

§ 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (f)(3), is title XXVI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 893, which is classified principally to subchapter II (§ 8621 et seq.) of chapter 94 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of Title 42 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2011—Subsecs. (f) to (h). Pub. L. 112–81 redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: “Not later than March 1 of each year after 2001, the Secretary of Defense shall submit to Congress a report specifying the number of members of the armed forces who received, at any time during the preceding year, the supplemental subsistence allowance. In preparing the report, the Secretary of Defense shall consult with the Secretary of Homeland Security, with respect to the Coast Guard.”

2009—Subsec. (a)(2), (3)(B). Pub. L. 111–84 substituted “\$1,100” for “\$500”.

2008—Subsec. (a)(1), (3). Pub. L. 110–246, § 4002(b)(1)(A), (2)(T), substituted “supplemental nutrition assistance program” for “food stamp program”.

Subsec. (b)(1). Pub. L. 110–246, § 4002(b)(1)(A), (B), (2)(T), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977” and “supplemental nutrition assistance program” for “food stamp program”.

Subsec. (h)(2). Pub. L. 110–246, § 4002(b)(1)(B), (2)(T), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (h)(3). Pub. L. 110–246, § 4002(b)(1)(A), (B), (2)(T), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2006—Subsec. (b)(3)(B). Pub. L. 109–364, § 1071(c)(6), substituted “title” for “section”.

Subsec. (f). Pub. L. 109–163, § 608(b), as amended by Pub. L. 109–364, § 1071(e)(4), substituted “Secretary of Homeland Security, with respect to the Coast Guard” for “Secretary of Transportation” and struck out at end “No report is required under this subsection after March 1, 2006.”

Subsec. (i). Pub. L. 109–163, § 608(a), struck out heading and text of subsec. (i). Text read as follows: “No supplemental subsistence allowance may be provided under this section after September 30, 2006.”

2004—Subsec. (b)(2). Pub. L. 108–375, § 602(a)(1), substituted “concerned” for dash after “Secretary” and struck out “(A) shall not take into consideration the amount of the supplemental subsistence allowance payable under this section; but” and subpar. (B) designation before “shall take”.

Subsec. (b)(3). Pub. L. 108–375, § 602(a)(2), added par. (3).

Subsecs. (g) to (i). Pub. L. 108–375, § 602(b), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

2002—Subsec. (g)(1)(B). Pub. L. 107–296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (b)(1). Pub. L. 107–107 inserted “with dependents” after “a member of the armed forces”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title VI, § 602(b), Oct. 28, 2009, 123 Stat. 2347, provided that: “The amendments made

by subsection (a) [amending this section] shall take effect on October 1, 2009, and shall apply with respect to monthly supplemental subsistence allowances for low-income members with dependents payable on or after that date.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(T) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, § 1071(e), Oct. 17, 2006, 120 Stat. 2401, provided that the amendment made by section 1071(e)(4) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, § 602(c), Oct. 28, 2004, 118 Stat. 1944, provided that: “The amendments made by this section [amending this section] shall apply in determining, on or after the date of the enactment of this Act [Oct. 28, 2004], the eligibility of a person for a supplemental subsistence allowance under section 402a of title 37, United States Code, or for Federal assistance under a law specified in subsection (g) of such section, as so amended.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 106–398, § 1 [[div. A], title VI, § 604(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–147, provided that: “Section 402a of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month that begins not less than 180 days after the date of the enactment of this Act [Oct. 30, 2000].”

§ 403. Basic allowance for housing

(a) GENERAL ENTITLEMENT.—(1) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for housing at the monthly rates prescribed under this section or another provision of law with regard to the applicable component of the basic allowance for housing. The amount of the basic allowance for housing for a member will vary according to the pay grade in which the member is assigned or distributed for basic pay purposes, the dependency status of the member, and the geographic location of the member. The basic allowance for housing may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for housing as a member with dependents unless the member makes a certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be made in accordance with regulations prescribed by the Secretary of Defense.

(b) BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.—(1) The Secretary of Defense

shall prescribe the rates of the basic allowance for housing that are applicable for the various military housing areas in the United States. The rates for an area shall be based on the costs of adequate housing determined for the area under paragraph (2).

(2) The Secretary of Defense shall determine the costs of adequate housing in a military housing area in the United States for all members of the uniformed services entitled to a basic allowance for housing in that area. The Secretary shall base the determination upon the costs of adequate housing for civilians with comparable income levels in the same area. After June 30, 2001, the Secretary may not differentiate between members with dependents in pay grades E-1 through E-4 in determining what constitutes adequate housing for members.

(3) The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection may not be less than the product of—

(A) the total amount authorized to be paid for such allowance for the preceding fiscal year; and

(B) a fraction—

(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and

(ii) the denominator of which is the index of the national average monthly cost of housing for June of the second preceding fiscal year.

(4) An adjustment in the rates of the basic allowance for housing under this subsection as a result of the Secretary's redetermination of housing costs in an area shall take effect on the same date as the effective date of the next increase in basic pay under section 1009 of this title or other provision of law.

(5) On and after July 1, 2001, the Secretary of Defense shall establish a single monthly rate for members of the uniformed services with dependents in pay grades E-1 through E-4 in the same military housing area. The rate shall be consistent with the rates paid to members in pay grades other than pay grades E-1 through E-4 and shall be based on the following:

(A) The average cost of a two-bedroom apartment in that military housing area.

(B) One-half of the difference between the average cost of a two-bedroom townhouse in that area and the amount determined in subparagraph (A).

(6) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing within an area of the United States, the monthly amount of the allowance for the member may not be reduced as a result of changes in housing costs in the area or the promotion of the member.

(7)(A) Under the authority of this paragraph, the Secretary of Defense may prescribe a temporary increase in the rates of basic allowance for housing otherwise prescribed for a military housing area or a portion of a military housing area if the military housing area or portion thereof—

(i) is located in an area covered by a declaration by the President under section 401 of the

Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that a major disaster exists; or

(ii) contains one or more military installations that are experiencing a sudden increase in the number of members of the armed forces assigned to the installation.

(B) The Secretary of Defense shall base the amount of the increase to be made in the rates of basic allowance for housing for an area on a determination by the Secretary of the amount by which the costs of adequate housing for civilians have increased in the area by reason of the disaster or the influx of military personnel, except that the increase may not exceed the amount equal to 20 percent of the rate of basic allowance for housing otherwise prescribed for the area.

(C) A member may be paid a basic allowance for housing at a rate increased under this paragraph only if the member certifies to the Secretary concerned that the member has incurred increased housing costs in the area by reason of the disaster or the influx of military personnel.

(D) Subject to subparagraph (E), an increase in the rates of basic allowance for housing in an area under this paragraph shall remain in effect until the effective date of the first adjustment in rates of basic allowance for housing made for the area pursuant to a redetermination of housing costs in the area under this subsection that occurs after the date of the increase under this paragraph.

(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after December 31, 2014.

(C) BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.—(1) The Secretary of Defense may prescribe an overseas basic allowance for housing for a member of a uniformed service who is on duty outside of the United States. The Secretary shall establish the basic allowance for housing under this subsection on the basis of housing costs in the overseas area in which the member is assigned.

