

garding the criteria for eligibility for early retirement by reason of eligibility pursuant to this section and for the approval of applications for such retirement. Such criteria may include factors such as grade, years of service, and skill.

“(e) COMPUTATION OF RETIRED PAY.—Retired or retainer pay of a member retired (or transferred to the Fleet Reserve or Fleet Marine Corps Reserve) under a provision of title 10, United States Code, by reason of eligibility pursuant to subsection (b) shall be reduced by $\frac{1}{12}$ th of 1 percent for each full month by which the number of months of active service of the member are less than 240 as of the date of the member’s retirement (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve).

“(f) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and subject to the availability of appropriations for this purpose, the Secretary of each military department shall provide in accordance with this section for the payment of retired pay payable during the fiscal years covered by the other provisions of this subsection to members of the Armed Forces under the jurisdiction of that Secretary who are being retired under the authority of this section.

“(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the Armed Forces under the jurisdiction of that Secretary such amount as is necessary to pay the retired pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired pay.

“(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law used for determining the member’s years of service for eligibility to retirement) before being retired under the authority of this section.

“(4) The Secretary shall pay the member’s retired pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

“(5) For purposes of this subsection—

“(A) the transfer of an enlisted member of the Navy or Marine Corps to the Fleet Reserve or Fleet Marine Corps Reserve shall be treated as a retirement; and

“(B) the term ‘retired pay’ shall be treated as including retainer pay.

“(g) COORDINATION WITH OTHER SEPARATION PROVISIONS.—(1) A member of the Armed Forces retired under the authority of this section is not entitled to benefits under section 1174 or 1175a of title 10, United States Code.

“(2) [Amended section 638a(b)(4)(C) [now 638a(b)(3)(C)] of this title.]

“(h) MEMBERS RECEIVING SSB, VSI, OR VSP.—The Secretary of a military department may retire (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve) pursuant to the authority provided by this section a member of a reserve component who before the date of the enactment of this Act [Oct. 23, 1992] was separated from active duty pursuant to an agreement entered into under section 1174a or 1175 of title 10, United States Code or who before December 31, 2011, was separated from active duty pursuant to an agreement entered into under section 1175a of such title. The retired or retainer pay of any such member so retired (or transferred) by reason of the authority provided in this section shall be reduced by the amount of any payment to such member before the date of such retirement under the provisions of such agreement.

“(i) ACTIVE FORCE DRAWDOWN PERIOD.—For purposes of this section, the active force drawdown period is (1) the period beginning on the date of the enactment of this Act and ending on September 1, 2002, and (2) the period beginning on December 31, 2011, and ending on December 31, 2025.”

[Pub. L. 107–314, div. A, title V, §554, Dec. 2, 2002, 116 Stat. 2553, provided that the amendment made by that section to section 4403 of Pub. L. 102–484, set out above, is effective Jan. 1, 2002.]

§ 1305. Thirty years or more: regular warrant officers

(a)(1) Subject to paragraphs (2) and (3), a regular warrant officer who has at least 30 years of active service that could be credited to the officer under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114) shall be retired 60 days after the date on which the officer completes that service, except as provided by section 8301 of title 5.

(2) In the case of a regular Army warrant officer, the calculation of years of active service under paragraph (1) shall include only years of active service as a warrant officer.

(3) In the case of a regular Navy warrant officer in the grade of chief warrant officer, W–5, the officer shall be retired 60 days after the date on which the officer completes 33 years of total active service.

(b) The Secretary concerned may defer, for not more than four months, the retirement under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to retire under this section.

(c) Under such regulations as he may prescribe, the Secretary concerned may defer the retirement under subsection (a) of any warrant officer upon the recommendation of a board of officers and with the consent of the warrant officer, but not later than 60 days after he becomes 62 years of age.

(Aug. 10, 1956, ch. 1041, 70A Stat. 101; Pub. L. 87–649, §6(f)(3), Sept. 7, 1962, 76 Stat. 494; Pub. L. 89–718, §3, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 102–190, div. A, title XI, §1116, Dec. 5, 1991, 105 Stat. 1503; Pub. L. 109–364, div. A, title V, §505(c), Oct. 17, 2006, 120 Stat. 2179; Pub. L. 110–417, [div. A], title V, §501, Oct. 14, 2008, 122 Stat. 4432; Pub. L. 112–239, div. A, title V, §504, Jan. 2, 2013, 126 Stat. 1715.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1305(a)	10:600(d) (as applicable to 10:600(b)(2)). 10:600(b)(2) (last sentence). 10:600(c) (as applicable to 10:600(b)(2)). 34:135(d) (as applicable to 34:430(b)(2)). 34:430(b)(2) (last sentence). 34:430c (as applicable to 34:430(b)(2)).	May 29, 1954, ch. 249, §§2(d) (as applicable to §14(b)(2)), 14(b)(2), (e) (as applicable to (b)(2)), 21(c) (as applicable to §14(b)(2)), 68 Stat. 157, 163, 168.
1305(b)	10:600(e) (as applicable to 10:600(b)(2)). 34:430(e) (as applicable to 34:430(b)(2)).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1305(c)	10:600(b)(2) (less last sentence). 34:430(b)(2) (less last sentence).	

