

leased because he is convicted and sentenced to confinement in a Federal or State penitentiary or correctional institution and the sentence has become final, or (D) released because he has been considered at least twice and has not been recommended for promotion to the next higher grade or because he is considered as having failed of selection for promotion to the next higher grade and has not been recommended for promotion to that grade, under conditions that would require the release or separation of a reserve officer who is not serving under such agreement.

(b) A member who is released from active duty without his consent before the end of his agreement made under section 12311(a) of this title is entitled to an amount computed by multiplying the number of years and fractions of a year of his unexpired period of service under the agreement by the sum of one month's basic pay, special pay, and allowances to which he is entitled on the day of his release. The amount to which a member is entitled under this subsection is in addition to any pay and allowances to which he is otherwise entitled. For the purposes of this subsection, a fraction of a month of 15 days or more is counted as a whole month, and a fraction of a month of less than 15 days is disregarded. This subsection does not apply to a member if he is—

- (1) released for a reason described in subsection (a)(2)(A)–(C);
- (2) released because of a physical disability resulting from his intentional misconduct or wilful neglect;
- (3) eligible for retired pay, separation pay, or severance pay under another provision of law;
- (4) placed on a temporary disability retired list; or
- (5) released to accept an appointment, or to be enlisted, in a regular component of an armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 30, § 680; Pub. L. 87-509, § 2, June 28, 1962, 76 Stat. 121; Pub. L. 98-525, title V, § 533(b), title XIV, § 1405(17), Oct. 19, 1984, 98 Stat. 2528, 2622; renumbered § 12312 and amended Pub. L. 103-337, div. A, title XVI, §§ 1662(e)(2), 1675(c)(8), Oct. 5, 1994, 108 Stat. 2992, 3017.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
680(a)	50:963(a) (last sentence).	July 9, 1952, ch. 608, § 235(a) (last sentence), (b), 66 Stat. 491.
680(b)	50:963(b).	

In subsections (a) and (b), the words “without his consent” are substituted for the word “involuntary”.

In subsection (a)(1), the word “because” is substituted for the words “by reason”. The words “actual personnel strength” are substituted for the words “numerical strength of the military personnel”.

In subsection (a)(2), the words “for any other reason” are substituted for the words “for reasons other than that prescribed in paragraph (1)”. The words “dismissed or discharged” are inserted for clarity. The words “at least” are substituted for the word “duration”. The words “is convicted and sentenced * * * and the sentence has become final” are substituted for the words “final conviction and sentence”. The words “from active duty” are omitted as surplusage.

In subsection (b), the words “before the end of” are substituted for the words “prior to the expiration of the period of service under”. The words “computed by multiplying * * * and fractions of a year of his unexpired period of service under the agreement by the sum of one month's * * * pay, and allowances” are substituted for the words “equal to one month's pay and allowances multiplied by * * * (including any pro rata part thereof) remaining as the unexpired period of his agreement for active duty”. The words “basic * * * special pay * * * to which he is entitled on the day of his release” are substituted for 50:963(b) (2d sentence). The third sentence is substituted for 50:963(b) (last sentence). The last sentence is substituted for 50:963(b) (words within 1st parentheses).

In subsection (b)(2), the words “because of” are substituted for the words “when such release is due to”.

In subsection (b)(5), the words “to accept” are substituted for the words “for the purpose of accepting”. The words “of an armed force” are inserted for clarity.

AMENDMENTS

1994—Pub. L. 103-337, § 1662(e)(2), renumbered section 680 of this title as this section.

Subsecs. (a), (b). Pub. L. 103-337, § 1675(c)(8), substituted “12311(a)” for “679(a)”.

1984—Subsec. (a)(2)(D). Pub. L. 98-525, § 1405(17), substituted “reserve officer” for “Reserve Officer”.

Subsec. (b)(3). Pub. L. 98-525, § 533(b), inserted “, separation pay,” after “retired pay”.

1962—Subsec. (a)(2)(D). Pub. L. 87-509 added cl. (D).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 12313. Reserves: release from active duty

(a) Except as otherwise provided in this title, the Secretary concerned may at any time release a Reserve under his jurisdiction from active duty.

(b) In time of war or of national emergency declared by Congress or the President after January 1, 1953, a member of a reserve component may be released from active duty (other than for training) only if—

- (1) a board of officers convened at his request by an authority designated by the Secretary concerned recommends the release and the recommendation is approved;
- (2) the member does not request that a board be convened; or
- (3) his release is otherwise authorized by law.

