

CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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Editorial Notes

AMENDMENTS

2013—Pub. L. 112-260, title III, § 302(a)(2), Jan. 10, 2013, 126 Stat. 2425, which directed amendment of the table of sections for chapter 72 by adding item 7255 and striking out former item 7255 “Offices”, without specifying the Code title to be amended, was executed to the table of sections for this chapter, to reflect the probable intent of Congress.

2008—Pub. L. 110-389, title VI, § 604(b), Oct. 10, 2008, 122 Stat. 4179, added item 7288.

2001—Pub. L. 107-103, title VI, §§ 604(c)(2), 605(b), Dec. 27, 2001, 115 Stat. 1000, substituted “Practice and registration fees” for “Practice fee” in item 7285 and added item 7287.

1999—Pub. L. 106-117, title X, §§ 1021(b), 1024(b), Nov. 30, 1999, 113 Stat. 1592, 1594, added items 7257 and 7299.

1998—Pub. L. 105-368, title V, § 512(a)(3), (4)(A), Nov. 11, 1998, 112 Stat. 3341, substituted “APPEALS FOR VETERANS CLAIMS” for “VETERANS APPEALS” in chapter heading, struck out “of Veterans Appeals” after “Court” in item 7286, substituted “Court decision” for “United States Court of Veterans Appeals decision” in item 7291, and struck out “Court of Veterans Appeals” before “Retirement Fund” in item 7298.

1991—Pub. L. 102-82, § 2(b), Aug. 6, 1991, 105 Stat. 375, added item 7286.

Pub. L. 102-40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 4051 to 4098 as 7251 to 7298, respectively.

1989—Pub. L. 101-94, title I, § 101(b), Aug. 16, 1989, 103 Stat. 625, added subchapter V heading and items 4096 to 4098.

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

§ 7251. Status

There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Appeals for Veterans Claims.

(Added Pub. L. 100-687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4113, § 4051; renumbered § 7251, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105-368, title V, § 511(b), Nov. 11, 1998, 112 Stat. 3341.)

Editorial Notes

AMENDMENTS

1998—Pub. L. 105-368 substituted “Court of Appeals for Veterans Claims” for “Court of Veterans Appeals”.

1991—Pub. L. 102-40 renumbered section 4051 of this title as this section.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Pub. L. 105-368, title V, § 511(a), Nov. 11, 1998, 112 Stat. 3341, provided that: “The United States Court of Veterans Appeals is hereby renamed as, and shall hereafter be known and designated as, the United States Court of Appeals for Veterans Claims.”

Pub. L. 105-368, title V, § 512(c), Nov. 11, 1998, 112 Stat. 3342, provided that: “Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.”

EFFECTIVE DATE OF 2001 AMENDMENT; CONSTRUCTION

Pub. L. 107-103, title VI, § 603(c), (d), Dec. 27, 2001, 115 Stat. 999, provided that:

“(c) CONSTRUCTION.—The repeal in subsection (a) [repealing section 402 of Pub. L. 100-687, formerly set out as a note below] may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

“(d) APPLICABILITY.—The repeals made by subsections (a) and (b) [repealing section 402 of Pub. L. 100-687, formerly set out as a note below, and section 403 of Pub. L. 100-687, formerly set out as a note under section 5904 of this title] shall apply to any appeal filed with the United States Court of Appeals for Veterans Claims—

“(1) on or after the date of the enactment of this Act [Dec. 27, 2001]; or

“(2) before the date of the enactment of this Act but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title V, § 513, Nov. 11, 1998, 112 Stat. 3342, provided that: “This subtitle [subtitle B (§§ 511-513) of title V of Pub. L. 105-368, see Tables for classification], and the amendments made by this subtitle, shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act [Nov. 11, 1998].”

EFFECTIVE DATE

Pub. L. 100-687, div. A, title IV, § 401, Nov. 18, 1988, 102 Stat. 4122, as amended by Pub. L. 101-94, title III, § 301, Aug. 16, 1989, 103 Stat. 628, provided that:

“(a) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, this division (and the amendments made by this Act) [div. A (§§ 1-403) of Pub. L.

100-687, known as the 'Veterans' Judicial Review Act', see Tables for classification] shall take effect on September 1, 1989.

“(b) EFFECTIVE DATE FOR CERTAIN TRANSITION PROVISIONS.—The amendment made by section 201(a) [amending section 4001 [now 7101] of this title] shall take effect on February 1, 1989.

