

title VI, § 632(a), (b)(1), Jan. 7, 2011, 124 Stat. 4240.)

AMENDMENTS

2011—Pub. L. 111-383, § 632(b)(1), substituted “Administrative provisions” for “Rounding to next lower dollar” in section catchline.

Pub. L. 111-383, § 632(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title VI, § 632(c), Jan. 7, 2011, 124 Stat. 4240, provided that: “Subsection (b) of section 1412 of title 10, United States Code, as added by subsection (a), shall apply beginning with the first month that begins more than 30 days after the date of the enactment of this Act [Jan. 7, 2011].”

[§ 1413. Repealed. Pub. L. 108-136, div. A, title VI, § 641(b), Nov. 24, 2003, 117 Stat. 1514]

Section, added Pub. L. 106-65, div. A, title VI, § 658(a)(1), Oct. 5, 1999, 113 Stat. 668; amended Pub. L. 106-398, § 1 [[div. A], title VI, § 657(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-166; Pub. L. 107-107, div. A, title VI, § 641(b), (e)(1), (2), Dec. 28, 2001, 115 Stat. 1150, 1151; Pub. L. 107-314, div. A, title VI, § 636(b), Dec. 2, 2002, 116 Stat. 2576; Pub. L. 108-136, div. A, title VI, § 641(c)(1), Nov. 24, 2003, 117 Stat. 1514, related to special compensation for certain severely disabled uniformed services retirees.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2004, and applicable to payments for months beginning on or after that date, see section 641(e) of Pub. L. 108-136, set out as an Effective Date of 2003 Amendment note under section 1414 of this title.

§ 1413a. Combat-related special compensation

(a) **AUTHORITY.**—The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

(b) **AMOUNT.**—

(1) **DETERMINATION OF MONTHLY AMOUNT.**—Subject to paragraphs (2) and (3), the monthly amount to be paid an eligible combat-related disabled uniformed services retiree under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability.

(2) **MAXIMUM AMOUNT.**—The amount paid to an eligible combat-related disabled uniformed services retiree for any month under paragraph (1) may not exceed the amount of the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of title 38.

(3) **SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.**—

(A) **GENERAL RULE.**—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title, the amount of the payment under paragraph (1) for any month may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed the amount of retired pay to

which the member would have been entitled under any other provision of law based upon the member’s service in the uniformed services if the member had not been retired under chapter 61 of this title.

(B) **SPECIAL RULE FOR RETIREES WITH FEWER THAN 20 YEARS OF SERVICE.**—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title with fewer than 20 years of creditable service, the amount of the payment under paragraph (1) for any month may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed the amount equal to the retired pay percentage (determined for the member under section 1409(b) of this title) of the member’s years of creditable service multiplied by the member’s retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

(c) **ELIGIBLE RETIREES.**—For purposes of this section, an eligible combat-related disabled uniformed services retiree referred to in subsection (a) is a member of the uniformed services who—

(1) is entitled to retired pay (other than by reason of section 12731b of this title); and

(2) has a combat-related disability.

(d) **PROCEDURES.**—The Secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree. Such procedures shall apply uniformly throughout the Department of Defense.

(e) **COMBAT-RELATED DISABILITY.**—In this section, the term “combat-related disability” means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that—

(1) is attributable to an injury for which the member was awarded the Purple Heart; or

(2) was incurred (as determined under criteria prescribed by the Secretary of Defense)—

(A) as a direct result of armed conflict;

(B) while engaged in hazardous service;

(C) in the performance of duty under conditions simulating war; or

(D) through an instrumentality of war.

(f) **COORDINATION WITH CONCURRENT RECEIPT PROVISION.**—Subsection (d) of section 1414 of this title provides for coordination between benefits under that section and under this section.

(g) **STATUS OF PAYMENTS.**—Payments under this section are not retired pay.

(h) **SOURCE OF PAYMENTS.**—Payments under this section for a member of the Army, Navy, Air Force, or Marine Corps shall be paid from the Department of Defense Military Retirement Fund. Payments under this section for any other member for any fiscal year shall be paid out of funds appropriated for pay and allowances payable by the Secretary concerned for that fiscal year.

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

(1) The term “service-connected” has the meaning given such term in section 101 of title 38.

(2) The term “retired pay” includes retainer pay, emergency officers’ retirement pay, and naval pension.

(Added Pub. L. 107–314, div. A, title VI, § 636(a)(1), Dec. 2, 2002, 116 Stat. 2574; amended Pub. L. 108–136, div. A, title VI, §§ 641(c)(1), 642(a)–(e)(1), Nov. 24, 2003, 117 Stat. 1514, 1516, 1517; Pub. L. 110–181, div. A, title VI, § 641(a), (b), Jan. 28, 2008, 122 Stat. 156; Pub. L. 112–239, div. A, title VI, § 643(a), Jan. 2, 2013, 126 Stat. 1783; Pub. L. 113–76, div. C, title X, § 10001(b)(1), Jan. 17, 2014, 128 Stat. 151; Pub. L. 114–92, div. A, title VI, § 631(d)(2), Nov. 25, 2015, 129 Stat. 845; Pub. L. 114–328, div. A, title VI, § 634(a), Dec. 23, 2016, 130 Stat. 2163.)

