

read as follows: “Notwithstanding any other law, when the running mate of a reserve officer serving in the grade of rear admiral (lower half) is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade.”

Subsec. (c). Pub. L. 108-293, §220(c), struck out “of subsection (a)” after “For the purposes”.

2002—Subsec. (a). Pub. L. 107-295 inserted “the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event” after “subchapter.”

1989—Subsec. (c). Pub. L. 101-225 inserted provision authorizing Secretary to adjust date of appointment.

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1983—Subsec. (b). Pub. L. 97-417 substituted provision that, notwithstanding any other law, when the running mate of a reserve officer serving in the grade of commodore is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade, for provision that, notwithstanding any other law and when a Reserve officer's running mate was so entitled, a Reserve officer in the grade of rear admiral was entitled to the pay and allowances of the upper half for duty performed.

§ 737. Type of promotion; temporary

Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 790 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

§ 738. Effect of removal by the President or failure of consent of the Senate

(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title.

(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1013.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 788 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (a) of this section, see section 2(d) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

§ 739. Failure of selection for promotion

(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board that originally would have considered the officer but for the error.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1013.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 796 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

§ 740. Failure of selection and removal from an active status

(a) The Secretary—

(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral (lower half).

(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

(c) Subject to section 12646 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or