(2) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing in an overseas area and the actual monthly cost of housing for the member is not reduced, the monthly amount of the allowance in an area outside the United States may not be reduced as a result of changes in housing costs in the area or the promotion of the member. The monthly amount of the allowance may be adjusted to reflect changes in currency rates.

(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

(i) incurred by the member in occupying private housing outside of the United States; and

(ii) authorized or approved under regulations prescribed by the Secretary concerned.

(B) Expenses for which a member may be reimbursed under this paragraph may include losses

relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.

(d) BASIC ALLOWANCE FOR HOUSING WHEN DEPENDENTS DO NOT ACCOMPANY MEMBER.—(1) A member of a uniformed service with dependents who is on permanent duty at a location described in paragraph (2) may be paid a family separation basic allowance for housing under this subsection at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to that location, for members in the same grade at that location without dependents.

(2) A permanent duty location referred to in paragraph (1) is a location—

(A) to which the movement of the member's dependents is not authorized at the expense of the United States under section 476 of this title, and the member's dependents do not reside at or near the location; and

(B) at which quarters of the United States are not available for assignment to the member.

(3) If a member with dependents is assigned to duty in an area that is different from the area in which the member's dependents reside, the member is entitled to a basic allowance for housing as provided in subsection (b) or (c), whichever applies to the member, subject to the following:

(A) If the member's assignment to duty in that area, or the circumstances of that assignment, require the member's dependents to reside in a different area, as determined by the Secretary concerned, the amount of the basic allowance for housing for the member shall be based on the area in which the dependents reside or the member's last duty station, whichever the Secretary concerned determines to be most equitable.

(B) If the member's assignment to duty in that area is under the conditions of a low-cost or no-cost permanent change of station or permanent change of assignment, the amount of the basic allowance for housing for the member shall be based on the member's last duty station if the Secretary concerned determines that it would be inequitable to base the allowance on the cost of housing in the area to which the member is reassigned.

(C) If the member is reassigned for a permanent change of station or permanent change of assignment from a duty station in the United States to another duty station in the United States for a period of not more than one year for the purpose of participating in professional military education or training classes, the amount of the basic allowance for housing for

the member may be based on whichever of the following areas the Secretary concerned determines will provide the more equitable basis for the allowance:

(i) The area of the duty station to which the member is reassigned.

(ii) The area in which the dependents reside, but only if the dependents reside in that area when the member departs for the duty station to which the member is reassigned and only for the period during which the dependents reside in that area.

(iii) The area of the former duty station of the member, if different than the area in which the dependents reside.

(4) A family separation basic allowance for housing paid to a member under this subsection is in addition to any other allowance or per diem that the member receives under this title. A member may receive a basic allowance for housing under both paragraphs (1) and (3).

(e) EFFECT OF ASSIGNMENT TO QUARTERS.—(1) Except as otherwise provided by law, a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service appropriate to the grade, rank, or rating of the member and adequate for the member and dependents of the member, if with dependents, is not entitled to a basic allowance for housing.

(2) A member without dependents who is in a pay grade above pay grade E-6 and who is assigned to quarters in the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to the grade or rank of the member and adequate for the member, may elect not to occupy those quarters and instead to receive the basic allowance for housing prescribed for the member's pay grade by this section.

(3) A member without dependents who is in pay grade E-6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Secretary of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a uniformed service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the basic allowance for housing prescribed for the member's pay grade under this section.

(4) The Secretary concerned may deny the right to make an election under paragraph (2) or (3) if the Secretary determines that the exercise of such an election would adversely affect a training mission, military discipline, or military readiness.

(5) A member with dependents who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may be paid the basic allowance for housing if, because of orders of competent authority, the dependents are prevented from occupying those quarters.

(f) INELIGIBILITY DURING INITIAL FIELD DUTY OR SEA DUTY.—(1) A member of a uniformed service without dependents who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a

basic allowance for housing while on that initial field duty unless the commanding officer of the member certifies that the member was necessarily required to procure quarters at the member's expense.

(2)(A) Except as provided in subparagraphs (B) and (C), a member of a uniformed service without dependents who is in a pay grade below pay grade E-6 is not entitled to a basic allowance for housing while the member is on sea duty.

(B) Under regulations prescribed by the Secretary concerned, the Secretary may authorize the payment of a basic allowance for housing to a member of a uniformed service without dependents who is serving in pay grade E-4 or E-5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grades E-4 and E-5.

(C) Notwithstanding section 421 of this title, a member of a uniformed service in a pay grade below pay grade E-6 who is assigned to sea duty and is married to another member of a uniformed service is entitled to a basic allowance for housing subject to the limitations of subsection (e).

(3) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, shall prescribe regulations defining the terms "field duty" and "sea duty" for purposes of this section.

(g) RESERVE MEMBERS.—(1) A member of a reserve component without dependents who is called or ordered to active duty to attend accession training, in support of a contingency operation, or for a period of more than 30 days, or a retired member without dependents who is ordered to active duty under section 688(a) of title 10 in support of a contingency operation or for a period of more than 30 days, may not be denied a basic allowance for housing if, because of that call or order, the member is unable to continue to occupy a residence—

(A) which is maintained as the primary residence of the member at the time of the call or order; and

(B) which is owned by the member or for which the member is responsible for rental payments.

(2) The Secretary concerned may provide a basic allowance for housing to a member described in paragraph (1) at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to the location at which the member is serving, for members in the same grade at that location without dependents. The member may receive both a basic allowance for housing under paragraph (1) and under this paragraph for the same month, but may not receive the portion of the allowance authorized under section 474 of this title, if any, for lodging expenses if a basic allowance for housing is provided under this paragraph.

(3) Paragraphs (1) and (2) shall not apply if the member is authorized transportation of house-

hold goods under section 476 of this title as part of the call or order to active duty described in such paragraph.

(4) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

(A) A member who is called or ordered to active duty for a period of more than 30 days.

(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation.

(5) The Secretary of Defense shall establish a rate of basic allowance for housing to be paid to a member of a reserve component while the member serves on active duty under a call or order to active duty specifying a period of 30 days or less, unless the call or order to active duty is in support of a contingency operation.

(6)(A) This paragraph applies with respect to a member of a reserve component who performs active Guard and Reserve duty (as defined in section 101(d)(6) of title 10).

(B) The rate of basic allowance for housing to be paid to a member described in subparagraph (A) shall be based on the member's permanent duty station, even during instances in which the member is mobilized for service on active duty other than active Guard and Reserve duty.

(C)(i) During transitions in service status from active Guard and Reserve duty to other active duty and back to active Guard and Reserve duty, or following the start of new periods of service resulting from a change in orders, a member described in subparagraph (A) shall be considered as retaining uninterrupted eligibility to receive a basic allowance for housing in an area as provided for under subsections (b)(6) and (c)(2) so long as the member remains on active duty without a break in service.

(ii) Clause (i) does not apply if the member's permanent duty station changes as a result of orders directing a permanent change in station with the authority for the movement of household goods.

(iii) For purposes of clause (i), a break in active service occurs when one or more calendar days between active service periods do not qualify as active service.

