

(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

(c) Notwithstanding subsections (a) and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

(d) For purposes of this section, “active duty” does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1014, §742; amended Pub. L. 97-417, §2(16), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108-293, title II, §209, Aug. 9, 2004, 118 Stat. 1035; Pub. L. 114-120, title II, §209(13), Feb. 8, 2016, 130 Stat. 41; renumbered §3753, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-282 renumbered section 742 of this title as this section.

2016—Subsec. (c). Pub. L. 114-120 substituted “subsections” for “subsection”.

2004—Pub. L. 108-293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

“(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age.

“(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

“(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes sixty-two years of age.”

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

1983—Subsec. (b). Pub. L. 97-417 inserted “or commodore” after “rear admiral”.

#### § 3754. Rear admiral and rear admiral (lower half); maximum service in grade

(a) Unless retained in or removed from an active status under any other law, a reserve rear admiral or rear admiral (lower half) shall be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes 4 years of service after the appointment of the officer to rear admiral (lower half).

(b) Notwithstanding any other provision of law, if promotion of inactive duty promotion list officers to the grade of rear admiral is not determined in accordance with a running mate system, a Reserve officer serving in an active status in the grade of rear admiral (lower half) shall be promoted to the grade of rear admiral, if acceptable to the President and the Senate, on the date the officer has served 2 years in an active status in grade of rear admiral (lower half),

or in the case of a vacancy occurring prior to having served 2 years in an active status, on the date the vacancy occurs, if the officer served at least 1 year in an active status in the grade of rear admiral (lower half).

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015, §743; amended Pub. L. 97-417, §2(17)(A), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), (3)(A), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108-293, title II, §220(d), Aug. 9, 2004, 118 Stat. 1039; renumbered §3754, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-282 renumbered section 743 of this title as this section.

2004—Pub. L. 108-293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Unless retained in or removed from an active status under any other law, a Reserve rear admiral or rear admiral (lower half) shall be removed from an active status on the day that officer completes four years combined service in the grades of rear admiral and rear admiral (lower half).”

1985—Pub. L. 99-145 substituted references to “rear admiral (lower half)” for “commodore” in section catchline and two places in text.

1983—Pub. L. 97-417 inserted reference to “commodore” in section catchline and text.

#### § 3755. Appointment of a former Navy or Coast Guard officer

A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning the officer’s Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date of rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015, §744; renumbered §3755, 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 792 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 744 of this title as this section.

#### § 3756. Grade on entry upon active duty

A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015, §745; renumbered §3756, 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 776 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 745 of this title as this section.

**§ 3757. Recall of a retired officer; grade upon release**

(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer's performance has been satisfactory in the higher grade.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015, §746; renumbered §3757, 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 793 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 746 of this title as this section.

**CHAPTER 39—COAST GUARD AUXILIARY**

Sec.	
3901.	Administration of the Coast Guard Auxiliary.
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3903.	Eligibility; enrollments.
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3911.	Availability of appropriations.
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3913.	Injury or death in line of duty.

## Editorial Notes

## AMENDMENTS

2018—Pub. L. 115-282, title I, §119(a), Dec. 4, 2018, 132 Stat. 4236, inserted chapter 39 designation and heading and added items 3901 to 3913.

**§ 3901. Administration of the Coast Guard Auxiliary**

(a) The Coast Guard Auxiliary is a non-military organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the "Auxiliary headquarters unit"), districts, regions, di-

visions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 3902, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

(1) Chapter 171 of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.

(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

(2) The Secretary may treat personal property of the auxiliary as property of the United States—

(A) for the purposes of—

(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

(ii) section 901 of this title; and

(B) as otherwise provided in this chapter.

(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

(4) In this subsection, the term "personal property of the Auxiliary" means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.

(Aug. 4, 1949, ch. 393, 63 Stat. 555, §21; Pub. L. 104-324, title IV, §401(a), Oct. 19, 1996, 110 Stat. 3922; Pub. L. 108-293, title II, §226, Aug. 9, 2004, 118 Stat. 1041; Pub. L. 109-304, §17(c), Oct. 6, 2006, 120 Stat. 1707; Pub. L. 114-120, title II, §209(14), Feb. 8, 2016, 130 Stat. 41; renumbered §3901 and amended Pub. L. 115-282, title I, §§119(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4236, 4240.)