Public Law 87-381

October 4, 1961
[H. R. 6668]

AN ACT

To amend title 10, United States Code, with respect to annuities based on retired or retainer pay, and for other purposes.

Armed Forces. Retired members. Family protection plan. 10 USC 1431-1444.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code, is amended as follows:

(1) The title of chapter 73 is amended to read as follows:

"CHAPTER 73.—RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN"

(2) The chapter analysis of subtitle A and the analysis of part II of subtitle A are each amended by striking out the following item:

"73. Annuities Based on Retired or Retainer Pay..... 1431"

and inserting the following item in place thereof:

"73. Retired Serviceman's Family Protection Plan..... 1431".

70A Stat. 108.

SEC. 2. Section 1431 of title 10, United States Code, is amended to read as follows:

"§ 1431. Election of annuity: members of armed forces

"(a) This section applies to all members of the armed forces except—

"(1) members whose names are on a retired list other than a list maintained under section 1376(a) of this title;

70A Stat. 105. 10 USC 1376.

"(2) cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

"(3) midshipmen.

"(b) To provide an annuity under section 1434 of this title, a person covered by subsection (a) may elect to receive a reduced amount of the retired or retainer pay to which he may become entitled as a result of service in his armed force. Except as otherwise provided in this section, unless it is made before he completes 18 years of service for which he is entitled to credit in the computation of his basic pay, the election must be made at least three years before the first day for which retired or retainer pay is granted. However, if, because of military operations, a member is assigned to an isolated station or is missing, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that reason is unable to make an election before completing 18 years of that service, he may make the election, to become effective immediately, within one year after he ceases to be assigned to that station or returns to the jurisdiction of his armed force, as the case may be. A member to whom retired pay or retainer pay is granted retroactively, and who is otherwise eligible to make an election, may make the election within 90 days after receiving notice that such pay has been granted to him.

"(c) An election may be changed or revoked by the elector before the first day for which retired or retainer pay is granted. However, unless made on the basis of restored mental competency under section 1433 of this title, the change or revocation is not effective if made less than three years before the first day for which retired or retainer pay is granted.

70A Stat. 109.

"(d) If an election made under this section is found to be void for any reason except fraud or willful intent of the member making the election, he may make a corrected election at any time within 90 days after he is notified in writing that the election is void. A corrected election made under this subsection is effective as of the date of the voided election it replaces."

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SEC. 3. Section 1434 of title 10, United States Code is amended— 70A Stat. 109.

(1) by amending subsection (b) to read as follows:

"(b) A person may elect to provide both the annuity provided in clause (1) of subsection (a) and that provided in clause (2) of subsection (a), but he may elect only 25 or 12½ percent of his reduced retired or retainer pay for each annuity. The reduction in his retired or retainer pay on account of each annuity, and the amount of each annuity, shall be determined in the same manner that it would be determined if the other annuity had not been elected."; and

(2) by adding the following new subsection at the end thereof:

"(d) Under regulations prescribed under section 1444(a) of this title, a person may, before or after the first day for which retired or retainer pay is granted, provide for allocating, during the period of the surviving spouse's eligibility, a part of the annuity under subsection (a)(3) for payment to those of his surviving children who are not children of that spouse." 70A Stat. 111.

SEC. 4. Section 1436 of title 10, United States Code, is amended— 70A Stat. 110.

(1) by adding the following at the end of the catchline: "; **withdrawal for severe financial hardship**";

(2) by inserting the designation "(a)" before the words "The reduction" at the beginning; and

(3) by adding the following new subsection at the end thereof:

"(b) Under regulations prescribed under section 1444(a) of this title, the Secretary concerned may, whenever he considers it necessary because of the member's severe financial hardship, allow him to withdraw from participation in an annuity program under this chapter, when requiring the member to continue to participate in the program would violate equity and good conscience. The absence of an eligible beneficiary shall not of itself be a basis for such action. However, no amounts by which retired or retainer pay is reduced may be refunded to him under this subsection."

SEC. 5. Section 1444(b) of title 10, United States Code, is amended by adding the following new sentence at the end thereof: "In addition to a report on the administration of this chapter, the report shall also contain a detailed account, including an actuarial analysis, of those cases in which relief is granted under sections 1436(b) and 1552 of this title, or any other statutory or administrative procedure." Report; actuarial analysis. 10 USC 1552.

SEC. 6. Chapter 73 of title 10, United States Code, is amended—

(1) by adding the following new sections at the end thereof:

"§ 1445. Correction of administrative deficiencies

"Whenever he considers it necessary, the Secretary concerned may, under regulations prescribed under section 1444(a) of this title, correct any election, or any change or revocation of an election, under this chapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

"§ 1446. Restriction on participation

"(a) Notwithstanding section 1441 of this title, if a person— 10 USC 1441.

"(1) has made an election under this chapter; and

"(2) is retired for physical disability before he completes 18 years of service for which he is entitled to credit in the computation of his basic pay;

and thereafter dies, his beneficiaries are not entitled to the annuities provided under this chapter until they give proof to the department concerned that they are not eligible for benefits under chapter 11 or 13 of title 38. If the beneficiaries are not eligible for benefits under chapter 11 or 13 of title 38, the annuity shall begin on the first day of the month in which the death occurs. 38 USC 301-359, 401-423.

"(b) Whenever the beneficiaries on whose behalf the election was made are restricted, under subsection (a), from participating in the annuities provided under this chapter, the amount withheld from the elector's retired or retainer pay as a result of an election under this chapter shall be refunded to the beneficiaries, less the amount of any annuities paid under this chapter, and in either case without interest."; and

(2) by striking out the following item in the analysis:

"1436. Computation of reduction in retired pay."

and inserting the following item in place thereof:

"1436. Computation of reduction in retired pay; withdrawal for severe financial hardship."; and

(3) by adding the following new items at the end of the analysis:

"1445. Correction of administrative deficiencies.
"1446. Restriction on participation."

SEC. 7. Any person who, before the date of enactment of this Act, has filed a change or revocation, subject to section 1431(c) of title 10, United States Code, of an election made under section 1431(b) of that title, which change or revocation would be ineffective if the first day for which retired or retainer pay is granted were to be the date of enactment of this Act, shall have that change or revocation become effective on that date, or three years after the date upon which it was filed, whichever is later.

SEC. 8. Any person who—

(1) made an election before the date of enactment of this Act which would be effective if he retired on the day before such date; and

(2) hereafter retires for physical disability before completing 18 years of service for which he is entitled to credit in the computation of his basic pay—

shall be considered as having applicable to him all of the provisions of chapter 73 of title 10, United States Code, existing on the date preceding the date of enactment of this Act, except that any revocation or change of an election is not effective until three years after the date of filing such revocation or change, or the date of enactment of this Act, whichever is later.

10 USC 1431-1444.

Approved October 4, 1961.

Public Law 87-382

October 4, 1961
[H. R. 4750]

AN ACT

To amend section 6(a) of the Virgin Islands Corporation Act.

Virgin Islands Corp.
Borrowing authority, increase.
72 Stat. 1760.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 6 of the Virgin Islands Corporation Act (63 Stat. 350, 353), as amended (48 U.S.C. 1407e(a)), is further amended by striking out the figure "$11,000,000" in both places where it appears therein and inserting in lieu thereof the figure "$15,000,000".

Approved October 4, 1961.