(D) Subsections (d)(3) and (e) also apply to a member described in subparagraph (A).

(h) RENTAL OF PUBLIC QUARTERS.—Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents, of the National Oceanic and Atmospheric Administration and the Public Health Service), a member of a uniformed service, and the dependents of the member, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to an occupancy without charge by such a member and the dependents of the member, if any. Such a member may not, because of occupancy under

this subsection, be deprived of any money allowance to which the member is otherwise entitled for the rental of quarters.

(i) **TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS.**—A member of a uniformed service is entitled to a temporary basic allowance for housing (at a rate determined by the Secretary of Defense) while the member is in a travel or leave status between permanent duty stations, including time granted as delay en route or proceed time, when the member is not assigned to quarters of the United States.

(j) **AVIATION CADETS.**—The eligibility of an aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard for a basic allowance for housing shall be determined as if the aviation cadet were a member of the uniformed services in pay grade E-4.

(k) **ADMINISTRATION.**—(1) The Secretary of Defense shall prescribe regulations for the administration of this section.

(2) The Secretary concerned may make such determinations as may be necessary to administer this section, including determinations of dependency and relationship. When warranted by the circumstances, the Secretary concerned may reconsider and change or modify any such determination. The authority of the Secretary concerned under this subsection may be delegated. Any determination made under this section with regard to a member of the uniformed services is final and is not subject to review by any accounting officer of the United States or a court, unless there is fraud or gross negligence.

(3) Parking facilities (including utility connections) provided members of the uniformed services for house trailers and mobile homes not owned by the Government shall not be considered to be quarters for the purposes of this section or any other provision of law. Any fees established by the Government for the use of such a facility shall be established in an amount sufficient to cover the cost of maintenance, services, and utilities and to amortize the cost of construction of the facility over the 25-year period beginning with the completion of such construction.

(l) **TEMPORARY CONTINUATION OF ALLOWANCE FOR DEPENDENTS OF MEMBERS DYING ON ACTIVE DUTY.**—(1) The Secretary of Defense, or the Secretary of Homeland Security in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies on active duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Homeland Security in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 365 days.

(2) The Secretary concerned may pay a basic allowance for housing (at the rate that is payable for members of the same grade and dependency status as the deceased member for the area where the dependents are residing) to the dependents of a member of the uniformed services who dies while on active duty and whose dependents—

(A) are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death;

(B) are occupying such housing on a rental basis on such date; or

(C) vacate such housing sooner than 365 days after the date of the member's death.

(3) An allowance may be paid under paragraph (2) to the spouse of the deceased member even though the spouse is also a member of the uniformed services. The allowance paid under such paragraph is in addition to any other pay and allowances to which the spouse is entitled as a member.

(4) The payment of the allowance under paragraph (2) shall terminate 365 days after the date of the member's death.

(m) **MEMBERS PAYING CHILD SUPPORT.**—(1) A member of a uniformed service with dependents may not be paid a basic allowance for housing at the with dependents rate solely by reason of the payment of child support by the member if—

(A) the member is assigned to a housing facility under the jurisdiction of a uniformed service; or

(B) the member is assigned to sea duty, and elects not to occupy assigned quarters for unaccompanied personnel, unless the member is in a pay grade above E-3.

(2) A member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who is not otherwise authorized a basic allowance for housing and who pays child support is entitled to the basic allowance for housing differential, except for months for which the amount payable for the child support is less than the rate of the differential. Payment of a basic allowance for housing differential does not affect any entitlement of the member to a partial allowance for quarters under subsection (n).

(3) The basic allowance for housing differential to which a member is entitled under paragraph (2) is the amount equal to the difference between—

(A) the rate of the basic allowance for quarters (with dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date); and

(B) the rate of the basic allowance for quarters (without dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date).

(4) Whenever the rates of basic pay for members of the uniformed services are increased, the monthly amount of the basic allowance for housing differential computed under paragraph (3) shall be increased by the average percentage increase in the rates of basic pay. The effective date of the increase shall be the same date as the effective date of the increase in the rates of basic pay.

(5) In the case of two members, who have one or more common dependents (and no others), who are not married to each other, and one of whom pays child support to the other, the amount of the basic allowance for housing paid

to each member under this section shall be reduced in accordance with regulations prescribed by the Secretary of Defense. The total amount of the basic allowances for housing paid to the two members may not exceed the sum of the amounts of the allowance to which each member would be otherwise entitled under this section.

(n) PARTIAL ALLOWANCE FOR MEMBERS WITHOUT DEPENDENTS.—(1) A member of a uniformed service without dependents who is not entitled to receive a basic allowance for housing under subsection (b), (c), or (d) is entitled to a partial basic allowance for housing at a rate determined by the Secretary of Defense under paragraph (2).

(2) The rate of the partial basic allowance for housing is the partial rate of the basic allowance for quarters for the member's pay grade as such partial rate was in effect on December 31, 1997, under section 1009(c)(2) of this title (as such section was in effect on such date).

(o) TREATMENT OF LOW-COST AND NO-COST MOVES AS NOT BEING REASSIGNMENTS.—In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be reassigned under the conditions of low-cost or no-cost permanent change of station or permanent change of assignment, the member may be treated for the purposes of this section as if the member were not reassigned if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the cost of housing in the area to which the member is reassigned.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 88-132, §10, Oct. 2, 1963, 77 Stat. 216; Pub. L. 89-718, §§49(a)(1), 54, Nov. 2, 1966, 80 Stat. 1121, 1122; Pub. L. 90-207, §1(3), Dec. 16, 1967, 81 Stat. 651; Pub. L. 92-129, title II, §204, Sept. 28, 1971, 85 Stat. 358; Pub. L. 93-64, title I, §105, July 9, 1973, 87 Stat. 148; Pub. L. 93-419, §3(6), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96-343, §4(a)(1), (2), Sept. 8, 1980, 94 Stat. 1125; Pub. L. 96-513, title V, §516(10), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, §§6(a)-(c), 7, Dec. 23, 1980, 94 Stat. 3367, 3368; Pub. L. 97-22, §11(b)(2), July 10, 1981, 95 Stat. 138; Pub. L. 98-94, title IX, §907(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §§602(c), 604(a), Oct. 19, 1984, 98 Stat. 2534, 2537; Pub. L. 99-145, title VI, §§604(a), 605(a), title VIII, §809(b), title XIII, §1303(b)(6), Nov. 8, 1985, 99 Stat. 638, 681, 740; Pub. L. 99-227, §1, Dec. 28, 1985, 99 Stat. 1745; Pub. L. 100-26, §8(d)(5), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§602(a), 604(a), 632(a), Dec. 5, 1991, 105 Stat. 1373, 1374, 1380; Pub. L. 103-337, div. A, title VI, §604(a), (b), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104-106, div. A, title VI, §§603(a), 604(a), Feb. 10, 1996, 110 Stat. 357, 358; Pub. L. 104-201, div. A, title VI, §§604(a)-(c), 605, Sept. 23, 1996, 110 Stat. 2540, 2541; Pub. L. 105-85, div. A, title VI, §603(a), Nov. 18, 1997, 111 Stat. 1775; Pub. L. 105-261, div. A, title VI, §603(a), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106-398, §1 [[div. A], title VI, §§605(a)-(d), 607, 608, title X, §1087(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-147 to 1654A-149, 1654A-292; Pub. L. 107-107, div. A, title VI, §605(a), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 107-296, title XVII,

