 105 Stat. 1505; Pub. L. 103-337, div. A, title V, §541(f)(2), Oct. 5, 1994, 108 Stat. 2766; Pub. L. 105-383, title II, §201(a), (b), Nov. 13, 1998, 112 Stat. 3414; Pub. L. 107-295, title IV, §416(a)(4), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Pub. L. 107-295 substituted “separation” for “severance” in section catchline, added subsecs. (a) to