AMENDMENTS

2016—Subsec. (b)(3)(B). Pub. L. 114–328 substituted “the retired pay percentage (determined for the member under section 1409(b) of this title)” for “2½ percent”.

2015—Subsec. (b)(3). Pub. L. 114–92, § 631(d)(2), which was approved Nov. 25, 2015, provided that the amendments made by Pub. L. 113–76, § 10001(b)(1), which were effective Dec. 1, 2015, would not take effect. See 2014 Amendment notes below.

2014—Subsec. (b)(3)(A). Pub. L. 113–76, § 10001(b)(1)(A), which directed insertion of “, with adjustment under paragraph (2) of section 1401a(b) of this title to which the member would have been entitled (but without the application of paragraph (4) of such section),” after “under any other provision of law”, did not take effect pursuant to Pub. L. 114–92, § 631(d)(2). See 2015 Amendment note above.

Subsec. (b)(3)(B). Pub. L. 113–76, § 10001(b)(1)(B), which directed substitution of “with adjustment under paragraph (2) of section 1401a(b) of this title to which the member would have been entitled (but without the application of paragraph (4) of such section), whichever is applicable to the member.” for “whichever is applicable to the member.”, did not take effect pursuant to Pub. L. 114–92, § 631(d)(2). See 2015 Amendment note above.

2013—Subsec. (b)(3). Pub. L. 112–239 substituted “may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed” for “shall be reduced by the amount (if any) by which the amount of the member’s retired pay under chapter 61 of this title exceeds” in subpars. (A) and (B).

2008—Subsec. (b)(3). Pub. L. 110–181, § 641(b), designated existing text as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (c). Pub. L. 110–181, § 641(a), substituted “who—” for “entitled to retired pay who—” in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

“(1) has completed at least 20 years of service in the uniformed services that are creditable for purposes of computing the amount of retired pay to which the member is entitled or is entitled to retired pay under section 12731 of this title (other than by reason of section 12731b of this title); and

“(2) has a combat-related disability.”

2003—Pub. L. 108–136, § 642(e)(1), substituted “Combat-related special compensation” for “Special compensation for certain combat-related disabled uniformed services retirees” in section catchline.

Subsec. (b)(1). Pub. L. 108–136, § 642(c), substituted “under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability.” for “for a combat-related disability under subsection (a) is the monthly amount of compensation to which the retiree would be entitled solely for the combat-related disability consistent with chapter 11 of title 38.”

Subsec. (c)(1). Pub. L. 108–136, § 642(b), inserted before semicolon at end “or is entitled to retired pay under section 12731 of this title (other than by reason of section 12731b of this title)”.

Subsec. (c)(2). Pub. L. 108–136, § 642(a)(2), struck out “qualifying” before “combat-related disability”.

Subsec. (e). Pub. L. 108–136, § 642(a)(1), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) defined term “qualifying combat-related disability”.

Subsec. (f). Pub. L. 108–136, § 642(d), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

“(1) SINGLE SOURCE OF COMPENSATION.—An individual who is paid special compensation under this section may not receive special compensation under section 1413 of this title.

“(2) ELECTION OF SOURCE.—An individual who is eligible for special compensation under this section and special compensation under section 1413 of this title shall elect which special compensation to receive.

“(3) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the manner and form of an election under this subsection.”

Subsec. (h). Pub. L. 108–136, § 641(c)(1), inserted first sentence and inserted “for any other member” before “for any fiscal year”.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VI, § 634(b), Dec. 23, 2016, 130 Stat. 2164, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2018, immediately after the coming into effect of the amendments made by part I of subtitle D of title VI of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 842) [§§ 631–635, enacting section 1415 of this title and section 356 of Title 37, Pay and Allowances of the Uniformed Services, and amending this section and sections 1401, 1401a, 1409, 1410, 1414, 1463, and 12739 of this title, sections 8432, 8432b, 8438, and 8440e of Title 5, Government Organization and Employees, section 3045 of Title 33, Navigation and Navigable Waters, sections 211 and 354 of Title 37, section 5304 of Title 38, Veterans’ Benefits, and section 212 of Title 42, The Public Health and Welfare], to which the amendment made by subsection (a) relates.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–76 effective Dec. 1, 2015, immediately after the coming into effect of section 403 of Pub. L. 113–67 and the amendments made by that section, see section 10001(c) of Pub. L. 113–76, set out as a note under section 1401a of this title. Amendment did not take effect pursuant to section 631(d)(2) of Pub. L. 114–92, set out as a Repeal of Reduced Cost-of-living Adjustments for Members Under the Age of 62 note under section 1401a of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title VI, § 643(b), Jan. 2, 2013, 126 Stat. 1783, provided that: “The amendment made by this section [amending this section] shall take effect as of January 1, 2013, and shall apply to payments for months beginning on or after that date.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, § 641(c), Jan. 28, 2008, 122 Stat. 156, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2008, and shall apply to payments for months beginning on or after that date.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VI, § 641(c)(6), Nov. 24, 2003, 117 Stat. 1516, provided that: “The amendments made by this subsection [amending this section and sections 1413, 1463, 1465, and 1466 of this title] shall take effect as of October 1, 2003. The Secretary of Defense