§1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title VI, §602, Dec. 2, 2002, 116 Stat. 2566; Pub. L. 108-136, div. A, title VI, §605(a), Nov. 24, 2003, 117 Stat. 1500; Pub. L. 108-375, div. A, title VI, §§603, 604, Oct. 28, 2004, 118 Stat. 1944; Pub. L. 109-13, div. A, title I, §1022(a), May 11, 2005, 119 Stat. 251; Pub. L. 109-163, div. A, title VI, §§609(a), 610, 611, Jan. 6, 2006, 119 Stat. 3289, 3290; Pub. L. 109-364, div. A, title VI, §§604(a), 605(a), Oct. 17, 2006, 120 Stat. 2245, 2246; Pub. L. 110-181, div. A, title VI, §§602(a), 603(b), Jan. 28, 2008, 122 Stat. 145; Pub. L. 112-81, div. A, title VI, §§601, 631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1447, 1465; Pub. L. 112-239, div. A, title VI, §§602, 603(a), 604(a), title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1773, 1774, 1948; Pub. L. 113-66, div. A, title VI, §601, Dec. 26, 2013, 127 Stat. 779.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
403(a)	37:252(a). 37:252(f).	Oct. 12, 1949, ch. 681, §302(a)-(f), 63 Stat. 812; May 19, 1952, ch. 310, §1(b), (c), 66 Stat. 79; May 20, 1958, Pub. L. 85-422, §1(9), 72 Stat. 127.
403(b)	37:252(b).	
403(c)	37:252(c).	
403(d)	37:252(d).	
403(e)	37:111a.	July 2, 1945, ch. 227, 59 Stat. 316.
403(f)	37:320.	June 29, 1950, ch. 405, §102, 64 Stat. 288.
403(g)	37:252(e).	

In subsection (a), the words "at the following monthly rates" are substituted for the words "in such amount and under such circumstances as are provided in this section". Section 252(f) (words before table) of existing title 37 is omitted as surplusage.

In subsections (b), (d), and (e), the words "United States" are substituted for the word "Government".

In subsection (c), the words "a period" are substituted for the words "temporary periods".

In subsection (e), the words "member" and "members" are substituted for the word "personnel".

In subsection (f), the words "may be used" are substituted for the words "shall be available". The words "for any periods after June 29, 1950," are omitted as executed. The words "(as defined in sections 231(g) and 252 of this title)" are omitted as covered by section 401 of this revised title.

In subsection (g), the word "including" is substituted for the words "and such regulations shall include, but not be limited to".

AMENDMENTS

2013—Subsec. (b)(7)(E). Pub. L. 113-66 substituted "December 31, 2014" for "December 31, 2013".

Pub. L. 112-239, §602, substituted "December 31, 2013" for "December 31, 2012".

Subsec. (d)(2)(A). Pub. L. 112-239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, §631(f)(4)(A). See 2011 Amendment note below.

Subsec. (f)(2)(C). Pub. L. 112-239, §603(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "Notwithstanding section 421 of this title, two members of the uniformed services in a pay grade below pay grade E-6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are each entitled to a basic allowance for housing during the period of such simultaneous sea duty. The amount of the allowance payable to a member under the preceding sentence shall be based on the without dependents rate for the pay grade of the member."

Subsec. (g)(2), (3). Pub. L. 112-239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, §631(f)(4)(A). See 2011 Amendment notes below.

Subsec. (g)(6). Pub. L. 112-239, §604(a), added par. (6). 2011—Subsec. (b)(7)(E). Pub. L. 112-81, §601, substituted “December 31, 2012” for “December 31, 2009”.

Subsec. (d)(2)(A). Pub. L. 112-81, §631(f)(4)(A), as amended by Pub. L. 112-239, §1076(a)(9), substituted “476” for “406”.

Subsec. (g)(2). Pub. L. 112-81, §631(f)(4)(A), as amended by Pub. L. 112-239, §1076(a)(9), substituted “474” for “404”.

Subsec. (g)(3). Pub. L. 112-81, §631(f)(4)(A), as amended by Pub. L. 112-239, §1076(a)(9), substituted “476” for “406”.

2008—Subsec. (b)(7)(E). Pub. L. 110-181, §603(b), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (g)(1). Pub. L. 110-181, §602(a), inserted “to attend accession training,” after “called or ordered to active duty” and inserted a comma after “contingency operation” the first time appearing.

2006—Subsec. (b)(7). Pub. L. 109-163, §609(a), added par. (7).

Subsec. (g)(1). Pub. L. 109-163, §610(b), inserted “or for a period of more than 30 days” after “in support of a contingency operation” in two places in introductory provisions.

Subsec. (g)(2). Pub. L. 109-364, §604(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (g)(3). Pub. L. 109-364, §604(a)(1), (3), redesignated par. (2) as (3) and substituted “Paragraphs (1) and (2)” for “Paragraph (1)”. Former par. (3) redesignated (4).

Pub. L. 109-163, §610(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (g)(4). Pub. L. 109-364, §604(a)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Pub. L. 109-163, §610(a)(1), (3), redesignated par. (3) as (4) and substituted “30 days or less” for “less than 140 days”.

Subsec. (g)(5). Pub. L. 109-364, §604(a)(1), redesignated par. (4) as (5).

Subsec. (I). Pub. L. 109-163, §611, substituted “365 days” for “180 days” wherever appearing.

Subsec. (I)(3), (4). Pub. L. 109-364, §605(a), added par. (3) and redesignated former par. (3) as (4).

2005—Subsec. (I). Pub. L. 109-13, §1022, temporarily substituted “365 days” for “180 days” wherever appearing. See Effective and Termination Dates of 2005 Amendments note below.

2004—Subsec. (d). Pub. L. 108-375, §604(1), substituted “Do NOT” for “ARE UNABLE TO” in heading.

Subsec. (d)(1). Pub. L. 108-375, §603(1), substituted “may be paid” for “is entitled to”.

Subsec. (d)(3)(C). Pub. L. 108-375, §604(2), added subpar. (C).

Subsec. (d)(4). Pub. L. 108-375, §603(2), inserted first sentence and struck out former first sentence which read as follows: “The family separation basic allowance for housing under this subsection shall be in addition to any other allowance or per diem that the member is otherwise entitled to receive under this title.”

2003—Subsec. (f)(2)(C). Pub. L. 108-136 substituted “are each entitled to a basic allowance for housing” for “are jointly entitled to one basic allowance for housing” in first sentence, inserted second sentence, and struck out former second and third sentences which read as follows: “The amount of the allowance shall be based on the without dependents rate for the pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are entitled to a basic allowance for housing under subparagraph (B).”

2002—Subsec. (b)(7). Pub. L. 107-314, §602(1), redesignated par. (7) as subsec. (o).