“(c) DATE OF ENACTMENT.—Sections 201 (other than subsection (a)), 208, 209, 302, and 303, and the amendments made by those sections [see Tables for classification], shall take effect on the date of the enactment of this Act [Nov. 18, 1988].

“(d) BOARD OF VETERANS' APPEALS.—Sections 202, 203, 205, 206, and 207 [see Tables for classification] shall take effect as of January 1, 1989. Section 204 [amending section 4004 [now 7104] of this title] shall take effect on September 1, 1989.

“(e) COMMENCEMENT OF OPERATION OF COURT OF VETERANS APPEALS.—Notwithstanding subsection (a), the United States Court of Veterans Appeals [now United States Court of Appeals for Veterans Claims] established pursuant to chapter 72 of title 38, United States Code (as added by section 301) shall not begin to operate until at least three judges have been appointed to the court.”

CHAPTER APPLICABLE TO CLAIMS ALLEGING PREVIOUS DETERMINATION THE PRODUCT OF CLEAR AND UNMISTAKABLE ERROR

Pub. L. 105-111, §1(c)(2), Nov. 21, 1997, 111 Stat. 2272, provided that: “Notwithstanding section 402 of the Veterans Judicial Review Act (38 U.S.C. 7251 note), chapter 72 of title 38, United States Code, shall apply with respect to any decision of the Board of Veterans' Appeals on a claim alleging that a previous determination of the Board was the product of clear and unmistakable error if that claim is filed after, or was pending before the Department of Veterans Affairs, the Court of Veterans Appeals [now Court of Appeals for Veterans Claims], the Court of Appeals for the Federal Circuit, or the Supreme Court on the date of the enactment of this Act [Nov. 21, 1997].”

CHAPTER APPLICABLE TO CASES FILED ON OR AFTER NOVEMBER 18, 1988

Pub. L. 100-687, div. A, title IV, §402, Nov. 18, 1988, 102 Stat. 4122, as amended by Pub. L. 102-40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239, which provided that this chapter applied to any case in which a notice of disagreement was filed under section 7105 of this title on or after Nov. 18, 1988, was repealed by Pub. L. 107-103, title VI, §603(a), Dec. 27, 2001, 115 Stat. 999.

§ 7252. Jurisdiction; finality of decisions

(a) The Court of Appeals for Veterans Claims shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Secretary may not seek review of any such decision. The Court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

(b) Review in the Court shall be on the record of proceedings before the Secretary and the Board. The extent of the review shall be limited to the scope provided in section 7261 of this title. The Court may not review the schedule of ratings for disabilities adopted under section 1155 of this title or any action of the Secretary in adopting or revising that schedule.

(c) Decisions by the Court are subject to review as provided in section 7292 of this title.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4113, §4052; renumbered §7252 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-54, §14(e)(3), June 13, 1991, 105 Stat.

287; Pub. L. 102-83, §§4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

Editorial Notes

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368 substituted “Court of Appeals for Veterans Claims” for “Court of Veterans Appeals”.

1991—Pub. L. 102-40, §402(b)(1), renumbered section 4052 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

Pub. L. 102-54 amended subsec. (a) as in effect immediately before the enactment of Pub. L. 102-40 by substituting “Court” for “court” in last sentence.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “1155” for “355”.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-40, §402(d)(1), substituted “7261” for “4061”.

Subsec. (c). Pub. L. 102-40, §402(d)(1), substituted “7292” for “4092”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

§ 7253. Composition

(a) COMPOSITION.—The Court of Appeals for Veterans Claims is composed of at least three and not more than seven judges, one of whom shall serve as chief judge in accordance with subsection (d).

(b) APPOINTMENT.—The judges of the Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member in good standing of the bar of a Federal court or of the highest court of a State. Not more than the number equal to the next whole number greater than one-half of the number of judges of the Court may be members of the same political party.

(c) TERM OF OFFICE.—The term of office of the judges of the Court of Appeals for Veterans Claims shall be 15 years. A judge who is nominated by the President for appointment to an additional term on the Court without a break in service and whose term of office expires while that nomination is pending before the Senate may continue in office for up to 1 year while that nomination is pending.

(d) CHIEF JUDGE.—(1) The chief judge of the Court is the head of the Court. The chief judge of the Court shall be the judge of the Court in regular active service who is senior in commission among the judges of the Court who—

(A) have served for one or more years as judges of the Court;

(B) have at least 3 years remaining in term of office; and

(C) have not previously served as chief judge.

(2)(A) In any case in which there is no judge of the Court in regular active service who meets the requirements under paragraph (1), the judge