shall provide for such administrative adjustments as necessary to provide for payments made for any period during fiscal year 2004 before the date of the enactment of this Act [Nov. 24, 2003] to be treated as having been made in accordance with such amendments and for the provisions of such amendments to be implemented as if enacted as of September 30, 2003.”

Pub. L. 108-136, div. A, title VI, §642(f), Nov. 24, 2003, 117 Stat. 1517, provided that: “The amendments made by subsections (a), (b), and (c) [amending this section] shall apply to payments under section 1413a of title 10, United States Code, for months beginning on or after January 1, 2004. The amendment made by subsection (d) [amending this section] shall take effect on January 1, 2004.”

EFFECTIVE DATE

Pub. L. 107-314, div. A, title VI, §636(a)(2), Dec. 2, 2002, 116 Stat. 2576, provided that: “Section 1413a of title 10, United States Code, as added by paragraph (1), shall take effect not later than 180 days after the date of the enactment of this Act [Dec. 2, 2002].”

CLARIFICATION OF ELIGIBILITY OF MEMBERS OF THE COAST GUARD FOR COMBAT-RELATED SPECIAL COMPENSATION

Pub. L. 114-120, title II, §221, Feb. 8, 2016, 130 Stat. 48, provided that:

“(a) CONSIDERATION OF ELIGIBILITY.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Feb. 8, 2016], the Secretary of the department is [sic] which the Coast Guard is operating shall issue procedures and criteria to use in determining whether the disability of a member of the Coast Guard is a combat-related disability for purposes of the eligibility of such member for combat-related special compensation under section 1413a of title 10, United States Code. Such procedures and criteria shall include the procedures and criteria prescribed by the Secretary of Defense pursuant to subsection (e)(2) of such section. Such procedures and criteria shall apply in determining whether the disability of a member of the Coast Guard is a combat-related disability for purposes of determining the eligibility of such member for combat-related special compensation under such section.

“(2) DISABILITY FOR WHICH A DETERMINATION IS MADE.—For the purposes of this section, and in the case of a member of the Coast Guard, a disability under section 1413a(e)(2)(B) of title 10, United States Code, includes a disability incurred during aviation duty, diving duty, rescue swimmer or similar duty, and hazardous service duty onboard a small vessel (such as duty as a surfman)—

“(A) in the performance of duties for which special or incentive pay was paid pursuant to section 301, 301a, 304, 307, 334, or 351 of title 37, United States Code;

“(B) in the performance of duties related to a statutory mission of the Coast Guard under paragraph (1) or paragraph (2) of section 888(a) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)), including—

“(i) law enforcement, including drug or migrant interdiction;

“(ii) defense readiness; or

“(iii) search and rescue; or

“(C) while engaged in a training exercise for the performance of a duty described in subparagraphs (A) and (B).

“(b) APPLICABILITY OF PROCEDURES AND CRITERIA.—The procedures and criteria issued pursuant to subsection (a) shall apply to disabilities described in that subsection that are incurred on or after the effective date provided in section 636(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 [Public Law 107-314; 116 Stat. 2574; 10 U.S.C. 1413a note] [See Effective Date note above].

“(c) REAPPLICATION FOR COMPENSATION.—Any member of the Coast Guard who was denied combat-related spe-

cial compensation under section 1413a of title 10, United States Code, during the period beginning on the effective date specified in subsection (b) and ending on the date of the issuance of the procedures and criteria required by subsection (a) may reapply for combat-related special compensation under such section on the basis of such procedures and criteria in accordance with such procedures as the Secretary of the department in which the Coast Guard is operating shall specify.”

§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation

(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—

(1) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (hereinafter in this section referred to as a “qualified retiree”) is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38. During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to such a qualified retiree is subject to subsection (c), except that payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:

(A) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

(B) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

(2) QUALIFYING SERVICE-CONNECTED DISABILITY.—In this section, the term “qualifying service-connected disability” means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs.

(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

(1) CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title, or at least 20 years of service computed under section 12732 of this title, at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

(2) DISABILITY RETIREES WITH LESS THAN 20 YEARS OF SERVICE.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service