Subsecs. (f)(3), (I)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

Subsec. (o). Pub. L. 107-314 redesignated subsec. (b)(7) as subsec. (o), inserted heading, substituted “In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the

member to be” for “In the case of a member who is assigned to duty inside the United States, the location or the circumstances of which make it necessary that the member be”, and inserted “for the purposes of this section” after “may be treated”.

2001—Subsec. (i). Pub. L. 107-107 struck out “who is in a pay grade E-4 (4 or more years of service) or above” after “A member of a uniformed service”.

2000—Subsec. (b)(1). Pub. L. 106-398, §1 [[div. A], title VI, §605(a)(3)], added par. (1). Former par. (1) redesignated (2).

Subsec. (b)(2). Pub. L. 106-398, §1 [[div. A], title VI, §607(a)], inserted at end “After June 30, 2001, the Secretary may not differentiate between members with dependents in pay grades E-1 through E-4 in determining what constitutes adequate housing for members.”

Pub. L. 106-398, §1 [[div. A], title VI, §605(a)(1), (2)], redesignated par. (1) as (2) and struck out former par. (2) which read as follows: “Subject to paragraph (3), the monthly amount of a basic allowance for housing for an area of the United States for a member of a uniformed service is equal to the difference between—

“(A) the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

“(B) 15 percent of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.”

Subsec. (b)(3). Pub. L. 106-398, §1 [[div. A], title VI, §605(b)], added par. (3) and struck out former par. (3) which read as follows: “The rates of basic allowance for housing shall be reduced as necessary to comply with this paragraph. The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection is the product of—

“(A) the total amount authorized to be paid for such allowance for the preceding fiscal year (as adjusted under paragraph (5)); and

“(B) a fraction—

“(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and

“(ii) the denominator of which is the index of the national average monthly cost of housing for June of the fiscal year before the preceding fiscal year.”

Subsec. (b)(5). Pub. L. 106-398, §1 [[div. A], title VI, §607(b)], added par. (5).

Pub. L. 106-398, §1 [[div. A], title VI, §605(b)(1)], struck out par. (5) which read as follows: “In making a determination under paragraph (3) for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the basic allowance for housing shall be adjusted to reflect changes during the year for which the determination is made in the number, grade distribution, geographic distribution in the United States, and dependency status of members of the uniformed services entitled to the allowance from the number of such members during the preceding fiscal year.”

Subsec. (b)(6). Pub. L. 106-398, §1 [[div. A], title VI, §605(c)(1)], struck out “, changes in the national average monthly cost of housing,” after “housing costs in the area”.

Subsec. (b)(7). Pub. L. 106-398, §1 [[div. A], title VI, §605(c)(2)], struck out “without dependents” after “In the case of a member”.

Subsec. (d)(3). Pub. L. 106-398, §1 [[div. A], title VI, §605(d)], added par. (3) and struck out former par. (3) which read as follows: “In the case of a member with dependents who is assigned to duty at a location or under circumstances that, as determined by the Secretary concerned, require the member’s dependents to reside at a different location, the member shall receive a basic allowance for housing, as provided in subsection (a) or (b), as if the member were assigned to duty in the area in which the dependents reside, regardless of

whether the member resides in quarters of the United States or is also entitled to a family separation basic allowance for housing by reason of paragraph (1)."

Subsec. (f)(2)(B). Pub. L. 106-398, §1 [[div. A], title VI, §608(a)], substituted "E-4 or E-5" for "E-5" in first sentence and "grades E-4 and E-5" for "grade E-5" in second sentence.

Subsec. (f)(3). Pub. L. 106-398, §1 [[div. A], title X, §1087(b)(2)], substituted "regulations" for "regulation".

Subsec. (m)(1)(B). Pub. L. 106-398, §1 [[div. A], title VI, §608(b)], substituted "E-3" for "E-4".

1998—Subsec. (c)(3). Pub. L. 105-261 added par. (3).

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (m) relating to basic allowances for quarters.

1996—Subsec. (b). Pub. L. 104-106, §603(a), designated first sentence as par. (1), designated second sentence as par. (2) and substituted "Subject" for "However, subject", and added par. (3).

Subsec. (b)(3). Pub. L. 104-201, §605, substituted "Subject to the provisions of subsection (j), a member" for "A member".

Subsec. (c)(2). Pub. L. 104-201, §604(a)-(c), designated first sentence as subpar. (A) and substituted "Except as provided in subparagraphs (B) and (C), a member" for "A member", added subpars. (B) and (C), and struck out former second sentence which read as follows: "A member of a uniformed service without dependents who is in a pay grade above E-5 who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting."

Pub. L. 104-106, §604(a), substituted "E-6" for "E-7" in first sentence and "E-5" for "E-6" in second sentence.

1994—Subsec. (l). Pub. L. 103-337 substituted "180 days" for "90 days" wherever appearing.

1991—Subsec. (a). Pub. L. 102-190, §604(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (j)".

Subsec. (d). Pub. L. 102-190, §632(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (j)(1). Pub. L. 102-190, §604(a)(2), substituted "Secretary of Defense shall" for "President may".

Subsec. (j)(2). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (b)".

Subsec. (m). Pub. L. 102-190, §602(a), added subsec. (m).

1987—Subsec. (l)(1). Pub. L. 100-26 substituted "armed forces" for "Armed Forces".

1985—Subsec. (a). Pub. L. 99-145, §1303(b)(6), inserted "or as otherwise prescribed by law" after "of this title".

Pub. L. 99-145, §604(a), inserted provision permitting the allowance authorized by this section to be paid in advance.

Subsec. (c)(1). Pub. L. 99-145, §605(a)(1), substituted "who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for quarters while on that initial field duty" for "is not entitled to a basic allowance for quarters while he is on field duty".

Subsec. (c)(2). Pub. L. 99-145, §605(a)(2), substituted "who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting" for "and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days".

Subsec. (c)(3). Pub. L. 99-145, §605(a)(3), struck out par. (3) which provided that for purposes of this subsection, duty for a period of less than three months was not considered to be field duty or sea duty.

Subsec. (k). Pub. L. 99-145, §809(b), substituted "25-year period" for "15-year period".

Subsec. (l). Pub. L. 99-227 added subsec. (l).

1984—Pub. L. 98-525, §602(c)(2), struck out "; variable housing allowance" in section catchline.

Subsec. (a). Pub. L. 98-525, §602(c)(1), struck out designation for par. (1) preceding "Except as otherwise provided by law" and struck out par. (2) which related to variable housing allowances.

Subsec. (j)(2). Pub. L. 98-525, §604(a), inserted reference to training missions.

1983—Subsec. (a)(2)(A), (D). Pub. L. 98-94 substituted "Except as provided in subparagraph (D) of this paragraph, a member" for "A member" at beginning of subpar. (A), and added subpar. (D).

1981—Subsec. (b). Pub. L. 97-22 substituted "pay grade E-6" for "pay grade F-6".

1980—Pub. L. 96-343, §4(a)(2), substituted "for quarters; variable housing allowance" for "for quarters" in section catchline.

