

section (a), a Reserve officer shall, subject to the eligibility requirements of this subchapter,” for “Subject to the eligibility requirements of this subchapter, a Reserve officer shall”, and added subsec. (c).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 applicable with respect to selection boards convened under section 3741 of this title on or after Oct. 30, 2000, see section 1 [[div. A], title V, §502(c)] of Pub. L. 106-398, set out as a note under section 3740 of this title.

#### § 3743. Eligibility for promotion

(a) IN GENERAL.—Except as provided in subsection (b), a Reserve officer is eligible for consideration for promotion and for promotion under this subchapter if that officer is in an active status.

(b) EXCEPTION.—A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under subsection 3752(a)<sup>1</sup> of this title is not eligible for consideration for promotion.

(c) REQUEST FOR EXCLUSION.—

(1) IN GENERAL.—The Commandant may provide that an officer may, upon the officer’s request and with the approval of the Commandant, be excluded from consideration by a selection board convened under section 3740(b) of this title to consider officers for promotion to the next higher grade.

(2) APPROVAL OF REQUEST.—The Commandant shall approve a request under paragraph (1) only if—

(A) the basis for the request is to allow an officer to complete a broadening assignment, advanced education, another assignment of significant value to the Coast Guard, a career progression requirement delayed by the assignment or education, or a qualifying personal or professional circumstance, as determined by the Commandant;

(B) the Commandant determines the exclusion from consideration is in the best interest of the Coast Guard; and

(C) the officer has not previously failed of selection for promotion to the grade for which the officer requests the exclusion from consideration.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1011, §732; renumbered §3743 and amended Pub. L. 115-282, title I, §§118(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4233, 4240; Pub. L. 116-283, div. G, title LVXXXII [LXXXII], §8202(b), Jan. 1, 2021, 134 Stat. 4643.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 774 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

##### AMENDMENTS

2021—Pub. L. 116-283 amended section generally. Prior to amendment, text read as follows: “A Reserve officer is eligible for consideration for promotion and for pro-

<sup>1</sup> So in original. Probably should be “section 3752(a)”.

motion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under subsection 3752(a) of this title, is not eligible for consideration for promotion.”

2018—Pub. L. 115-282, §123(b)(2), substituted “subsection 3752(a)” for “subsection 741(a)”.

Pub. L. 115-282, §118(b), renumbered section 732 of this title as this section.

#### § 3744. Recommendation for promotion of an officer previously removed from an active status

A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012, §733; renumbered §3744, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 777 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

##### AMENDMENTS

2018—Pub. L. 115-282 renumbered section 733 of this title as this section.

#### § 3745. Qualifications for promotion

(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer’s service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.

(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012, §734; renumbered §3745, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 786 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

##### AMENDMENTS

2018—Pub. L. 115-282 renumbered section 734 of this title as this section.

**§ 3746. Promotion; acceptance; oath of office**

(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012, §735; renumbered §3746, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

**Editorial Notes****PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 797 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

**AMENDMENTS**

2018—Pub. L. 115-282 renumbered section 735 of this title as this section.

**§ 3747. Date of rank upon promotion; entitlement to pay**

(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

(b) Notwithstanding any other provision of law and subject to subsection (c), if promotion of an inactive duty promotion list officer to the grade of rear admiral or rear admiral (lower half) is determined in accordance with a running mate system, a reserve officer, if acceptable to the President and the Senate, shall be promoted to the next higher grade no later than the date the officer's running mate is promoted.

(c) For the purposes of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary. However, the Secretary may adjust the date of appointment—

(1) if a delay in the finding required under section 3745(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

(2) for any other reason that equity requires.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012, §736; amended Pub. L. 97-417, §2(14), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101-225, title II, §203(4), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 107-295, title IV, §411(c), Nov. 25, 2002, 116 Stat. 2118; Pub. L. 108-293, title II, §220(b), (c), Aug. 9, 2004, 118 Stat. 1039; renumbered §3747 and amended Pub. L. 115-282, title I, §§118(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4233, 4240.)

**Editorial Notes****PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 784 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

**AMENDMENTS**

2018—Pub. L. 115-282, §118(b), renumbered section 736 of this title as this section.

Subsec. (c)(1), Pub. L. 115-282, §123(b)(2), substituted "section 3745(a)" for "section 734(a)".

2004—Subsec. (b), Pub. L. 108-293, §220(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Notwithstanding any other law, when the running mate of a reserve officer serving in the grade of rear admiral (lower half) is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade."

Subsec. (c), Pub. L. 108-293, §220(c), struck out "of subsection (a)" after "For the purposes".

2002—Subsec. (a), Pub. L. 107-295 inserted "the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event" after "subchapter,".

1989—Subsec. (c), Pub. L. 101-225 inserted provision authorizing Secretary to adjust date of appointment.

1985—Subsec. (b), Pub. L. 99-145 substituted "rear admiral (lower half)" for "commodore".

1983—Subsec. (b), Pub. L. 97-417 substituted provision that, notwithstanding any other law, when the running mate of a reserve officer serving in the grade of commodore is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade, for provision that, notwithstanding any other law and when a Reserve officer's running mate was so entitled, a Reserve officer in the grade of rear admiral was entitled to the pay and allowances of the upper half for duty performed.

**§ 3748. Type of promotion; temporary**

Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012, §737; renumbered §3748, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

**Editorial Notes****PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 790 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

**AMENDMENTS**

2018—Pub. L. 115-282 renumbered section 737 of this title as this section.

**§ 3749. Effect of removal by the President or failure of consent of the Senate**

(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 3740 of this title.