

serving in the grade of lieutenant and who has failed of selection for promotion to the grade of lieutenant commander 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 has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date; or

(4) if, on the date specified for his discharge in clause (1), he has completed at least eighteen years of active service, 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)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended.

(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

(A) except as provided in subparagraph (B), be honorably discharged with separation pay computed under section 286 of this title;

(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.

(c) Each officer who has been continued on active duty under subsection (b) shall, unless earlier removed from active duty, be retired on the last day of the month in which he completes twenty years of active service.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 93-283, §1(6), May 14, 1974, 88 Stat. 140; Pub. L. 94-546, §1(22), Oct. 18, 1976, 90 Stat. 2520; Pub. L. 97-295, §2(9), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 104-324, title II, §205, Oct. 19, 1996, 110 Stat. 3907; Pub. L. 107-295, title IV, §416(a)(2), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Subsec. (b)(2)(A). Pub. L. 107-295 substituted “separation” for “severance”.

1996—Subsec. (b). Pub. L. 104-324 designated existing provisions as par. (1), struck out “Upon the completion of such a term he shall, unless selected for further continuation, be honorably discharged with severance pay computed under section 286 of this title, or, if eligible for retirement under any law, be retired.” at end of par. (1), and added par. (2).

1982—Subsec. (b). Pub. L. 97-295 substituted “of this title” for “of this chapter” after “section 251”.

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

1974—Subsec. (a)(3). Pub. L. 93-283 substituted “he has completed at least 20 years of active service or is eligible” for “he is eligible”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-295 effective 4 years after Nov. 25, 2002, see section 416(c) of Pub. L. 107-295, set out as a note under section 286 of this title.

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”.

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.

§ 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

Pub. L. 88-130, §3, Sept. 24, 1963, 77 Stat. 191, 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.

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.

§ 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.)