Subsec. (a). Pub. L. 96-343, §4(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 96-579, §6(a)(1), (2), substituted in second sentence "subject to the provisions of subsection (j)" for "except as provided by regulations prescribed under subsection (j)", "member" for "commissioned officer", and "F-6" for "C-3". Because "C-3" did not appear in this subsection, "F-6" was substituted for "O-3" as the probable intent of Congress.

Subsec. (c). Pub. L. 96-579, §6(b), reenacted existing text in provisions designated as pars. (1) and (3), and substituted par. (2) respecting nonentitlement to basic allowance for quarters when on sea duty for member of a uniformed service in pay grade below E-7 or above E-6 for prior nonentitlement provision for such member when on sea duty.

Subsec. (e). Pub. L. 96-513, §516(10)(A), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Subsec. (j). Pub. L. 96-579, §6(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 96-513, §516(10)(B), substituted "terms" for "words".

Subsec. (k). Pub. L. 96-579, §7, added subsec. (k).

1974—Subsec. (a). Pub. L. 93-419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of basic allowance for quarters for members of uniformed services.

1973—Subsec. (a). Pub. L. 93-64, §105(1), (2), substituted in table provisions reading:

E-4	\$81.60	\$121.50
E-3	72.30	105.00
E-2	63.90	105.00
E-1	60.00	105.00"
for former provisions reading:		
"E-4 (over 4 years' service)	81.60	121.50
E-4 (4 years' or less service)	45.00	45.00
E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00"

and struck out "A member in pay grade E-4 (less than four years' service), E-3, E-2, or E-1 is considered at all times to be without dependents."

Subsec. (b). Pub. L. 93-64, §105(3), in second sentence substituted reference to subsection "(j)" for "(g)".

Subsecs. (g) to (j). Pub. L. 93-64, §105(4), (5), added subsecs. (g) to (i) and redesignated former subsec. (g) as (j).

1971—Subsec. (a). Pub. L. 92-129 increased quarters allowances as shown in table. Prior to this amendment the table was set out as follows:

"Pay grade	Without dependents	With dependents
O-10	\$160.20	\$201.00
O-9	160.20	201.00
O-8	160.20	201.00

“Pay grade	Without dependents	With dependents
O-7	160.20	201.00
O-6	140.10	170.10
O-5	130.20	157.50
O-4	120.00	145.05
O-3	105.00	130.05
O-2	95.10	120.00
O-1	85.20	110.10
W-4	120.00	145.05
W-3	105.00	130.05
W-2	95.10	120.00
W-1	85.20	110.10
E-9	85.20	120.00
E-8	85.20	120.00
E-7	75.00	114.90
E-6	70.20	110.10
E-5	70.20	105.00
E-4 (over 4 years' service)	70.20	105.00
E-4 (4 years' or less service)	45.00	45.00
E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00

1967—Subsec. (f). Pub. L. 90-207 substituted provisions authorizing the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is in pay grade E-4 (four or more years' service) or above for the period he is in a travel or leave status between permanent duty stations for provisions which precluded the payment of a basic allowance for quarters to a member of a uniformed service without dependents while in a permanent change of station status.

1966—Subsec. (a). Pub. L. 89-718 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10	\$171.00	\$136.80
O-9	171.00	136.80
O-8	171.00	136.80
O-7	171.00	136.80
O-6	136.80	119.70
O-5	136.80	102.60
O-4	119.70	94.20
O-3	102.60	85.50
O-2	94.20	77.10
O-1	85.50	68.40
W-4	119.70	94.20
W-3	102.60	85.50
W-2	94.20	77.10
W-1	85.50	68.40
E-9	67.50	45.00
E-8	67.50	45.00
E-7	67.50	45.00
E-6	67.50	45.00
E-5	67.50	45.00
E-4 (7 or more years' service creditable under section 205)	67.50	45.00
E-4 (less than 7 years' service creditable under section 205)	45.00	45.00
E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00

Subsec. (e). Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”.

1963—Subsec. (b). Pub. L. 88-132 authorized election by certain officers without dependents not to occupy government quarters.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title VI, §603(b), Jan. 2, 2013, 126 Stat. 1773, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2013.”

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title VI, §602(b), Jan. 28, 2008, 122 Stat. 145, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to months beginning on or after the date of the enactment of this Act [Jan. 28, 2008].”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title VI, §604(b), Oct. 17, 2006, 120 Stat. 2246, provided that: “Paragraph (2) of section 403(g) of title 37, United States Code, as added by subsection (a), shall apply with respect to months beginning on or after October 1, 2006.”

Pub. L. 109-364, div. A, title VI, §605(b), Oct. 17, 2006, 120 Stat. 2246, provided that:

“(1) GENERAL RULE.—The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2006.

“(2) TRANSITIONAL RULE.—After October 1, 2006, the Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard, may pay the allowance authorized by section 403(l)(2) of title 37, United States Code, to a member of the uniformed services who is the spouse of a member who died on active duty during the one-year period ending on that date, except that the payment of the allowance must terminate within 365 days after the date of the member's death.”

Pub. L. 109-163, div. A, title VI, §609(c), Jan. 6, 2006, 119 Stat. 3290, provided that: “The amendments made by this section [amending this section and section 404a of this title] shall apply with respect to months beginning on or after September 1, 2005.”

Pub. L. 109-163, div. A, title VI, §611, Jan. 6, 2006, 119 Stat. 3290, provided in part that the amendment of this section by section 611 is effective immediately after the termination, pursuant to section 1022(b) of Pub. L. 109-13 and section 124 of Pub. L. 109-177, of the amendments made by section 1022(a) of Pub. L. 109-13. See Effective and Termination Dates of 2005 Amendments note below.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Pub. L. 109-77, §124, Sept. 30, 2005, 119 Stat. 2041, provided that: “The amendment made by section 1022 of Public Law 109-13 [amending this section] shall continue in effect through the date specified in section 106(3) of this joint resolution [Dec. 31, 2005].”

Pub. L. 109-13, div. A, title I, §1022(b), May 11, 2005, 119 Stat. 251, provided that: “The amendment made by this section [amending this section] shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of section 403(l) of title 37, United States Code, as in effect on the date before the date of the enactment of this Act [May 11, 2005] shall be revived.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title VI, §605(b), Nov. 24, 2003, 117 Stat. 1500, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as of October 1, 2003, and apply to months beginning on or after that date.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title VI, §605(b), Dec. 28, 2001, 115 Stat. 1134, provided that: “The amendment made by this section [amending this section] shall take effect on January 1, 2003, and apply to members of the uniformed services in a travel or leave status between permanent duty stations on or after that date.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title VI, §605(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A-148, provided that:

“(1) The amendments made by this section [amending this section and provisions set out as a note below] shall take effect on October 1, 2000.

“(2) In the case of the amendment made by subsection (c)(2) [amending this section], the amendment shall apply with respect to pay periods beginning on and after October 1, 2000, for a member of the uniformed services covered by the provision of law so amended regardless of the date on which the member was first reassigned to duty under the conditions of a low-cost or no-cost permanent change of station or permanent change of assignment.