In subsection (a), the words “has at least” are substituted for the words “has completed”. The words “and is not so continued on active service” and “on that date which” are omitted as surplusage. 10:600(b)(2) (last 16 words of last sentence) and 34:430(b)(2) (last 16 words of last sentence) are omitted as covered by section 1315 of this title.

In subsection (b), the words “The Secretary concerned may defer” are substituted for the words “may, in the discretion of the Secretary, be deferred”. The words “determination of his” are inserted for clarity. The words “not more than” are substituted for the words “a period not to exceed”. The words “he would otherwise be required to retire under this section” are substituted for the words “retirement * * * would otherwise be required”. The words “which is required”, “possible”, “proper”, and “a period of” are omitted as surplusage.

In subsection (c), the words “the Secretary concerned may defer the retirement” are substituted for the words “in the discretion of the Secretary * * * be continued on active service”. The words “but not later than” are substituted for the words “but not beyond that date which is”.

REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a)(1), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 112-239, §504(1), substituted “Subject to paragraphs (2) and (3), a regular warrant officer” for “A regular warrant officer (other than a regular Army warrant officer)” and “date on which the officer” for “date on which he”.

Subsec. (a)(3). Pub. L. 112-239, §504(2), added par. (3).
2008—Subsec. (a). Pub. L. 110-417 designated existing provisions as par. (1), substituted “A regular warrant officer (other than a regular Army warrant officer) who has at least 30 years of active service that could be credited to the officer” for “A regular warrant officer who has at least 30 years of active service as a warrant officer that could be credited to him”, and added par. (2).

2006—Subsec. (a). Pub. L. 109-364 substituted “A regular warrant officer” for “(1) Except as provided in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W-5)”, inserted “as a warrant officer” after “years of active service” and “the date on which” after “60 days after”, and struck out par. (2) which read as follows:

“(2)(A) A regular Army warrant officer in the grade of chief warrant officer, W-5, who has at least 30 years of active service as a warrant officer that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114), shall be retired 60 days after the date on which he completes that service, except as provided by section 8301 of title 5.

“(B) A regular Army warrant officer in a warrant officer grade below the grade of chief warrant officer, W-5, who completes 24 years of active service as a warrant officer before he is required to be retired under paragraph (1) shall be retired 60 days after the date on which he completes 24 years of active service as a warrant officer, except as provided by section 8301 of title 5.”

1991—Subsec. (a). Pub. L. 102-190 designated existing provisions as par. (1), substituted “Except as provided

in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W-5)” for “A permanent regular warrant officer”, and added par. (2).

1966—Subsec. (a). Pub. L. 89-718 substituted “8301” for “47a”.

1962—Subsec. (a). Pub. L. 87-649 substituted “section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114)” for “section 311 of title 37.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1315. Computation of retired pay: law applicable

A member of the armed forces retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 101.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1315	[No source].	[No source].

The revised section is based on the various retirement provisions in this chapter and is inserted to make explicit the entitlement to retired pay upon retirement.

CHAPTER 67—RETIRED PAY FOR NON-REGULAR SERVICE

Sec. 1331. Reference to chapter 1223.

PRIOR PROVISIONS

A prior chapter 67 was transferred to part II of subtitle E of this title and renumbered chapter 1223.

AMENDMENTS

1996—Pub. L. 104-106, div. A, title XV, §1503(a)(13), Feb. 10, 1996, 110 Stat. 511, substituted “NON-REGULAR” for “NONREGULAR” in chapter heading.

§ 1331. Reference to chapter 1223

Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).

(Added Pub. L. 103-337, div. A, title XVI, §1662(j)(7), Oct. 5, 1994, 108 Stat. 3005.)

PRIOR PROVISIONS

Prior sections 1331 to 1338 were renumbered sections 12731 to 12738 of this title, respectively.

CHAPTER 69—RETIRED GRADE

Sec. 1370. Commissioned officers: general rule; exceptions.
1371. Warrant officers: general rule.
1372. Grade on retirement for physical disability: members of armed forces.
1373. Higher grade for later physical disability: retired officers recalled to active duty.
[1374. Repealed.]