

manner and shall have the same force and effect as an election filed under section 7296(d) of this title.

(o) Each survivor annuity payable from the retirement fund shall be increased at the same time as, and by the same percentage by which, annuities payable from the Judicial Survivors' Annuities Fund are increased pursuant to section 376(m) of title 28.

(p)(1) A covered judge who makes an election under subsection (b) may purchase, in 3-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in this section.

(2) In this subsection, the term "covered judge" means any of the following:

(A) A judge in regular active service.

(B) A retired judge who is a recall-eligible retired judge pursuant to subsection (a) of section 7257 of this title.

(C) A retired judge who would be a recall-eligible retired judge pursuant to subsection (a) of section 7257 but for—

(i) meeting the aggregate recall service requirements under subsection (b)(3) of such section; or

(ii) being permanently disabled as described by subsection (b)(4) of such section.

(Added Pub. L. 101-94, title I, §101(a), Aug. 16, 1989, 103 Stat. 620, §4097; renumbered §7297 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)(6), June 13, 1991, 105 Stat. 287; Pub. L. 102-82, §5(c)(2), Aug. 6, 1991, 105 Stat. 376; Pub. L. 102-198, §7(c)(4)(E), Dec. 9, 1991, 105 Stat. 1625; Pub. L. 105-368, title V, §§503, 512(a)(1), Nov. 11, 1998, 112 Stat. 3340, 3341; Pub. L. 106-117, title X, §§1023, 1035(2), Nov. 30, 1999, 113 Stat. 1592, 1595; Pub. L. 114-315, title II, §203, Dec. 16, 2016, 130 Stat. 1549.)

### Editorial Notes

#### AMENDMENTS

2016—Subsec. (p). Pub. L. 114-315 added subsec. (p).

1999—Subsec. (a)(2). Pub. L. 106-117, §1035(2), substituted "a judge" for "the chief judge or an associate judge".

Pub. L. 106-117, §1023(e)(2)(A), inserted "who is in active service or who has retired under section 7296 of this title" after "Court".

Subsec. (a)(3). Pub. L. 106-117, §1023(e)(2)(B), substituted "7296" for "7296(c)".

Subsec. (a)(5). Pub. L. 106-117, §1023(a), substituted "one year" for "two years".

Subsec. (a)(8). Pub. L. 106-117, §1023(e)(2)(C), added par. (8).

Subsec. (b). Pub. L. 106-117, §1023(b), inserted "or within six months after the date on which the judge marries if the judge has retired under section 7296 of this title" before the period at end of first sentence.

Subsec. (c). Pub. L. 106-117, §1023(c), substituted "that percentage of the judge's pay that is the same as provided for the deduction from the salary or retirement salary of a judge of the United States Court of Federal Claims for the purpose of a survivor annuity under section 376(b)(1)(B) of title 28" for "3.5 percent of the judge's pay".

Subsec. (d). Pub. L. 106-117, §1023(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(1). Pub. L. 106-117, §1023(e)(1)(A), in introductory provisions, substituted "at least 18 months" for "at least 5 years" and "last 18 months" for "last 5 years".

Subsec. (f)(1)(A). Pub. L. 106-117, §1023(f), struck out "or following the surviving spouse's attainment of the age of 50 years, whichever is the later" after "death of the judge".

Subsec. (f)(5). Pub. L. 106-117, §1023(e)(1)(B), added par. (5).

1998—Subsec. (a)(1), (4). Pub. L. 105-368, §512(a)(1), substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals".

Subsec. (o). Pub. L. 105-368, §503, amended subsec. (o) generally. Prior to amendment, subsec. (o) read as follows: "Whenever the salaries of judges paid under section 7253(e) of this title are increased, each annuity payable from the retirement fund which is based, in whole or in part, upon a deceased judge having rendered some portion of that judge's final 18 months of service as a judge of the Court, shall also be increased. The amount of the increase in the annuity shall be determined by multiplying the amount of the annuity on the date on which the increase in salaries becomes effective by 3 percent for each full 5 percent by which those salaries were increased."

1991—Pub. L. 102-40, §402(b)(1), renumbered section 4097 of this title as this section.

Subsec. (a)(3). Pub. L. 102-40, §402(d)(1), substituted "7253(e)" for "4053(e)" and "7296(c)" for "4096(c)".

Subsec. (a)(4). Pub. L. 102-40, §402(d)(1), substituted "7298" for "4098".

Subsec. (e). Pub. L. 102-40, §402(d)(1), substituted "7296" for "4096" wherever appearing.

Subsec. (h)(1)(A)(i). Pub. L. 102-54 amended subsec. (h)(1)(A)(i) as in effect immediately before the enactment of Pub. L. 102-40 by substituting "subsection (i)" for "subsection (1)".