“(3) In the case of the amendment made by subsection (d) [amending this section], the amendment shall apply with respect to pay periods beginning on and after October 1, 2000, for a member of the uniformed services covered by the provision of law so amended regardless of the date on which the member was first assigned to duty in an area that is different from the area in which the member’s dependents reside.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title VI, §603(c), Oct. 17, 1998, 112 Stat. 2037, provided that: “The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title VI, §604(e), Sept. 23, 1996, 110 Stat. 2541, provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect on July 1, 1997.”

Pub. L. 104-106, div. A, title VI, §603(b), Feb. 10, 1996, 110 Stat. 358, provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 1996.”

Pub. L. 104-106, div. A, title VI, §604(b), Feb. 10, 1996, 110 Stat. 358, provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 1996.”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title VI, §604(c), Oct. 5, 1994, 108 Stat. 2782, provided that: “The amendments made by this section [amending this section] shall take effect as of October 1, 1993.”

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title VI, §604(c), Dec. 5, 1991, 105 Stat. 1374, provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect six months after the date of the enactment of this Act [Dec. 5, 1991].”

Pub. L. 102-190, div. A, title VI, §632(b), Dec. 5, 1991, 105 Stat. 1380, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to calls or orders of members of the reserve components of the Armed Forces to active duty on or after that date.”

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-227, §2, Dec. 28, 1985, 99 Stat. 1745, provided that: “The amendments made by section 1 of this Act [amending this section] shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.”

Pub. L. 99-145, title VI, §604(c), Nov. 8, 1985, 99 Stat. 638, provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect on October 1, 1985.”

Pub. L. 99-145, title VI, §605(b), Nov. 8, 1985, 99 Stat. 638, provided that:

“(1) The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall take effect on October 1, 1985.

“(2) The amendment made by paragraph (3) of subsection (a) [amending this section] shall take effect on January 1, 1986.”

Amendment by section 809(b) of Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title VI, §602(f), Oct. 19, 1984, 98 Stat. 2536, as amended by Pub. L. 99-145, title VI, §603(b), Nov. 8, 1985, 99 Stat. 637; Pub. L. 99-661, div. A, title XIII, §1342(b), Nov. 14, 1986, 100 Stat. 3991; Pub. L. 112-81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 403a of this title, amending this section, section 405 of this title, section 7572 of Title 10, Armed Forces, and provisions set out as a note under this section, and enacting provisions set out as a note under this section] shall take effect on January 1, 1985.

“(2)(A) A member shall be entitled to receive a station housing allowance under section 475 of title 37, United States Code, as if the amendments made by subsection (e) [amending section 405 of this title] had not been enacted, if the member, on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985]—

“(i) is assigned to a permanent duty station in Alaska or Hawaii; and

“(ii) is entitled to payment of a temporary lodging allowance or a station housing allowance under section 475 of such title.

“(B) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall only be entitled to such allowance until the earlier of—

“(i) the date on which the member changes residence in conjunction with a permanent change of duty station; or

“(ii) the expiration of the four-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985].

“(C) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall not be entitled to a variable housing allowance, except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member’s dependents in another State.

“(3) For the period beginning on January 1, 1985, and ending on September 30, 1985, the limitation applicable under subsection (d)(1) of section 403a of title 37, United States Code (as added by subsection (d)), on the total amount that may be paid during a fiscal year for the variable housing allowance authorized members of the uniformed services by that section shall be 15 percent of the median annual costs of housing in the United States for members of the uniformed services as measured during fiscal year 1984. In determining for the purposes of clause (A) of such subsection the total amount authorized to be paid for such allowance for fiscal year 1985, such amount shall be determined as if the amendments made by this section took effect on October 1, 1984.”

[Amendment of this note by Pub. L. 99-661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99-661, set out as an Effective Date of 1986 Amendment note under section 301 of this title.]

Pub. L. 98-525, title VI, §604(b), Oct. 19, 1984, 98 Stat. 2537, provided that: “The amendment made by subsection (a) [amending this section] shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, §907(b), Sept. 24, 1983, 97 Stat. 637, provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to members called or ordered to active duty after September 30, 1983.”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-22, §11(b)(2), July 10, 1981, 95 Stat. 138, provided that the amendment made by that section is effective Oct. 1, 1980.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-579, §6(d), Dec. 23, 1980, 94 Stat. 3368, provided that: “The amendments made by this section [amending this section] shall only apply to payment of basic allowance for quarters for months after September 1980.”

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

Pub. L. 96-343, §4(b), Sept. 8, 1980, 94 Stat. 1125, provided that: “Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-129 effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Edu-

cation, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

TRANSITIONAL PROVISIONS

Pub. L. 112-239, div. A, title VI, §604(b), Jan. 2, 2013, 126 Stat. 1774, provided that:

“(1) IN GENERAL.—The basic allowance for housing paid to a member of a reserve component described in subparagraph (A) of paragraph (6) of section 403(g) of title 37, United States Code, as added by subsection (a), who on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013 [Jan. 2, 2013] is being paid basic allowance for housing at a rate that is based on a housing area other than the member’s permanent duty station, shall be paid at that current rate until the member is assigned to perform duty at the member’s permanent duty station, at which time the member shall be paid basic allowance for housing at the prevailing permanent duty station housing area rate or at the permanent duty station housing rate for which the member has qualified under such paragraph (6).

“(2) ALTERNATIVE RATE.—The Secretary of a military department, with the approval of the Secretary of Defense, may pay a member covered by paragraph (1) and under the jurisdiction of that Secretary a basic allowance for housing at a rate higher than the rate provided under such paragraph to ensure that the member is treated fairly and equitably or to serve the best interests of the United States.”

MINIMUM RATES OF BASIC ALLOWANCE; ANNUAL LIMITATION

Pub. L. 106-246, div. B, title I, §101(a), (b), July 13, 2000, 114 Stat. 528, provided that:

“(a) MINIMUM RATES OF BASIC ALLOWANCE FOR HOUSING FOR MEMBERS OF THE UNIFORMED SERVICES.—During the period beginning on January 1, 2000, and ending on September 30, 2001 (or such earlier date as the Secretary of Defense considers appropriate), a member of the uniformed services entitled to a basic allowance for housing for a military housing area in the United States shall be paid the allowance at a monthly rate not less than the rate in effect on December 31, 1999, in that area for members serving in the same pay grade and with the same dependency status as the member.

“(b) ANNUAL LIMITATION ON ALLOWANCE.—In light of the rates for the basic allowance for housing authorized by subsection (a), the Secretary of Defense may exceed the limitation on the total amount paid during fiscal year 2000 and 2001 for the basic allowance for housing in the United States otherwise applicable under section 403(b)(3) of title 37, United States Code.”

TRANSITION TO BASIC ALLOWANCE FOR HOUSING

Pub. L. 105-85, div. A, title VI, §603(b), Nov. 18, 1997, 111 Stat. 1781, as amended by Pub. L. 106-398, §1 [(div. A), title VI, §605(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A-148; Pub. L. 112-81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948, provided that: “The Secretary of Defense shall develop and implement a plan to incrementally manage the rate of growth of the various components of the basic allowance for housing authorized by section 403 of title 37, United States Code (as amended by subsection (a)), during a transition period of not more than eight years. During the transition period, the Secretary may continue to use the authorities provided under sections 403, 403a, 475(b), and 427(a) of title 37, United States Code (as in effect on the day before the date of the enactment of this Act [Nov. 18, 1997]), but subject to such modifica-

tions as the Secretary considers necessary, to provide allowances for members of the uniformed services.”

