

November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; August 5, 1964, to August 15, 1973; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.”

Approved December 27, 1974.

Public Law 93-558

AN ACT

December 30, 1974  
[S. 3191]

To amend title 10, United States Code, to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter 361 of title 10, United States Code, is amended by inserting the following new section after section 3814, and inserting a corresponding new item in the chapter analysis:

Armed Forces.  
Certain com-  
missioned offi-  
cers, involuntary  
discharge.

**“§ 3814a. Regular commissioned officers; second lieutenants, first lieutenants, and captains; discharge during a reduction in force**

10 USC 3814a.

“(a) Under regulations prescribed by the Secretary of the Army, whenever he determines that a reduction in the active duty officer personnel strength of the Army is required, he is authorized to remove from the active list of the Regular Army any commissioned officer below the grade of major, if such officer is recommended for removal from the active list by a board of officers appointed by the Secretary of the Army, or his designee, for the purpose of recommending the removal of officers from the active list.

“(b) Any officer selected for removal from the active list of the Regular Army under subsection (a) shall—

“(1) if he is eligible, and so requests, be retired under section 3911 of this title on the date requested by him and approved by the Secretary, but not later than ninety days after such officer receives notification that he is to be removed from the active list of the Regular Army;

“(2) if he is not eligible for retirement under section 3911 of this title, but is eligible for retirement under any other provision of law, be retired under that law on the date requested by him and approved by the Secretary, but not later than ninety days after the date such officer receives notification that he is to be removed from the active list of the Regular Army; or

10 USC 3911.

“(3) if he is not eligible for retirement under section 3911 of this title or any other provision of law, or does not request retirement under section 3911 of this title or under any other provision of law if he is eligible, be honorably discharged on the date requested by him and approved by the Secretary, but not later than ninety days after the date such officer receives notification that he is to be removed from the active list of the Regular Army, and be granted a readjustment payment as provided in subsection (c) of this section.

Readjustment  
pay.

“(c) (1) Any officer discharged under subsection (b) (3) and who has completed, immediately before his discharge, at least five years of continuous active duty is entitled to a readjustment payment computed by multiplying his years of active service, but not more than eighteen, by two months’ basic pay of the grade in which he is serving on the date of his discharge. Such an officer may not be paid more than two years’ basic pay of the grade in which he is serving at the time of his discharge or \$15,000, whichever amount is the lesser.

Limitation.

“(2) For the purpose of computing the amount of a readjustment payment under subsection (b) (3), a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

Twenty-year  
service retirement  
pay, deduction.  
14 USC 1 et  
seq.

“(d) If any officer who received a readjustment payment under this section qualifies for retired pay under any provision of this title or title 14 that authorizes his retirement upon completion of twenty years of active service, an amount equal to 75 per centum of that payment, without interest, shall be deducted immediately from his retired pay.

Nonapplicabil-  
ity.

“(e) This section does not apply to any officer who is required to be discharged or retired for failure of promotion to the grade of first lieutenant, captain, or major under section 3298 or 3303, as appropriate, or who is found to be disqualified for promotion under section 3302 of this title.

10 USC 3781,  
3791.

“(f) When, under regulations prescribed by the Secretary, any officer has been recommended for removal from the active list of the Regular Army under chapter 359 or 360 of this title, and that recommendation has been received by headquarters, Department of the Army, or when, under regulations prescribed by the Secretary, any officer has been selected by headquarters, Department of the Army, for discharge under section 3814 of this title, such officer may not be considered for removal from the active list under this section. However, any action by any headquarters subordinate to headquarters, Department of the Army, with respect to proceedings for the consideration of any officer for discharge under chapter 359 or 360 or section 3814 of this title shall not prevent consideration for removal of such officer from the active list under this section. Further, the removal of any officer from the active list under this section is not prevented if such officer was previously considered for discharge under chapter 359 or 360 of this title and was recommended for retention under such provision of law or if such officer was recommended for discharge under section 3814 but was not discharged under authority of such section.

10 USC 3814.

“(g) Under regulations prescribed by the Secretary, any regular officer who is within two years of becoming eligible for retired pay may not be involuntarily discharged under this section before he becomes eligible for that pay, unless his discharge is approved by the Secretary.”

Effective date.  
10 USC 3814a  
note.

SEC. 2. This Act is effective on the date of enactment and expires three years after that date.

Approved December 30, 1974.