Subsec. (k)(3). Pub. L. 102-40, §402(d)(1), substituted "7296(d)" for "4096(d)".

Subsec. (n). Pub. L. 102-198 substituted "8440d" for "8440c".

Pub. L. 102-82 inserted "except section 8440c of title 5" before period at end of first sentence.

Pub. L. 102-40, §402(d)(1), substituted "7296(d)" for "4096(d)".

Subsec. (o). Pub. L. 102-40, §402(d)(1), substituted "7253(e)" for "4053(e)".

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 1035(2) of Pub. L. 106-117 effective Nov. 30, 1999, with savings provision for incumbent chief judge, see section 1036 of Pub. L. 106-117, set out as a note under section 7253 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 512(a)(1) of 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.

### § 7298. Retirement Fund

(a) There is established in the Treasury a fund known as the Court of Appeals for Veterans Claims Retirement Fund.

(b) Amounts in the fund are available for the payment of judges' retired pay under section 7296 of this title and of annuities, refunds, and allowances under section 7297 of this title.

(c) Amounts deposited by, or deducted and withheld from the salary and retired pay of, a judge under section 7296 or 7297 of this title shall be deposited in the fund and credited to an individual account of the judge.

(d) The chief judge of the Court of Appeals for Veterans Claims shall submit to the President an annual estimate of the expenditures and appropriations necessary for the maintenance and

operation of the fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

(e)(1) The chief judge may cause periodic examinations of the retirement fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose.

(2)(A) Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduce to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court.

(B) For purposes of subparagraph (A) of this paragraph, the term "unfunded liability", with respect to any fiscal year, means the amount estimated by the chief judge to be equal to the excess (as of the close of that fiscal year) of—

(i) the present value of all benefits payable from the fund (determined on an annual basis in accordance with section 9503 of title 31), over

(ii) the sum of—

(I) the present values of future deductions under sections 7296(i) and 7297(c) of this title and future deposits under sections 7296(j) and 7296(d) of this title, and

(II) the balance in the fund as of the close of the fiscal year.

(C) For purposes of subparagraph (B), the term "present value" includes a value determined by an actuary with respect to a payment that may be made under subsection (b) from the retirement fund within the contemplation of law.

(D) Amounts deposited in the retirement fund under this paragraph shall not be credited to the account of any individual.

(f) The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States, such portions of the retirement fund as in such Secretary's judgment may not be immediately required for payments from the fund. The income derived from such investments shall constitute a part of the fund.

(g) For purpose of section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)), the retirement fund shall be treated in the same manner as the Claims Judges' Retirement Fund.

(Added Pub. L. 101-94, title I, §101(a), Aug. 16, 1989, 103 Stat. 625, §4098; renumbered §7298 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 105-368, title V, §§502, 512(a)(1), (2)(C), Nov. 11, 1998, 112 Stat. 3340, 3341; Pub. L. 106-117, title X, §1011(j), Nov. 30, 1999, 113 Stat. 1589.)

**Editorial Notes**

**AMENDMENTS**

1999—Subsec. (e)(2)(C), (D). Pub. L. 106-117 added subpar. (D) and redesignated former subpar. (C) as (D).

1998—Pub. L. 105-368, §512(a)(2)(C), struck out "Court of Veterans Appeals" before "Retirement Fund" in section catchline.

Subsecs. (a), (d). Pub. L. 105-368, §512(a)(1), substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals".

Subsec. (g). Pub. L. 105-368, §502, added subsec. (g).

1991—Pub. L. 102-40, §402(b)(1), renumbered section 4098 of this title as this section.

Subsecs. (b), (c). Pub. L. 102-40, §402(d)(1), substituted "7296" for "4096" and "7297" for "4097".

Subsec. (e)(2)(B)(ii)(I). Pub. L. 102-40, §402(d)(1), substituted "7296(i) and 7297(c)" for "4096(i) and 4097(c)" and "7296(j) and 7296(d)" for "4096(j) and 4096(d)".

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by section 512(a)(1), (2)(C) of 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.

**§ 7299. Limitation on activities of retired judges**

(a) A retired judge of the Court who is recall-eligible under section 7257 of this title and who in the practice of law represents (or supervises or directs the representation of) a client in making any claim relating to veterans' benefits against the United States or any agency thereof shall, pursuant to such section, be considered to have declined recall service and be removed from the status of a recall-eligible judge. The pay of such a judge, pursuant to section 7296 of this title, shall be the pay of the judge at the time of the removal from recall status.

(b) A recall-eligible judge shall be considered to be an officer or employee of the United States, but only during periods when the judge is serving in recall status. Any prohibition, limitation, or restriction that would otherwise apply to the activities of a recall-eligible judge shall apply only during periods when the judge is serving in recall status.

(Added Pub. L. 106-117, title X, §1024(a), Nov. 30, 1999, 113 Stat. 1593.)

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