EXCEPTION TO LIMITATION ON AMOUNT OF BASIC ALLOWANCE FOR QUARTERS FOR MEMBERS RECEIVING ALLOWANCE DUE TO PAYMENT OF CHILD SUPPORT

Pub. L. 102-190, div. A, title VI, §602(b), Dec. 5, 1991, 105 Stat. 1373, provided that subsec. (m) of this section, as added by section 602(a) of Pub. L. 102-190, temporarily was not to apply with respect to a member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who, on the day before Dec. 5, 1991, was entitled to receive a basic allowance for quarters solely by reason of the member's payment of child support.

ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Pub. L. 102-25, title III, §310A, Apr. 6, 1991, 105 Stat. 84, provided that, during the period beginning on Aug. 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict, a member of a reserve component of the uniformed services without dependents who was called or ordered to active duty in connection with Operation Desert Storm was to be entitled to a basic allowance for quarters under this section if, because of the call or order, the member was unable to continue to occupy a residence maintained as the primary residence of the member at the time of the call or order, and owned by the member or for which the member was responsible for rental payments.

INCREASE IN BASIC ALLOWANCE FOR QUARTERS EFFECTIVE JANUARY 1, 1989

Pub. L. 100-456, div. A, title VI, §601(c), Sept. 29, 1988, 102 Stat. 1976, provided that the rates of basic allowance for quarters for members of the uniformed services were increased by 7 percent effective on Jan. 1, 1989, and authorized the President to allocate the increase among pay grades and dependency categories, and the Secretary of Defense to establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

MINIMUM RATE OF QUARTERS ALLOWANCE SET AT RATE AS OF DECEMBER 31, 1984

Pub. L. 99-190, §101(b) [title VIII, §8088], Dec. 19, 1985, 99 Stat. 1185, 1216, provided that effective Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a) of this section which was payable to a member of the uniformed services who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

BASIC ALLOWANCE FOR QUARTERS AND VARIABLE HOUSING ALLOWANCE

Pub. L. 98-525, title VI, §602(a), Oct. 19, 1984, 98 Stat. 2533, as amended by Pub. L. 99-661, div. A, title XIII, §1341(a), Nov. 14, 1986, 100 Stat. 3990, revised, effective Jan. 1, 1985, the rates of the basic allowance for quarters authorized by subsec. (a)(1) of this section and provided that, during the period beginning on Jan. 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increased the rates for such allowance to a level not less than 7 percent greater than the rates in effect on Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a)(1) of this section which was payable to a member of the uniformed services who was entitled to that allowance during such period and who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quar-

ters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

FREEZE OF VARIABLE HOUSING ALLOWANCE AT FISCAL YEAR 1983 RATES

Pub. L. 98-94, title IX, §906, Sept. 24, 1983, 97 Stat. 637, as amended by Pub. L. 98-525, title VI, §602(b)(2), Oct. 19, 1984, 98 Stat. 2534, provided that during the period beginning on Oct. 1, 1983, and ending on Jan. 1, 1985, the rates at which the variable housing allowance under subsec. (a)(2) of this section was paid was to be the same as the rates in effect on Sept. 30, 1983.

VARIABLE HOUSING ALLOWANCE DURING FISCAL YEAR 1981; AMOUNT; REGULATIONS

Pub. L. 96-343, §4(c), Sept. 8, 1980, 94 Stat. 1125, provided that during fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under this section could be paid a variable housing allowance whenever assigned to duty in an area of the United States (other than Alaska and Hawaii) which was a high housing cost area with respect to such member, and a member with dependents who was assigned to an unaccompanied tour of duty outside the United States could be paid a variable housing allowance while serving such tour of duty for any period during which the member's dependents resided in an area of the United States which would qualify the member to receive a variable housing allowance if assigned to duty in that area.

PAY CONTINUATION

Amendment of this section by Pub. L. 92-129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, §302(f), 63 Stat. 812, as amended by Pub. L. 87-531, §1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89-718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89-718.

ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of \$51.30 per month, was repealed by Pub. L. 87-531, §2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87-649, to be considered as superseding Pub. L. 87-649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87-649, set out as a note preceding section 101 of this title.

AUTHORITY OF SECRETARIES WITH RESPECT TO PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87-531, §5, July 10, 1962, 76 Stat. 153, provided that: “The Secretaries of the departments concerned shall have the same authority with respect to payments of quarters allowances to enlisted members of the uniformed services to pay grades E-4 (over 4 years' service) through E-9 that they have with respect to enlisted members of the uniformed services in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 (50 App. U.S.C. 2210, 2211).”

EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

[§ 403a. Repealed. Pub. L. 105–85, div. A, title VI, § 603(c)(1), Nov. 18, 1997, 111 Stat. 1781]

Section, added Pub. L. 98–525, title VI, § 602(d)(1), Oct. 19, 1984, 98 Stat. 2534; amended Pub. L. 99–145, title VI, §§ 602(a)–(d), 604(b), Nov. 8, 1985, 99 Stat. 636–638; Pub. L. 100–26, § 8(e)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101–189, div. A, title VI, § 602(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101–510, div. A, title VI, § 602, Nov. 5, 1990, 104 Stat. 1575; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §§ 603, 604(b), 633, Dec. 5, 1991, 105 Stat. 1373, 1374, 1381; Pub. L. 103–160, div. A, title VI, § 604, Nov. 30, 1993, 107 Stat. 1679; Pub. L. 104–106, div. A, title VI, § 605(a)(1), (b), Feb. 10, 1996, 110 Stat. 358; Pub. L. 104–201, div. A, title VI, §§ 604(d), 606(a)–(d), Sept. 23, 1996, 110 Stat. 2541, 2542, related to variable housing allowances.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as an Effective Date of 1997 Amendment note under section 5561 of Title 5, Government Organization and Employees.

§ 403b. Cost-of-living allowance in the continental United States

(a) **PAYMENT AUTHORIZED.**—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

(b) **ELIGIBLE MEMBERS.**—The following members are eligible to receive a cost-of-living allowance under this section:

(1) A member assigned to a high cost area in the continental United States.

(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

(c) **HIGH COST AREA DEFINED.**—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage

may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

(d) **AMOUNT OF ALLOWANCE.**—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

(2) the percentage equal to the excess of—

(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

(B) the threshold percentage applicable to such fiscal year under subsection (c).

(e) **LIMITATION TO ONE ALLOWANCE.**—If primary dependents of a member reside separately in different high cost areas—

(1) the member may be paid only one cost-of-living allowance under this section; and

(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

(f) **SERVICE NOT COVERED.**—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

(A) specifies a period of 140 days or more; or

(B) states that the call or order to active duty is in support of a contingency operation.

(g) **AVERAGE SPENDABLE INCOME.**—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

(h) **JOINT REGULATIONS.**—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

(i) **OTHER DEFINITIONS.**—In this section:

(1) The term “primary dependent”, with respect to a member, means—

(A) the member's spouse; or

(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.