This subsection does not apply to an armed force during a period of demobilization or reduction in strength of that armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, § 681; renumbered § 12313, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
681(a)	50:967(a).	July 9, 1952, ch. 608, § 239, 66 Stat. 492.
681(b)	50:967 (less (a)).	

In subsection (a), the word “title” is substituted for the word “chapter”. The provisions of this title relating to active duty of Reserves are based on the Armed Forces Reserve Act of 1952. The words “under his jurisdiction” are inserted for clarity. The words “or active

duty for training” are omitted as covered by the words “active duty”.

Subsection (b) is substituted for 50:967(b). Clause (3) is inserted, since other provisions of law are necessarily exceptions to the general rule here stated.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 681 of this title as this section.

§ 12314. Reserves: kinds of duty

Notwithstanding any other provision of law, a member of a reserve component who is on active duty other than for training may, under regulations prescribed by the Secretary concerned, be detailed or assigned to any duty authorized by law for members of the regular component of the armed force concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, §682; renumbered §12314, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
682	50:965.	July 9, 1952, ch. 608, §237, 66 Stat. 492.

The words “armed force concerned” are substituted for the words “Armed Forces of the United States”. The words “now or hereafter” and “officers and enlisted” are omitted as surplusage. The words “other than for training” are inserted, since the words “active duty” were defined in the source statute cited above to exclude active duty for training.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 682 of this title as this section.

§ 12315. Reserves: duty with or without pay

(a) Subject to other provisions of this title, any Reserve may be ordered to active duty or other duty—

- (1) with the pay and allowances provided by law; or
- (2) with his consent, without pay.

Duty without pay shall be considered for all purposes as if it were duty with pay.

(b) A Reserve who is kept on active duty after his term of service expires is entitled to pay and allowances while on that duty, except as they may be forfeited under the approved sentence of a court-martial or by non-judicial punishment by a commanding officer or when he is otherwise in a non-pay status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, §683; renumbered §12315, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
683(a)	50:971.	July 9, 1952, ch. 608, §240, 241, 66 Stat. 492.
683(b)	50:972.	

In subsection (a), the word “title” is substituted for the word “chapter”. The provisions of this title relating to active duty of reservists are based on the Armed Forces Reserve Act of 1952. The words “shall be considered * * * as if it were” are substituted for the words “shall be counted * * * the same as like”.

In subsections (a) and (b), the words “active duty for training” are omitted as covered by the words “active duty”.

In subsection (b), the word “kept” is substituted for the words “retained or continued”. The words “pursuant to law” are omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 683 of this title as this section.

§ 12316. Payment of certain Reserves while on duty

(a) Except as provided by subsection (b), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who performs duty for which he is entitled to compensation, may elect to receive for that duty either—

- (1) the payments to which he is entitled because of his earlier military service; or
- (2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing.

(b) Unless the payments because of his earlier military service are greater than the compensation prescribed by subsection (a)(2), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to perform that duty, ceases to be entitled to the payments because of his earlier military service until the period of active duty ends. While on that active duty, he is entitled to the compensation prescribed by subsection (a)(2). Other rights and benefits of the member or his dependents are unaffected by this subsection.

(Added Pub. L. 85-861, §1(15), Sept. 2, 1958, 72 Stat. 1441, §684; amended Pub. L. 93-586, §1, Jan. 2, 1975, 88 Stat. 1920; renumbered §12316, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
684(a)	10 App.:369b (less proviso and last 3 sentences). 34 App.:353e-1 (less provisos and last 3 sentences).	Aug. 2, 1946, ch. 756, §10; restated Sept. 27, 1950, ch. 1053, §1, 64 Stat. 1067; July 12, 1955, ch. 337, §§1, 4, 69 Stat. 300, 301.
684(b)	10 App.:369b (proviso and last 3 sentences). 34 App.:353e-1 (provisos and last 3 sentences).	Sept. 27, 1950, ch. 1053, §2, 64 Stat. 1067; July 12, 1955, ch. 337, §§2, 4, 69 Stat. 301.

In subsections (a) and (b), the words “retirement pay” are omitted as covered by the words “retired pay”.

In subsection (a), the words “Except as provided by subsection (b)” are inserted for clarity. The words “who performs duty for which he is entitled to compensation, may elect to receive for that duty” are substituted for the words “may elect, with reference to periods of active duty, active duty for training, drill, training, instruction, or other duty for which they may be entitled to receive compensation pursuant to any provisions of law”. The words “Notwithstanding the